
Appeal Decision

Site visit made on 15 June 2021

by C Coyne BA (Hons) DipTP DipERM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th August 2021

Appeal Ref: APP/N5660/W/20/3261440
10 Woodland Hill, London SE19 1NY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Alani against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 20/01887/FUL, dated 8 June 2020, was refused by notice dated 21 August 2020.
 - The development proposed is the addition of a small rear balcony above the ground floor bathroom, set back and hidden in the roof line. Change of a large window into a door and the addition of permanent obscured screening.
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Decision

1. The appeal is dismissed.

Procedural and Preliminary Matters

2. On 20 July 2021 a revised version of the National Planning Policy Framework (the Framework) was published. Apart from changes to paragraph numbering and the insertion of one new paragraph dealing with how local planning authorities should consider planning applications to remove or alter a historic statue, plaque, memorial or monument, no major changes have been made to the Framework in relation to historic heritage national policy. As a result, given the nature of the refusal reasons and the main issues, on this occasion I consider that the publication of the revised Framework does not directly alter the assessment of this appeal. The relevant updated paragraph numbers have been used in my reasoning below.
3. Since the determination of this application the London Plan 2021 (a Replacement Plan) has been published by the Mayor. This London Plan replaces all previous versions. No policies from the London Plan 2016 are cited within the refusal reasons. Therefore, given the nature of the refusal reasons, the main issues and the Development Plan policies upon which the refusal reasons are based, on this occasion I consider that the publication of the new London Plan does not directly change the assessment of this appeal.
4. In accordance with the statutory duty set out in section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 ('The Act') I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Gipsy Hill Conservation Area (CA).

Main Issues

- whether the proposed development would preserve or enhance the character or appearance of the CA;
- the effect of the proposed development on the living conditions of neighbouring occupiers having regard to matters of privacy; and
- the effect of the proposed development on the living conditions of neighbouring occupiers having regard to matters of noise disturbance.

Reasons

Character and Appearance

5. No detailed appraisal of the character and appearance of the CA has been put before me. However, I have noted the comments made by the Council's Conservation Officer. These comments and my observations on my site visit have informed me that the area around the appeal property comprises nineteenth century terraced houses with the group of four to which the appeal property belongs each having a distinctive two storey rear return with a mono-pitched roof.
6. I therefore consider that these properties and their two storey rear returns with mono-pitched roofs positively contribute to the significance of this part of the CA. Similarly, I also consider that the two storey rear returns of nos. 10, 12, 14 and 16 positively contribute to the character and appearance of the CA.
7. The proposed development would install a balcony and glass railings on part of the existing two-storey rear offshoot. Consequently, by virtue of its design it would substantially alter the appearance of the existing mono-pitch roof thereby also altering the appearance of this part of the terrace to which the appeal property belongs. This would be particularly so for the proposed obscure glass side railings which would appear at odds with the materials to the rear of the other properties on the terrace at this height.
8. Moreover, while the proposal's materials and design would not necessarily be out of keeping with those of the wider area, they would not reflect those of most of the properties within the CA particularly those that form the section of the terrace of which the appeal property is part. Accordingly, while I note that there is not a uniform pattern of development across the rear of the terrace to which the appeal property belongs, it would appear as an incongruous addition to it thereby having a significant adverse visual impact, nonetheless.
9. I also note that the appeal property has dormer windows on its rear roofslope as does no. 8. However, none of the other properties at this end of the terrace, that collectively positively contribute to the character and appearance the CA and its significance, do. Therefore, the proposal would cumulatively add to the differences between no. 10 and these other properties which would erode their collective positive visual contribution to the significance of the CA and its character and appearance.
10. The appellant has also cited examples of other buildings nearby which have balconies, some of them high on their respective rear elevations. However, not all of these are within the CA and those that are within it are not directly comparable to the proposal in terms of their materials or relationships with the properties adjacent to them. Indeed, some do not appear to have balconies on their rear elevations at all.

11. As a result, I find that the proposed development would negatively affect the historic interpretation of this part of the CA. For this reason, it would fail to preserve or enhance the character or appearance of the CA as a whole thereby having a negative effect on the significance of a designated heritage asset resulting in less than substantial harm.
12. Having regard to paragraph 202 of the *National Planning Policy Framework* (the Framework), the proposal would provide a social benefit. However, given its scale this benefit would be limited and would therefore not be of sufficient weight to outweigh the harm to the CA to which I must attach great weight.
13. I therefore conclude that the proposed development would neither preserve nor enhance the character or appearance of the CA. As a result, it would conflict with paragraph 199 of the Framework, which anticipates that great weight be afforded to the conservation of designated heritage assets, including their setting. It would also conflict with paragraphs 200 and 202 of the Framework which seek to conserve and enhance the historic environment. The proposal would also fail to meet the requirements of policies Q5, Q11 and Q22 of the adopted Lambeth Local Plan (LP) as supported by the adopted Building Alterations and Extensions Supplementary Planning Document (SPD).

