



Appeal Decision

Site Visit made on 9 August 2021

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2021

**Appeal Ref: APP/H5390/W/21/3274992
480-484, Fulham Road, London, SW6 5NH**

- 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 Morad Arefin of Dow Properties Ltd against the decision of London Borough of Hammersmith and Fulham.
 - The application Ref 2019/03383/FUL, dated 12 November 2019, was refused by notice dated 13 November 2020.
 - The development proposed is the change of use of first floor, and part of the ground floor, from retail and tanning salon (Class A1 and Sui Generis) into residential (Class C3); erection of an additional floor at roof level in connection with the conversion of first and second floor level into 4 x 1 bedroom and 1 x 2 bedroom self-contained flats; installation of new doors with fanlight and a glazed side panel to replace the existing glazing at ground floor level to northern elevation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has set out a timeline and included correspondence for the period in which the application was before the Council. It is explained that the proposal was being written up for approval, following negotiations and advice, which the appellant understood had addressed any design issues. However, the application was subsequently refused on design and impact grounds and the appellant considers that this reason for refusal should be struck out given the documented evidence that the Council accepted these matters had been addressed.
3. Furthermore, it is explained that the issues with the effect of the development on the windows of the adjoining properties was raised at a very late stage by the Council. The appellant believes that any alleged impact could have been addressed by amendments and/or further information. However, this forms a reason for refusal and again the appellant believes that this should not be considered as reasonable.
4. While this background information is noted, the decision of the Council was to refuse the application for the three reasons set out in the decision notice. It is necessary for me to consider these reasons when determining the appeal. As reasons two and three both concern the effect of the development on the living conditions of the occupants of the adjoining properties I will consider them together as a single issue.

5. The new London Plan 2021 has been adopted and a revised National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been given the opportunity to make any comments on the implications of the London Plan 2021 and the revised Framework to this appeal and I have taken the comments into account in my considerations.

Main Issues

6. The main issues are:

- the effect of the proposal on the living conditions of the occupiers of 486a, b and c Fulham Road, with particular reference to any impacts in respect of daylight, sunlight, overshadowing, overbearing, sense of enclosure and outlook, and
- the effect of the proposal on the character and appearance of the area, having regard to whether the proposal would preserve or enhance the character or appearance of the Walham Green Conservation Area (the WGCA) and the setting of nearby listed buildings (Nos 9-15 and 17-19 Jerdan Place).

Reasons

Living conditions

7. The appeal building is two storeys in height and includes three ground floor units, with storage space on the first floor. The building has a flat roof set behind a parapet wall. The adjoining terrace building, 486 Fulham Road, is a three storey building and has side walls that face and are attached to the appeal building.
8. No 486 has residential accommodation on the first and second floors. On the first floor there is a flat (No 486a) that is accessed from a door on the main road and this occupies about the front half of the first floor space. At the rear of this first floor space is another flat (No 486c) which is accessed via an external staircase from the rear yard. The second floor appears to consist of a single flat (486b) and this accommodation is accessed from the main road door and via the internal staircase.
9. A "L" shaped lightwell separates part of No 486 and the appeal site. The flat at 486a has one window and Flat 486c has two windows which face out onto the lightwell. The outlook and daylight to these first floor windows are restricted by the narrowness of the lightwell and the position of the windows below the level of the parapet.
10. The proposal would add an additional floor in the form of a mansard roof over the flat roof of the appeal building. This addition would be positioned just behind the parapet wall. The mansard roof would be angled so that there would be limited views of this additional structure from the windows of the first floor flats. The mansard addition, because it would be at a higher level and angled, would not materially affect the outlook from the existing first floor flat windows and would not appear overbearing or create an additional sense of enclosure for these occupiers. Daylight and sunlight to these first floor windows are already compromised because of the restricted size and position of the lightwell and the addition of the mansard roof would not materially worsen this existing situation for these occupants.

11. In terms of the impact of the proposal on the second floor accommodation at No 486, there are four second floor windows in the side walls of No 486 which would appear to light habitable rooms in the top floor flat (486b). The appellant has labelled these as Windows 4, 5, 6 and 7 in the submissions and made the case that they have been added without consent into the party wall. The Council has provisionally examined this matter and has not been definitive as to the status of these windows from a planning point of view, commenting that if they have been in place for more than four years they could be lawful.
12. I appreciate that with previous decisions for additional accommodation above the appeal site the effect on the living conditions of neighbouring properties did not form a reason for refusal. However, I consider that I need to take a precautionary approach on the status of these second floor windows at No 486 and determine the appeal based on the situation before me on the ground.
13. Occupiers of the second floor accommodation at No 486 presently have some views out over the top of the flat roof of the appeal site from the four windows. Daylight is received to these rooms through these windows and the views have some open aspects with a reasonable outlook. The proposed mansard roof would be positioned almost directly in front of these windows, especially in the case of Window 7. This positioning would adversely affect the outlook and would create an overbearing relationship compared with the present situation.
14. It is also likely that any sunlight and daylight would also be compromised and this would add to the harm resulting from the position of the mansard roof. There would still be some angled views of the sky from these windows but this would not compensate for the adverse effect on the living conditions for occupiers of the accommodation who would be presented with the almost immediate sight of the mansard roof which would create a harmful sense of enclosure. A planning condition attached to any approval would not be able to overcome this harm.
15. In the light of the above analysis, while I have found that the proposal would not cause material harm to the living conditions of the occupiers of the first floor accommodation at No 486, I conclude that the mansard roof would unduly harm the living conditions of the occupiers of the second floor accommodation. In particular, this harm would be due to the likely reduction in daylight and sunlight, and the unacceptable effect of overshadowing, overbearing, enclosure and outlook. Accordingly, the scheme, in these respects, would not comply with Policies DC1, DC4 and HO11 of the Hammersmith and Fulham Local Plan 2018 (the Local Plan) and Housing Key Principles HS6 and HS7 of the Hammersmith and Fulham Planning Guidance Supplementary Planning Document 2018 (the Planning Guidance SPD) which seek, amongst other things, good neighbourliness in respect of the amenities of the neighbouring properties.

Character and appearance

16. The site lies with the WGCA which covers a reasonably extensive urban area with a mix of residential and commercial buildings. In the vicinity of the appeal site the significance of the WGCA includes the variety of attractive terrace buildings, with a mix of modern and older traditional structures of various heights. The buildings combine to create a fairly dense built form with some mid-distance views of the terraces within some curving street scenes. The often regular arrangement of windows, particularly with the upper floors of some of the terraces, is a feature of some of the building groups.

17. The appeal property consists of three individual commercial units on the ground floor and is located on a prominent corner site. There are some mid-distance views within Fulham Road and Fulham Broadway where the appeal site is seen in conjunction with the attached terrace fronting Fulham Road. All these buildings are identified by the Council as Buildings of Merit. In this row, the appeal site is one of the lowest and contrasts with the three storey buildings on the other side of the road and often with the bulk and height of others in the general vicinity.
18. The building also forms part of the street scene within Jerdan Place, where there is greater consistency in the appearance of the buildings. The appeal site is attached to a run of three storey buildings which have a rhythmical arrangement of windows and are also Buildings of Merit. No 480 steps down in height and makes a positive contribution with the other buildings that form part of this terrace.
19. On the other side of Jerdan Place, there are the Grade II listed buildings of 9-15 Jerdan Place and 17-19 Jerdan Place. Nos 9-15 are significant including because they were originally four terraced houses of early 19th century origin which have retained much of their external detail and have a distinctive front elevation with sash windows. Adjoining, is Nos 17-19 and their significance includes that they were originally 3 houses dating from the mid-18th century. The listing description explains they were re-faced at a later date and a clay tile roof is still evident behind the two storey frontage. The two listed buildings form a group with each other.
20. The listed buildings can be seen both within Jerdan Place and from adjoining areas around the junction with Fulham Road. The appeal site is experienced in some of the same views as both listed buildings and, therefore, it forms part of their setting. However, their setting, particular of Nos 17-19, is more substantially influenced by the taller and more modern buildings in the vicinity, including 25 Jerdan Place.
21. The addition of the mansard roof to the flat roof of the appeal building would be set behind the parapet and would have a fairly traditional form and appearance with a natural slate finish. The arrangement of windows to both street frontages would generally align with the windows below and have acceptable proportions. In particular, the proposed window arrangement would complement the rhythmical arrangement of windows of the attached terrace in Jerdan Place.
22. In relation to both the terraces in Fulham Road and Jerdan Place, the height of the proposed roof would be lower than these adjoining buildings and the height and bulk of the roof addition would not look out of place within the wider street scenes. The design would acceptably turn the corner and the nature of the roof positioned just behind the parapet would not undermine the original two storey appearance of the building. There are some examples in the surrounding area of mansard roofs and the proposal would add to the variety of styles and roof forms within the general area. Within this urban environment, the mansard roof would be a minor additional element that would not be a visually dominant or obtrusive feature. Accordingly, there would be no harm to the character or appearance of the WGCA and its significance as a designated heritage asset. Furthermore, the proposal would not harm the importance of the appeal building or the surrounding buildings which are identified as Buildings of Merit.

23. In relation to the adjoining listed buildings, I am mindful of the duty to have special regard to the desirability of preserving listed buildings, their setting and features of special architectural or historic interest which they possess.
24. The roof addition would not obscure any key views towards these heritage assets. The form of the extension, with its design and use of traditional materials, would not draw the eye and would not adversely change the surroundings in which the listed buildings were experienced. Consequently, there would be no harm to the setting of the listed buildings and, therefore, no adverse impact to the significance of these designated heritage assets.
25. In coming to these views, I have carefully considered all the representations raising concerns with the proposed design and its impact, including from The Fulham Society. I am also conscious that previous decisions, including an appeal decision, rejected a further storey to the building. However, I have determined the appeal based on the evidence before me and the character and appearance of the area as now found and, for the reasons explained, I consider the proposal would be acceptable in these respects.
26. It follows, that I conclude that the proposal would not harm the character and appearance of the area, would preserve the character and appearance of the WGCA, would not harm the setting of the nearby listed buildings and would not cause harm to any Buildings of Merit. Accordingly, the scheme, in these respects, would comply with Policies DC1, DC4 and DC8 of the Local Plan, Key Principles AH2, BM2, CAG2 and CAG3 of the Planning Guidance SPD and the Framework which seek, amongst other things, that all development should create a high quality urban environment that respects and enhances its townscape context and heritage assets.

Planning Balance and Conclusion

27. The scheme would provide five additional units of housing in a location with very good access to services, facilities and public transport. The scheme would be delivered on a windfall site, making efficient use of the land and adding to the mix of housing available in the area. There would be economic and social benefits to the area during construction and in subsequent occupation. These matters would all be compliant with the policy approach set out in Policies GG2, H1 and H2 of the London Plan 2021. However, while worthwhile, as only five units of accommodation would be provided I attribute the benefits limited weight.
28. The scheme would not harm the character and appearance of the area or harm any heritage assets. This, however, is neutral in the overall analysis.
29. On the other hand, I have found that the scheme would harm the living conditions of the occupiers of an adjoining property. This harm would result from the position of the mansard roof close to a number of windows, to what appears to be habitable rooms of the second floor accommodation. The impact to the living conditions of the occupiers of this unit would be quite severe. In these circumstances, I attribute this harm substantial weight. It follows that the harm and related policy conflict would not be outweighed by the benefits of the scheme.

30. For the reasons given above, the scheme would not comply with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and associated development plan conflict. I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR