



Appeal Decision

Site visit made on 20 April 2022

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2022

Appeal Ref: APP/H5960/W/21/3283913

41 Felsham Road, London SW15 1AZ

- 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 TJ and Hiroko Mason against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref 2021/3129, dated 30 June 2021, was refused by notice dated 25 August 2021.
 - The development proposed is for extensions and conversion to 7 person HMO.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - The character and appearance of the area;
 - Whether it would provide adequate living conditions for future occupiers, with particular reference to light and outlook; and
 - The adequacy of waste and recycling provision.

Reasons

Character and Appearance

3. 41 Felsham Road comprises a mid-terrace, 3 storey building with additional basement accommodation and further accommodation in the roof space. The wider terrace sits on the southern side of Felsham Road and has a consistent building line. The building line abuts the pavement, and its uniformity makes a positive contribution to the local character and appearance of the area.
4. As part of the development proposal, a significant section of the ground floor frontage of No 41 would be set back behind the existing building line. A glass railing, to a height as shown on the plans of 1100mm would be erected along this building line. Behind this glass railing a lightwell is also proposed which would serve bedroom 1 in the basement.
5. While matching materials are proposed, this setback of a large section of the front wall behind the existing building line of the wider terrace would disrupt the existing character and layout of building frontages against the pavement. This would introduce a frontage at odds with its surrounding layout causing significant harm to the street scene.

6. I note the Council has approved a recent application reference 2021/4253 at No 41 for alterations which include a basement enlargement and replacement ground floor front elevation. The consented application does not incorporate a front railing or front lightwell and the ground floor wall broadly respects the existing building line. For these reasons this other approved application has limited bearing on this main issue.
7. The appellant also makes reference to a planning approval at 43 Felsham Road, however, I have not been provided with the approved drawings, the Council's planning report or decision notice. Without these it is difficult to make any comparative analysis. This consequently carries limited weight in respect to this main issue.
8. The existing frontage needs some repair and its replacement with a new frontage is noted. In addition, the retention of the existing pilaster and corbels and creation of a new fascia also carries some weight in favour of the appeal. Nevertheless, these benefits are moderate and do not outweigh the significant harm identified above in respect to the building line. Additionally, while this development proposal has the potential to provide a more optimal use of the site, this does not outweigh the harm set out above in relation to this main issue.
9. Although the appellant is concerned about privacy, acoustic performance and energy efficiency by providing larger 'shop front' sized windows to the ground floor, the appeal before me does not propose larger windows. These matters therefore carry limited weight regarding this main issue.
10. The appellant suggests that windows need to be set back to allow opening for ventilation. However, I have not been provided with evidence that there are no other possible solutions to provide this. Consequently, this carries limited weight in my overall assessment.
11. Reference has been made to a historic building line which may have been set further back than the current arrangement. However, no evidence confirming this has been provided. This therefore has limited bearing on this main issue. Additionally, while setbacks may be acceptable elsewhere, given the context in which the proposed development sits, I have found significant harm arises from such a setback at No 41.
12. The proposed development would consequently harm the character and appearance of the area. Accordingly, I find conflict with the relevant provisions of Policy IS3 of the Wandsworth Local Plan Core Strategy 2016 (the Core Strategy), Policies DMS1 and DMH5 of the Wandsworth Local Plan Development Management Policies Document 2016 (the DMPD) and the Wandsworth Local Plan Housing Supplementary Planning Document 2016 (the Housing SPD) which, amongst other things, seek to ensure that development is sympathetic to the character and appearance of the area.
13. The appellant has also suggested that the proposal complies with paragraph 130 of the National Planning Policy Framework. This paragraph, amongst other things, seeks to ensure buildings are sympathetic to local character and history, including the surrounding built environment. As set out in my findings above, I have found that the proposed development does not achieve this.

Living Conditions

14. The proposed plans show that Bedrooms 1 and 2 would be sited below ground level and sources of light and outlook would be provided by lightwells. The appeal is not supported by reports or evidence to show that these bedrooms would receive adequate daylight/sunlight. Consequently, I can only conclude that it has not been demonstrated that Bedrooms 1 and 2 would receive adequate light.
15. The appellant refers to a BRE Report, but this has not been provided as part of the appeal. The Council also confirm that such a report was neither submitted in their appeal documents nor submitted as part of the original planning application.
16. Views from Bedrooms 1 and 2 would be principally onto the walls of the lightwells. These walls would be sited close to the openings. Consequently, there would be reduced opportunities for a clear outlook from these bedrooms for occupiers to have open views of the sky and land beyond the tight confines of the lightwell. The lack of adequate outlook would result in an oppressively confined form of accommodation.
17. While I note that permission was granted by the Council for a similar proposal with basement accommodation under reference 2021/4253, this was for a 6 bed dwellinghouse. The proposed development before me is for a House in Multiple Occupation (HMO). HMOs are typically used differently by unrelated individuals and in this case the bedrooms would be the only private spaces future occupants would have. On this basis the previous planning consent has limited bearing on this main issue.
18. The appellant has sited the addresses of properties elsewhere where windows have differing degrees of outlook and light. I have not been provided with details of these other properties and it is therefore difficult to make any comparative analysis. Consequently, this has limited bearing on my findings.
19. The proposed development would therefore fail to provide adequate living conditions for future occupiers of Bedrooms 1 and 2 with particular reference to light and outlook. It is therefore contrary to the relevant provisions of Policies DMH4 and DMH9 of the DMPD and the Housing SPD. These policies, amongst other things, address the need for high quality housing design and layout and to respect the amenity of future occupants.
20. The Council referred to Policy IS5 of the Core Strategy in their first reason for refusal. This policy seeks to achieve a mix of housing including affordable housing, however, it is not clear from the evidence what objection the Council has in this respect. Accordingly, I have not referred to this Policy as part of my conclusion.

Waste and Recycling

21. Waste and recycling stores would be provided at ground floor level adjacent to the front entrance. A door which opens onto the pavement provides access to the store and the proposed plans show the store with two bins, arranged in tandem formation. The appellant's design and access statement confirm that recycling would go on a shelf above the bins.

22. In respect to waste and recycling requirements, the appellant considers the development proposal should be treated as an individual house as HMOs are not specifically mentioned in the Wandsworth Local Plan Refuse and Recyclables in Developments Supplementary Planning Document 2014 (the Refuse and Recyclables SPD). The appellant also states that this absence of standards in respect to HMOs is because most HMOs are converted from existing houses.
23. In response, the Council state that the requirement for individual houses was not intended to cover HMOs and interpreting SPD requirements like that would be liable to result in regular problems with waste and recycling overflows. The Council consider that each double HMO room should be treated as the equivalent to one household for waste and recycling storage purposes.
24. Given the proposed HMO could provide accommodation for up to 7 independent bedrooms each with their own individual waste and recycling demands, in contrast to one house, I find the Council's argument more compelling. Therefore, applying the Refuse and Recyclables SPD requirements, the proposal requires provision for 7 dustbins plus 7 recycling sacks or suitable space for 1 x 1100 litre plus 1 x 660 litre eurobins. The development proposal fails to demonstrate it can accommodate this requirement and this weighs against the appeal.
25. As part of their statement, the Council suggest an alternative to applying the Refuse and Recyclables SPD requirements. The Council propose a lower requirement of 30 litres plus 70 litres per bedroom which equates to 520 litres waste storage or suitable space for 6 x 90 litre dustbins. Although I have not been shown where this newer requirement is obtained from or on what basis it has been formulated, even if I apply this lower requirement, it remains that the proposed development fails to demonstrate it can accommodate this provision.
26. The appellant suggests that higher levels of waste storage encourage people to throw away more. However, in practice space for dustbins can also be used for recycling and the space can be utilised in accordance with the needs of occupants. This consequently has limited bearing on my overall findings.
27. While I note the previous consent under reference 2021/4253, this was for a 6 bed dwellinghouse. A single dwellinghouse would have differing waste and recycling demands than 7 independent bedrooms. The appellant also states that conversions to a smaller HMO could be achieved under Permitted Development and as such there would be no control over waste and recycling storage. I have not been provided with evidence that this would be a realistic fallback and even if it was, such a fallback would be for a smaller HMO and would not place the same demands on waste and recycling. On this basis the previous planning consent and potential for permitted development fallback has limited bearing on this main issue.
28. The door to the bin store would be visible from the entrance of the premises and opens onto the street. I have not been provided with compelling evidence as to why this layout would cause harm. However, the absence of demonstrable harm in this regard has limited bearing regarding this main issue.
29. I have also not been made aware that the proposed development makes explicit provisions to reduce waste to merit a lower storage requirement.

30. It has not been demonstrated that the proposed development would provide adequate waste and recycling provision. The proposed development conflicts with the relevant provisions of Policy DMS1 of the DMPD and the Refuse and Recycling SPD 2014 all of which, amongst other things, seek to ensure proposals provide waste and recycling provision which would be fit for purpose.

Other Matters

31. While the appellant has shown in their final comments that alterations could be made to the scheme in respect to the Council's objections, I am mindful that the appeal process should not be used to evolve a scheme and it is important that what is considered by me is essentially what was considered by the Council, and on which interested parties' views were sought. I have therefore considered the appeal as submitted.

Conclusion

32. The appeal scheme would conflict with the development plan as a whole for the reasons I have given. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

N Praine

INSPECTOR