



Appeal Decision

Site visit made on 9 August 2021

by **Darren Hendley BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26th August 2021

Appeal Ref: APP/F5540/W/20/3265483

3 Grove Park Gardens, Chiswick, London W4 3RY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr L Simpson against the decision of the Council of the London Borough of Hounslow.
- The application Ref: 00525/3/P8, dated 14 July 2020, was refused by notice dated 30 October 2020.
- The application sought planning permission for the demolition of the existing bungalow and ancillary garage and erection of a two-storey building with accommodation at roof level to create five residential units (3x1-bed/1-person, 2x1-bed/2-person) with associated private and communal amenity space, car parking, refuse and cycle storage. without complying with conditions attached to planning permission Ref: 00525/3/P7, dated 7 February 2020, as amended by non-material amendment, Ref: 00525/3/P7 (NMA), dated 9 July 2020.
- The conditions in dispute are Nos 2 and 18 which state that:
2. The proposed development shall be carried out in all respects in accordance with the proposals contained in the application and the plans submitted (Supporting Statement, Transport Statement, 18-021-E01, 18-021-E02, 18-021-E03, 18-021-E04, 18-021-E05, 18-021-E06, 18-021-E07, 18-021-E08, 18-021-E09, 18-021-E10, 18-021-E11, Design + Access Statement: Received 30/05/2019. 18-021-P07 Rev A: Received 02/09/2019. Daylight and Sunlight Assessment dated November 2019, 18-021-P15 Rev B, 18-021-P15 Rev A, 18-021-P10 Rev C, 18-021-P12 Rev C, 18-021-P03 Rev B, 18-021-P05 Rev B, 18-021-P06 Rev B, 18-021-P04 Rev B, 18-021-P09 Rev C, Received 14/11/2019. 18-021-P01 Rev B, 18-021-P13 Rev A, 18-021-P14 Rev B, 18-021-P02 Rev B: Received 27/11/2019. PRI22448-03B, Arboricultural (sic) Impact Assessment & Method Statement: Received 06/12/2019. 18-021-P12 Rev D: Received 24/01/2020) therewith and approved by the Local Planning Authority, or as shall have been otherwise agreed in writing by the Local Planning Authority before the building is used.
18. The housing mix shall be 3x1-bed/1-person, 2x1-bed/2-person units unless otherwise agreed in writing by the Local Planning Authority.
- The reasons given for the conditions are:
2. To ensure the development is carried out in accordance with the planning permission.
18. To ensure that the development meets local housing need in accordance with Local Plan policy SC3 (Meeting the Need for A Mix of Housing Size and Type).

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's reasons for refusal include reference to the London Plan (2016 as amended) and the National Planning Policy Framework (Framework). A new version of the London Plan (2021) has been published since the Council's decision. A revised version of the Framework has also been published. These are matters that the main parties have had the opportunity to comment on during the appeal, either through the submissions in accordance with the usual appeal timetable or at my invitation. I have taken them into consideration.

Background and Main Issues

3. Planning permission¹ was originally granted subject to conditions in February 2020 for a residential development of the site over 3 storeys which comprised 3 one-bedroom 1-person and 2 one-bedroom 2-person residential units. Condition 2 required that the proposed development shall be carried out in accordance with the approved drawings. The permission was subsequently amended via a non-material amendment² so that the reference to the unit mix in the approved description of development was removed and an additional condition was imposed that set out a unit mix of 3 one-bedroom 1-person and 2 one-bedroom 2 person. This additional condition has been referred to as number 18.
4. The appellant then made an application³ to the Council that is the subject of this appeal to vary conditions 2 and 18. This was in order to allow for a basement level of accommodation to be created, including the use of front, side and rear lightwells, and a change to the unit mix. The Council refused the application, citing concerns in relation to the conservation area where the site is found, living conditions matters for its future occupiers related to the basement accommodation, and in relation to cycle parking and flood risk.
5. As a consequence, the main issues are (i) whether the proposal would preserve or enhance the character or appearance of the Grove Park Conservation Area; (ii) whether it would provide suitable living conditions for its future occupiers by way of the internal layout and outlook; (iii) whether it would make adequate provision for cycle parking; and (iv) the effect on flood risk.

Reasons

Conservation Area

6. The appeal site is a prominent corner plot that is located where Grove Park Gardens meets Grove Park Bridge. It currently contains an extended bungalow property. The remaining properties on Grove Park Gardens are considerably more typical of the conservation area as they have the appearance of high quality properties from the Victorian era. Those on the same side of the road as the site are substantial in their size, whilst those opposite are smaller. The properties are located fairly close together and so this results in a coherent building line. This layout, along with the retention of many of the original external features, contributes towards the significance of the conservation area.

