
Appeal Decision

Site visit made on 15 March 2022

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2022

Appeal Ref: APP/H5390/W/21/3280587

1A Ravenscourt Road, London W6 0UH

- 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 Ocarina Management Ltd against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2020/01667/FUL, dated 26 June 2020, was refused by notice dated 24 June 2021.
 - The development proposed is described as the 'Demolition of the existing single storey office building, erection of a replacement part 1 and part two storey office building (Class B1); alterations to the front boundary treatment and installation of new gates to the front boundary wall; associated car and cycle parking'.
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Decision

1. The appeal is dismissed

Procedural Matters

2. In my heading above I have taken the description of development from that given on the appeal form and decision notice rather than the planning application form as it includes reference to the front boundary and gates.

Main Issues

3. The main issues are the effect of the proposal on:
 - The living conditions of the occupiers of neighbouring properties having particular regard to outlook and the impact on sunlight to amenity spaces, and;
 - The character and appearance of the area having particular regard to the significance of the Ravenscourt and Starch Green Conservation Area and locally listed Buildings of Merit.

Reasons

Living conditions

4. The recent Inspector's decision¹ dismissing office redevelopment at the appeal site is relevant to my determination. In that case it was found that the proposal concerned would cause harm to the living conditions of the occupiers of 1 Ravenscourt Road having regard to outlook and light and to the occupiers of

¹ Reference APP/H5390/W/20/3251263 dated 22.10.20, paragraph 19

232-236 King Street in respect of outlook and privacy. The scheme before me includes revisions that distinguish it from the proposal before that Inspector. These include reductions in the overall height of the proposed structure, and at the point nearest to No.1², changes to the shape and massing of the roof form. In addition, no roof terrace is proposed and there are differences in fenestration. Furthermore, a different daylight and sunlight report³ has been provided which seeks to address the discrepancies found by the previous Inspector.

5. The configuration of the garden and windows at 1 Ravenscourt Road is somewhat unusual in that the primary more private garden area is to the side of the house rather than the rear. I was able to observe the relationship at my site visit. There are French doors serving a ground floor reception room and a ground floor kitchen window that benefit from an outlook onto the pleasant garden enclave, with the boundary to the appeal site beyond. The conservatory is situated perpendicular to the main house and at a lower level than the lawn. As such, the present side boundary brick wall with trellis above features in the main aspect from this room too.
6. The height and mass of the Polish cultural centre to the rear is also a relevant factor in the surrounding context. It is several storeys higher than No.1 and occupants of the property would be aware of its dominant presence when using the garden. The trellis along the boundary with the appeal site, although attaining some height, allows for the passage of light and partial views of the sky from the conservatory and the ground floor windows mentioned. Hence, whilst providing a degree of containment to the garden area, it nevertheless allows for a sense of spaciousness beyond, as is illustrated in the photographs provided⁴.
7. The proposal would introduce additional single storey built form close to the side boundary. Despite its chamfered edge, a combination of its proximity and height would mean that its solidity would be apparent through the trellis. Moreover, its length would be broadly equivalent to that of the enclosed area of garden. This would markedly reduce the spacious elements in the outlook from the kitchen window, French doors and conservatory of No.1, which are all rooms within which the respective occupants would reasonably seek to spend prolonged periods of time. Furthermore, the French doors and conservatory deliberately address the garden space, which would also be detrimentally affected. In combination with impact arising from the presence of the Polish centre, such measures would lead to an unpleasant level of enclosure and containment to the garden. Consequently, the proposal would materially diminish the occupants' enjoyment of the property by significantly affecting the outlook from ground floor windows and doors in the side elevation, conservatory and garden area of this property.
8. However, I am satisfied that in comparison to the previous scheme, the decreases in overall height and bulk of the proposal when combined with the separation distances to the two storey element of the proposal, would be sufficient to avoid an oppressive impact on the rear outlook for occupants of 232-236 King Street. I also acknowledge that the overbearing impact to No.1 may not be to the same extent as that found by the previous Inspector. Even

² Drawing 575/205 Rev B

³ Daylight and Sunlight Report, June 2020 prepared by eb7

⁴ Letter from Chadwick Town Planning dated 13.5.21

so, I have identified a level of harm to this property that would be unacceptable. As such, the development would not achieve a high standard of amenity for existing and future users as stipulated in paragraph 130 f) of the National Planning Policy Framework (the Framework). Neither, given its malign impact, could the proposal be accurately described as respecting good neighbourliness as required by policy DC2(e) of the Hammersmith and Fulham Local Plan, February 2018 (HFLP).