Living Conditions - Privacy

14. The appellant's evidence contains pictures of the rear of nos. 10 and 8 including the neighbouring property's rear balcony which show that it is at mid-height on the rear elevation of the property. As a result, it would be reasonable to think that the proposal would be much higher than the neighbouring balcony. This combined with its proximity to the shared boundary means that the neighbouring balcony as well as the rear garden of no. 8 would be unacceptably overlooked by future occupiers of the proposal. Consequently, it would have a significant adverse impact in this regard.
15. I note that the proposal would have obscure glazing on both of its side elevations. However, the proposed obscure glazing panel that would face the rear garden and balcony of no. 8 would be much lower than that which would face the rear garden of no. 12A.
16. I therefore conclude that the proposed development would materially harm the living conditions of neighbouring occupiers having regard to matters of privacy. Accordingly, it would conflict with policy Q2 of the LP in this regard.

Living Conditions – Noise Disturbance

17. With regards to the proposal's potential impact in terms of noise and disturbance, at the time of my visit I did not hear any significant background noise apart from the children playing in the nearby schoolyard, something to which the residents have no doubt become accustomed. In addition, while I acknowledge that my site visit represents but a snapshot in time, the evidence before me also shows that the Council's Environmental Health Team has raised no objection to the proposal and that no noise disturbance complaints have been received in relation to the occupiers of no. 10 from their neighbours.
18. Furthermore, the Council have not submitted any substantive evidence (such as a formal notice) to show that the current occupiers have caused any noise disturbance to their neighbours. Moreover, this combined with the size of the proposal, makes it unlikely that it would have an unacceptable adverse impact in this regard.

19. As a result, I conclude that the proposed development would not materially harm the living conditions of neighbouring occupiers having regard to matters of noise disturbance. It would therefore not conflict with policy Q2 in this regard.

Other Matters

20. While I sympathise with the appellant's situation in that the appeal property currently does not have any outdoor space, I am mindful of the advice contained in Planning Practice Guidance¹ that in general planning is concerned with land use in the public interest. In addition, it is also probable that they were aware of this fact when they purchased the property. Consequently, this matter does not alter, overcome, or outweigh the harm I have identified above.
21. In support of the appeal proposal the Appellant has cited similar proposals that were granted planning permission at appeal stage. However, I do not have all the details of these cases before me or the circumstances which led to those decisions being taken. In addition, given that: the property for the first scheme (Ref. APP/N5660/W/17/3191925) had an existing, flat-roofed rear extension with other roof terraces being an established part of the area's character and appearance; for the second and third schemes (Refs. APP/N5660/W/19/3230689 & APP/N5660/Y/19/3234312) the neighbouring properties had existing two storey rear extensions with flat roofs; and for the fourth scheme (Ref. APP/N5660/W/17/3183596) the neighbouring property had an existing balcony that mirrored the proposal in that case. Consequently, I consider that the circumstances applicable to these schemes are not the same as those presented in this case, which I have determined on its own merits. In any event, the existence of other similar developments in other areas does not alter, overcome, or outweigh my findings in respect of the character and appearance of the CA or the living conditions of neighbouring occupiers.

Conclusion

22. The partial compliance of the proposal with policy Q2 of the LP, is not of sufficient weight to outweigh the harm caused by the conflicts with the Development Plan I have identified above.
23. Having regard to paragraph 202 of the Framework, the proposal would provide a social benefit to which I have attached limited weight. However, this benefit is not of sufficient weight to overcome the harm to the character and appearance of the CA to which I must attach great weight. Accordingly, a clear and convincing justification for the identified harm has not been given or demonstrated in accordance with paragraph 200 of the Framework. The proposal would, therefore, fail to sustain or enhance the setting, and thereby the significance of, the CA.
24. The proposal would also cause material harm to the living conditions of neighbouring occupiers. As a result, the proposed development would be contrary to the adopted Development Plan when read as a whole and there are no material considerations indicating decisions otherwise than in accordance with it. Therefore, for the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

C Coyne

INSPECTOR

¹ Paragraph: 008 Reference ID: 21b-008-20140306