¹ Council ref: 00525/3/P7

² Council ref: 00525/3/P7/NMA

³ Council ref: 00525/3/P8

7. Lightwells are not a strong characteristic feature of these buildings. The proposed lightwell on the front elevation of the proposal related to unit 1 that would face Grove Park Gardens would be positioned forward of the building line and would constitute an uncharacteristic feature compared to that found on the vast majority of the houses on this road.
8. To the front of this proposed lightwell would be an open forecourt area with an associated vehicular access point and so there would likely be some visibility of this feature from the streetscene. As it would in effect create a void in a forward location, its low profile design would be unlikely to cause it to be not visible from public view. Low level perimeter planting would also not provide sufficient screening, also when the open form of the forecourt is considered.
9. Accordingly, this proposed lightwell would constitute an untypical design feature for the location. It would not be a pleasing more modern feature and it would detract from the significance. To a lesser extent, the same would apply to the proposed lightwell on the side elevation serving unit 2 because it would also face in part towards Grove Park Gardens. The proposed grills would in my view simply draw attention to that the lightwells would be there.
10. The corner plot location would heighten the sense that the proposed lightwells would be out of keeping. The reliance on the use of these lightwells would result in their size and scale that would also contribute to this detrimental effect. They would appear as an incongruous addition to the site and the streetscene.
11. Where the proposed lightwells would face either to the side or rear towards Grove Park Bridge, the effects would be considerably less marked due to the brick wall on the boundary and as this road rises up from the level of the site. However, this would not address the harm that would arise on Grove Park Gardens.
12. The main parties take different views on the relevance of the Council's Residential Extension Guidelines Supplementary Planning Document (2017) (SPD), which includes guidance on lightwells. As this document is aimed at householders, it does not strictly lend itself to what constitutes a new residential development. Thus, it has a limited bearing and does not figure in my conclusion. Nonetheless, the planning system already affords a strong level of protection to the historic environment, including the statutory provisions which apply to a conservation area. With the harm that would arise, this weighs considerably against the proposal.
13. I conclude that the proposal would not preserve or enhance the character or appearance of the conservation area. As such, it would not comply with Policies CC1, CC2 and CC4 of the Council's Local Plan 2015-2030 (2015) (Local Plan) where they are concerned with development responding to its context, as well as meaningfully and sensitively to the site, its characteristics and constraints; and expect development proposals to conserve and take opportunities to enhance any heritage asset and its setting in a manner appropriate to its significance, amongst other considerations.
14. For the purposes of paragraph 202 of the Framework, less than substantial harm would arise. In weighing this harm against the public benefits, including, where appropriate, securing its optimum viable use, this centres on improving the housing mix with regard Local Plan Policy SC3 compared to the approved

scheme. The appellant also considers that the quality of the proposal would be improved. I am however mindful that the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The public benefits would not outweigh the less than substantial harm.

Living Conditions

15. The proposed basement level would be used principally for the living rooms and kitchens for units 1 and 2. Both would have lightwells and unit 1 would also have a small courtyard. The bedrooms would be provided at ground floor level, with the basement rooms accessed via an internal staircase for each unit.
16. A significant amount of time would be likely spent at the basement level by the occupiers. This is due to the domestic activities that would occur in the living rooms and kitchens. The outlook would be restricted because it would rely on the lightwells and the courtyard. By virtue of their subterranean nature, they would be enclosed structures, even with the proposed wide and tall windows. Whilst they would permit sufficient light levels according to the appellant's Daylight and Sunlight Assessment, this would not account for the outlook.
17. The basement rooms would themselves be of an adequate size. Nonetheless, when the poor outlook is considered with the primary accommodation function of these rooms, this arrangement would constitute substandard living accommodation. It would also be a cramped layout in the sense that a greater level of outlook would be anticipated given the size of the rooms, rather than been closely bounded by the walls of the lightwells and courtyard.
18. In considering the quality of the proposed accommodation as a whole, much of it would be provided at the basement level in respect of the amount and function of the rooms. That the ground floor bedroom accommodation for each unit would not be unacceptable, including with regard to aspect and size, does not equate to providing satisfactory living conditions overall with the concerns that I have identified.
19. In relation to whether a different layout could provide adequate living conditions, my decision can only concern the merits of the proposal before me. For the reasons that I have already set out, the SPD has a limited bearing and so that it is silent on outlook from lightwells does not change my view. The Mayor of London's Housing Supplementary Planning Guidance (2016) (Housing SPG) does however concern itself with a favourable outlook.
20. I conclude that the proposal would not provide suitable living conditions for its future occupiers by way of the internal layout and outlook. Therefore, it would not comply with Policies CC1, CC2 and SC5 of the Local Plan where they are concerned with context and design as regards living conditions, including providing adequate outlook and associated internal layout considerations. For similar reasons, it would also not comply with the Housing SPG.