9. I have had regard to key principles HS6 and HS7 of the Hammersmith and Fulham Planning Guidance, Supplementary Planning Document, February 2018 (SPD). The former sets out a general rule that development should not result in an infringing angle of more than 45 degrees and advances 3 rules in this regard. The latter primarily refers to the impact on outlook arising from proposed residential rear extensions. Both generally envisage circumstances where a proposed development adjoins the rear garden boundary of a residential property rather than a side garden as in this case. As such, this reduces their relevance to the appeal proposal and consequently, the guidance carries limited weight in this instance. It is the specific factors on the ground already mentioned that have had a greater bearing in informing my judgement as to the likely impact upon the outlook for occupants of No.1.
10. The daylight and sunlight report provided has modelled the potential effects of the proposal on levels of sunlight to the side garden of No.1 using the methodology and criteria set out in the Building Research Establishment's 'Site layout planning for daylight and sunlight: a guide to good practice, 2011' (BRE guidelines). The Sunlight Amenity test looks at the proportion of an amenity area that receives at least 2 hours of sun on the 21st of March in the present condition and compares this with the proportion of the area that receives at least 2 hours of sun on the 21st of March with the proposal in place.
11. When considering the overshadowing impacts to neighbouring amenity spaces, for the area to be considered well sunlit it is recommended that at least half of the area should receive at least 2 hours of sunlight on the 21st March or that reductions are limited to 0.8 times their existing value. Modelling was undertaken both with and without a trellis on the boundary wall. However, for the purpose of modelling it assumes that the trellis is a solid structure. Foliage was not present on the side boundary trellis at the time of my visit. Even if it were to be introduced, it would be unlikely to be equivalent to a solid structure all year round. Therefore, for the purposes of my determination in relation to shadowing, I have given greater weight to the results where it is assumed there is no trellis on the boundary wall. Even so, the results⁵ indicate that whilst there would be some reduction in sunlight, the degree of impact would be within the range deemed acceptable in the BRE guidelines.
12. There is little technical evidence provided that would undermine these findings and therefore, on the basis of the information before me, the occupants' enjoyment of the garden would not be unreasonably compromised due to a reduction in sunlight. Nevertheless, this would not address nor outweigh the harm arising from the overbearing impact of the development.
13. Accordingly, overall, I find that the proposal would result in unacceptable harm to the living conditions of the occupiers of No.1 due to the detrimental confining effect on their outlook. Therefore, it would conflict with policies DC1

⁵ Appendix 4, Daylight and Sunlight Report, June 2020 prepared by eb7

and DC2 of the HFLP which seek high quality development which respects good neighbourliness and the principles of residential amenity.

14. The Council also refers to policy D4 of The London Plan 2021(LP) and policy HO11 of the HFLP in refusal reasons 1 and 2 on its decision notice. However, policy D4 of the LP relates more to the process of design analysis and scrutiny necessary to achieve high quality design. Policy HO11 of the HFLP is mostly concerned with new residential rather than commercial development. Consequently, I do not find any direct conflict with these policies in relation to this main issue.

Character and appearance

15. The site lies within the 'Ravenscourt Park and Surrounding Streets' sub area⁶ of the Ravenscourt and Starch Green Conservation Area (CA). The significance of the CA is primarily derived from the way the buildings, uses and spaces reflect how this part of the city has evolved over time. Near to the appeal site there is a mixture of commercial and residential uses accommodated in an assortment of buildings of different scales and architectural forms in close order. The range spans from the considerable modernist bulk and presence of the Polish cultural centre to neat Victorian houses along Ravenscourt Road. Nevertheless, there is order originating from the underlying historic street pattern. Overall, there is a variety and richness to the townscape that conveys the longstanding use of the area. I have a statutory duty⁷ to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
16. A number of buildings in the vicinity of the site are on the Council's Local Register of Buildings of Merit. The closest are 1, 3 & 5 Ravenscourt Road, a pleasant group of two storey Victorian dwellings in brick with stucco detailing. In addition, the rear elevation of 236 King Street, a tall terraced Victorian property in mixed usage faces towards the appeal site. The significance of these non-designated heritage assets primarily lies in the aesthetic contribution they make to the quality of the townscape, chiefly from their principal elevations. Paragraph 203 of the Framework confirms that the effect of an application on the significance of a non-designated heritage asset should be taken into account. A balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
17. The appeal site is one of the first plots encountered along Ravenscourt Road when travelling from the busier King Street. As such it is in a transitional space between the more commercial and often higher buildings evident in King Street and the predominantly residential use and scale of buildings in Ravenscourt Road. The existing building on the site has an office use and comprises a post-war, single-storey flat roofed office building in a poor physical condition. A high brick wall and gates physically and visually separates the site from the street.
18. Consequently, the built form at the site lacks presence and focus and the overall impression is one of absence or a gap. This in turn allows for views into the innards of the jumble of rear and side elevations of buildings fronting King Street, including the looming unprepossessing presence of the Polish cultural centre. Therefore, the appeal site presently detracts from the character and

⁶ Paragraph 2.15 of the Townscape, Heritage and Visual Impact Assessment prepared by K M Heritage, dated October 2019.

