
Appeal Decision

Site visit made on 14 February 2022

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 March 2022

Appeal Ref: APP/H5390/W/21/3279715

145 Hammersmith Road, London W14 0QL

- 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 K Khalil, Birwari Ltd against the decision of London Borough of Hammersmith and Fulham.
 - The application Ref 2020/02501/FUL, dated 30 September 2020, was refused by notice dated 9 July 2021.
 - The development proposed is the erection of an extension at third floor level on part of a roof terrace and erection of an additional floor at fourth floor level.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) Whether occupiers would experience satisfactory living conditions, with particular regard to floor-to-ceiling height and outdoor space provision, and
 - ii) The effect of the proposal on the character and appearance of the area and the host building, bearing in mind the location within the Gunter Estate Conservation Area, and including the effect on a tree subject to a Tree Preservation Order.

Reasons

Living conditions

3. Policy D6 of the London Plan (2021) requires that the minimum ceiling height must be 2.5 metres (m) for at least 75% of the gross internal area of a dwelling. The explanation to the policy outlines that this minimum requirement is not only to ensure adequate daylight, but also to allow ventilation and cooling, to address the impacts of the urban heat island effect.
4. The appellant accepts within the grounds of appeal that the proposed Flat 13, at the proposed fourth floor, would fall short of this required standard but contends that the infringement is minor. While numerically this may be the case, the rationale for the required standard is clear and thus the shortfall is not acceptable in this case.
5. Policy D6 also requires that a minimum of 5m² of private outdoor space should be provided for 1-2 person dwellings and an extra 1m² should be provided for

each additional occupant. Flat 12, positioned on the third floor, is a 3-bed unit which could accommodate four occupants, as such there is a requirement for a minimum of 7m² of outdoor space to be provided. The appellant highlights that this space requirement is met. However, the provision is made up of two separate areas, at each end of the unit, one of 3m² and one of 4m². The explanation to policy D6 outlines that private outside space should be practical in terms of its shape and utility. The 3m² space would be long and narrow, while the 4m² space would allow for little else other than sitting out. In this case therefore, I find that the outdoor space provision, given its layout and shape would not be acceptable. The presence of some outdoor open space within the vicinity of the site would not overcome this.

6. I therefore find that occupiers would not experience satisfactory living conditions, with particular regard to floor-to-ceiling height and outdoor space provision. Accordingly, the proposal conflicts with Policies D6 of the London Plan, together with policy HO11 of the Hammersmith and Fulham Local Plan (2018) (the Local Plan) and Key Principle HS1 of the Hammersmith and Fulham Planning Guidance – Supplementary Planning Document (the SPD). Together, and amongst other things, these seek to ensure housing is constructed to an appropriate standard to meet the needs of occupants, in terms of amenity.

Character and appearance

7. The appeal site lies within the Gunter Estate Conservation Area (the CA). I observed that the significance of this designated heritage asset lies, in part, in the quality and detailing of properties that predominantly lie to the south-east of the site. The majority of these properties are residential in scale, however there are a number of larger buildings also present. The CA is also characterised by its green and verdant appearance, given the presence of significant tree specimens within.
8. The proposal would result in the addition of a further storey atop the appeal building, above two additional stories that have recently been constructed. While it is mentioned by the Council that it is assumed that the building was previously part of a terrace along Edith Road, whether this was the case or not, there is now a large gap between the appeal site and the existing buildings that form the current extent of the terrace. As a consequence, there is now no visual relationship between them and the appeal building forms a standalone structure at the junction of Edith Road and Hammersmith Road. At this location, it shares an affinity with the larger buildings within its immediate context, which include a five-storey building opposite as well as the church building adjacent.
9. Within this context, the addition of the further storey would not result in a building that was excessive in scale, but rather it would relate well to the scale of the buildings that can be seen within the immediate vicinity, both within and out of the CA. The use of the zinc cladding to the additional storey would ensure that the addition is clearly distinct from the remainder of the building, retaining the characteristic proportions and detailing that contribute to the appearance of this Building of Townscape Merit. Moreover, given the Modernist design of nearby buildings, such a use of materials would not be incongruous, despite the location within the CA.
10. The additional storey would be visible to some extent from the adjacent St Marys Church. However, its presence would be substantially mitigated by the

presence of a large London Plane tree, which sits alongside the appeal building. This tree is taller than the appeal building and as such, the increase in its height, together with the scale of the surrounding buildings which includes a six-storey building to the other side of the church, would not result in an unacceptable degree of overbearing or enclosure on the church or its grounds.

11. However, while I note the effect of the London Plane tree above, which is the subject of a Tree Preservation Order (TPO), I am also conscious that there is likely to be a direct effect on this tree as a result of the development. The tree currently overhangs the building and thus there is likely to be pruning works necessary in order to accommodate the development. The tree is the largest within the vicinity and is a significantly positive feature of the site and the CA, given its largely natural form and appearance. The appeal is not supported by any arboricultural evidence to demonstrate that the tree can be satisfactorily pruned without unacceptably damaging its continuing health or the positive contribution that it currently makes, particularly to the CA at this location.
12. In the absence of such information, I am not satisfied that the development can take place without subsequent harm to the tree and a diminution of the positive contribution it makes to the CA. While I note the comments of the appellant that this information was not requested by the Council during determination of the planning application, I am not satisfied that this matter can be dealt with by planning condition.
13. Accordingly, while the built addition itself would not be harmful in appearance, including to the host building or the CA, I am not able to find that the proposal could take place without harm to the tree subject to a TPO, which would have resultant harm to the character and appearance of the area, including the significance of the CA as a designated heritage asset. Therefore, the proposal conflicts with policy HC1 of the London Plan, policies DC1, DC8 and OS5 of the Local Plan, as well as Key Principles CAG2 and CAG3 of the SPD. Together, and amongst other things, these seek to ensure development respects and conserves the significance of heritage assets, prevents mutilation of protected trees and takes account of landscape features.
14. In identifying the harm above, I find that the proposal would result in less than substantial harm to a designated heritage asset. In accordance with paragraph 202 of the National Planning Policy Framework, I have had regard to the public benefits of the proposal. The limited economic benefits arising from the proposal, together with the addition of housing, would in my view attract little weight and would be insufficient to outweigh the identified harm.

Conclusion

15. For the reasons given above I conclude that the appeal should be dismissed.

Martin Allen

INSPECTOR