Cycle Parking

21. The matter of contention on the proposed cycle parking provision concerns the accessibility of the associated parking space adjacent to unit 1. This would be accessed via a side gate. The Council has concerns that it would be difficult to

access due to the width of the gate and the presence of screen planting alongside the proposed lightwell to the front.

22. The Council has referred to the West London Cycle Parking Guidance (2017) where it states that all doors and gateways used to access cycle parking must be at least 1.2 metres wide. The divergence from this guidance in relation to the width of the proposed gate would though appear to be small. Moreover, the gap up to the boundary from the side of the proposed building is greater and so if I was minded to allow the appeal, it is a matter where the details of the gate could be dealt with through the imposition of a planning condition to allow for a sufficient width to be provided. The space between the screen planting and the boundary would also appear to be of sufficient width to allow a cycle to be manoeuvred.
23. On this basis, the route to the proposed parking space would be unobstructed. As a consequence, the site layout would provide a sufficient number of usable and accessible parking spaces for the future occupiers. It would not deter the use of non-car modes of transport.
24. I conclude that the proposal would make adequate provision for cycle parking. As a result, it would comply with Policy EC2 of the Local Plan where it concerns cycle parking provision and incorporating design measures and facilities to promote cycling.

Flood Risk

25. The flood risk matter of dispute relates to surface water flooding. The appellant's Flood Risk Assessment (FRA) acknowledges that the construction of a basement level with lightwells has the potential for surface water to accumulate. The same would apply as regards the sunken courtyard.
26. The FRA also concerns a surface water management assessment and strategy. In relation to the use of sustainable drainage systems (SuDS), it sets out the potential to use permeable surfacing and underground storage that would release at a controlled rate into a surface water sewer running along Grove Park Gardens. Water butts also form part of this management strategy.
27. When the strategy is considered in its totality, there is sufficient information in order to adequately demonstrate that the proposal would not result in an unacceptable level of increased surface water flood risk. Whilst the FRA does not amount to a detailed surface water drainage design, with the approach that it outlines, this could ably be a matter that could be dealt with by way of a planning condition.
28. There is also sufficient justification in the FRA as regards the concerns that the Lead Local Flood Authority raised during the planning application, including in relation to discounting most forms of above ground SuDS. This is principally due to space and design. Water butts do form part of the approach as regards rainwater harvesting systems.
29. I conclude that the proposal would not have an unacceptable effect on flood risk. Hence, it would comply with Policy EQ3 of the Local Plan as surface water would be managed through sustainable drainage, including incorporating drainage systems and avoiding non-permeable hard standings, amidst other matters. It would also comply with Policy SI 13 of the London Plan (2021) as it

would comply with the drainage hierarchy that it sets out, based on the evidence before me.

Other Matters

30. The approved scheme represents a clear fallback. I have already set out the benefits that the appellant considers should be attributed to the proposal in relation to housing mix and quality, compared to the approved scheme. The approved scheme did not however fail to preserve or enhance the character or appearance of the conservation area, and it did not provide unsuitable living conditions for its future occupiers by way of the internal layout and outlook. On that overall basis, the approved scheme does not justify permitting the proposal before me.
31. Interested parties have raised a number of other concerns. However, as I am dismissing the appeal on other grounds, such matters do not alter my overall conclusion and have therefore not had a significant bearing on my decision.

Conclusion

32. I have considered all matters that have been raised, but none would demonstrate that conditions 2 and 18 are not reasonable and necessary. The variation of conditions as requested by the appellant would not preserve or enhance the character or appearance of the conservation area. Nor would it provide suitable living conditions for its future occupiers by way of the internal layout and outlook. These matters are decisive.
33. As such, conditions 2 and 18 comply with the tests for planning conditions that are set out in paragraph 56 of the Framework and the related advice in the Planning Practice Guidance concerning the application of these tests. Accordingly, I conclude that the appeal should be dismissed. The planning permission as amended by the non-material amendment remains unaltered.

Darren Hendley

INSPECTOR