⁷ Section 72, Planning (Listed Buildings and Conservation Areas) Act 1990

appearance of the CA and the settings of the local buildings of merit. My finding in this regard is consistent with that of the Inspector in the most recent previous appeal decision⁸ at the site.

19. The proposal would demolish the existing building and replace it with a contemporary office building that includes a first floor. In general terms the height and massing of the building would be restrained with the upper floor component separated by some distance from buildings to the north and south and kept lower than No.1. Hence, it would not distract attention away from the nearby locally listed buildings lining Ravenscourt Road. Although the building type would be distinct from nearby traditional housing, this would not appear out of keeping with the varied context and would reflect a different use.
20. Furthermore, the building would have a presence in its own right due to the introduction of the first floor element with feature glazing. As this would be seen from the street it would add focus and life to the frontage. The street scene would be further improved by upgrading the gates and providing a new pedestrian entrance in the boundary adjoining the road. Moreover, the use of stock brickwork and a darker pre-patinated zinc roof would be sympathetic to the colours and textures of traditional materials seen in the surrounding built form. Contrasting projecting stock bricks would give the otherwise blank sections of the upper side elevations a subtle textured profile.
21. In combination these measures would result in a building that would strike an appropriate balance between adding interest in this transitional space whilst remaining respectful to the historic street pattern and nearby traditional buildings. It would assist in knitting the varied townscape together more securely and therefore, would enhance the character and appearance of the CA and settings of locally listed buildings.
22. Paragraph 197c) of the Framework states that account should be taken of the desirability of new development making a positive contribution to local character and distinctiveness. Moreover, for the reasons outlined the proposal would align with the key principles CAG2 and CAG3 of the SPD. These relate to development in conservation areas and advocate that development should positively contribute to the townscape and visual quality of the area whilst being sympathetic to the architectural character of the built environment.
23. Accordingly, I find that the proposal would enhance the character and appearance of the CA and settings of the nearby locally listed Buildings of Merit. Therefore, in this respect there would be no conflict with policies DC1, DC2 or DC8 of the HFLP. Taken in combination, and amongst other things, these policies seek high quality development that respects and enhances the townscape context and the significance of heritage assets.

Other matters

24. Reference has been made to the health condition and circumstances of a neighbouring resident. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Disability is a

⁸ Paragraph 28, Appeal reference APP/H5390/W/20/3251263

protected characteristic and would encompass a physical or mental impairment that has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities. The circumstances described whereby the occupant spends considerable periods of time in one room served by a window facing towards the appeal site, would make them particularly sensitive to changes that negatively affect outlook. This is a matter that I have given consideration in my determination. I have already found that the proposal would have an unacceptably enclosing effect on the outlook from windows and the garden for occupants of No.1. The personal circumstances outlined attract limited weight but would exacerbate the degree of harm. Therefore, although not determinative, this is a factor that reinforces my findings in relation to the first main issue.

25. The proposal would be beneficial in that it would make more efficient use of previously developed land and would improve and increase the building stock available to businesses, all of which is given general encouragement in the Framework. Furthermore, it would make a visual improvement to the CA and economic benefit would arise from the construction and potentially from the creation of new jobs. Nevertheless, given the scale of the proposal, the extent of such benefits would be relatively modest. Hence, I have given these factors limited positive weight in my determination.
26. It is further asserted that in the event the appeal is dismissed, due to viability difficulties, the site is likely to remain redundant. However, there is limited evidence to substantiate this, so it attracts little weight. As such, it would not amount to sufficient justification to allow a development that would cause permanent harm to the outlook of adjacent residential occupiers.
27. The appellant highlights that planning discussions regarding the site have been on-going with the Council for several years, and in relation to this proposal there was a positive officer recommendation to the Council that the proposal would comply with development plan policies. Although I have had careful regard to the committee report in this case, I am required to form my own judgement regarding its planning merits considering the entirety of the evidence before me, including my own observations. For the reasons already outlined, I have found unacceptable harm to living conditions would arise. Compliance with other development plan policies would be a requirement in any event, and the absence of harm in respect of other matters would not amount to a benefit of the proposal. Therefore, these factors would not lead me to a different view.
28. The allegation that there was a conflict of interest in the Council's decision making lies outside of the scope of my determination, which I have made on the planning merits of the case.

Planning balance and Conclusion

29. Planning law requires decisions to be made in accordance with the development plan, unless material considerations indicate otherwise⁹. I have found the proposal would conflict with the development plan policies that seek to respect good neighbourliness and the principles of residential amenity. There are no

⁹ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70 (2) of the Town and Country Planning Act 1990.

compelling reasons to justify making the decision other than in accordance with the development plan.

30. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector