



Appeal Decision

Site visit made on 14 February 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 March 2022

Appeal Ref: APP/Y5420/W/21/3281439

647 High Road, Tottenham, London N17 8AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Ms A Tornari against the Council of the London Borough of Haringey.
 - The application Ref HGY/2021/0236 is dated 4 December 2020.
 - The development proposed was originally described as erection of rear outbuilding for residential use in conjunction with HMO.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The appeal is against the non-determination of a planning application. The Council's submission sets out that they would have refused planning permission for reasons relating to the character and appearance of the site and area, including the Tottenham Conservation Area (CA) and locally listed building, and living conditions of the occupiers of adjoining properties.
3. The appellant has submitted an amended drawing with the appeal in response to highway comments. Generally, proposals cannot be amended through the appeal process. To consider an appeal on the basis of the amended proposals without the ability to undertake a revised consultation exercise would be unfair and could prejudice the position of those who may wish to comment on the proposals. Consequently, I have determined the appeal on the basis of the plans originally submitted to the Council. Any amended proposal would be a matter for the Council to consider.
4. I am aware from undertaking other casework within the Council's area that the Housing Delivery Test Results over the previous three years indicate that paragraph 11(d) of the Framework is engaged. The Council and appellant were given the opportunity to comment on this matter.

Main Issues

5. The main issues are the effect of the proposed development on the:
 - Character and appearance of the appeal site and surrounding area, including the CA and locally listed building; and

- Living conditions of the occupiers of adjoining properties, having regard to outlook.

Reasons

Character and appearance

6. The appeal site currently contains a restaurant and HMO with a large rear garden. The building, along with the rest of the terrace of similarly designed three-storey buildings, is locally listed. The appeal site is located within the CA. Based on the evidence before me, this section of the CA is characterised by a mix of commercial and residential buildings. The appellant highlights that the CA appraisal primarily cites the importance of the high street in terms of its Victorian properties and shop frontages as the main asserts of value. A copy of the appraisal has not been provided.
7. The outbuilding would be situated towards the rear of the appeal site. It would extend across the full width of the site and matching materials are proposed. The surrounding buildings would be higher than the proposed outbuilding because it would be single storey with accommodation in the roof.
8. There are other large additions within the garden areas which are evident from the appeal site. However, these do not make a positive contribution to the area because they are of poor design and large outbuildings are not a common feature. The garden spaces of the locally listed terrace contribute to the character of the area and help to provide a break between the built development. However, this is not particularly evident from public vantage points. Having said that, development should enhance and enrich the built environment that respects its local context and character, regardless of whether it is visible from public vantage points or not.
9. The appellant highlights that approximately 66% area of garden space would remain. Nonetheless, there are currently no buildings within the rear of the site and the development would result in a substantial addition, including a parking area, to the garden. The design of the proposed building would have little relationship with the surrounding built development, including the locally listed building, and would erode the openness between the buildings on High Road and Pembury Road. The large outbuilding would not respect its local context and character. Thus, it would not respect the existing pattern of development due to a combination of its design, height, scale and massing.
10. For these reasons, the proposal would cause harm to the character and appearance of the CA. Accordingly, it would fail to preserve or enhance the character or appearance of the CA. The scheme would also cause harm to the significance of the locally listed building.
11. Paragraph 199 of the National Planning Policy Framework (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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Framework paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing

justification. Where there is less than substantial harm, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

12. Given the scale of the proposal within the context of the CA as a whole, the other large additions and the limited public views of the appeal site, the level of harm would be less than substantial, nevertheless it is of considerable importance and weight. The appellant has not clearly presented public benefits of the scheme. Nonetheless, I acknowledge that the proposal would provide housing and economic benefits. Based on the evidence submitted, the public benefits associated with the proposed development would be limited and would not justify or outweigh the harm that I have identified, as required by the Framework.
13. The proposed development would not result in an excessive level of HMO units at the appeal site due to the scale of the development. However, for the reasons given above, the proposal would cause harm to the character and appearance of the surrounding area, it would not preserve or enhance the character or appearance of the CA and would cause harm to the locally listed building. Consequently, it would conflict with Policies SP11 and SP12 of the Haringey's Local Plan: Strategic Policies 2013-2026 (consolidated 2017) (HLP), Policies DM1 and DM9 of the Haringey's Development Management DPD (2017) (DPD) and Policies D3 and HC1 of the London Plan (2021) (LP). These policies seek, amongst other matters, to ensure new development achieves a high standard of design that respects its local context and seek to protect the historic significance of heritage assets.

Living conditions

14. The proposed development would be visible from neighbouring properties, including their garden areas. Nonetheless, the scheme would not be visually intrusive when viewed from neighbouring properties. This is due to the gap between the outbuilding and windows of the properties as well as the height of the outbuilding. The outbuilding would also not be visually intrusive when viewed from the adjoining garden areas because of its height and the height of the boundary treatment. Consequently, the scheme would not be unduly obtrusive.
15. For the reasons given above, the proposed development would not have an unacceptable effect on the living conditions of the occupiers of adjoining properties, having regard to outlook. Accordingly, in this regard, it would comply with Policy SP11 of the HLP, Policy DM1 of the DPD and Policies D6 and D14 of the LP. These policies seek, amongst other matters, to ensure development proposals provide a high standard of amenity for neighbouring properties.

Planning Balance

16. As set out above, the proposed development would not have an unacceptable effect on the living conditions of the occupiers of adjoining properties. However, it would cause harm to the character and appearance of the surrounding area, would not preserve or enhance the character or appearance of the CA and would cause harm to the locally listed building.

17. The proposed development would provide new homes, albeit within the same planning unit as the existing HMO. The benefits associated with the proposed development would be limited, given the scale of the development, and would not justify or outweigh the harm that I have identified, as required by the Framework.
18. The proposal would be contrary to Policies SP11 and SP12 of the HLP, Policies DM1 and DM9 of the DPD and Policies D3 and HC1 of the LP. Whilst these policies are deemed to be out of date due to the lack of a 5 year housing land supply, weight may still be afforded to policies depending on their consistency with the Framework. The most relevant policies are consistent with the aims of the Framework regarding achieving well-designed places as well as conserving and enhancing the historic environment. There is nothing within the Framework to suggest that those requirements of all development should be lessened on account of the lack of a five-year supply. In that context, I attach significant weight to the conflict with the development plan and the Framework.
19. Paragraph 11 of the Framework, in the context of the presumption in favour of sustainable development, indicates that planning permission should be granted unless (d)(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.
20. Policies in the Framework which protect designated heritage assets are included in paragraph 11(d)(i)¹. The proposed development would be contrary to paragraph 202 of the Framework, and the harm to the CA that I have identified above provides a clear reason for refusing the development proposed. Therefore, the presumption in favour of sustainable development does not apply in this instance.
21. For the reasons given above, the appeal proposal conflicts with the development plan and the Framework when considered as a whole. There are no other material considerations that suggest the decision should be taken otherwise than in accordance with the development plan.

Conclusion

22. For the reasons given above, and taking account of all other matters raised, I conclude that the appeal does not succeed.

L M Wilson

INSPECTOR

¹ See paragraph 11 (d)(i) – footnote 7 of the Framework