



Appeal Decision

Site visit made on 5 July 2022 by Ifeanyi Chukwujekwu BSc MSc MRTPI MIEMA CEnv

Decision by Martin Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2022

Appeal Ref: APP/H5390/D/22/3292356 58 Batoum Gardens, London W6 7QD

- 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 Robert Ibbotson against the decision of the Council of London Borough of Hammersmith & Fulham.
 - The application Ref 2021/03467/FUL, dated 27 October 2021, was refused by notice dated 24th December 2021.
 - The development proposed is excavation of an enlarged front light well and installation of a staircase to basement level.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues are:
 - The effect of the proposed development upon the appearance of the host dwelling and whether it would conserve or enhance the character of the Melrose Conservation Area; and;
 - whether the information provided in support of the appeal is sufficient to justify the proposed development and has shown that flood risk has been adequately dealt with, with particular regard to relevant government advice and local policy.

Reasons for the Recommendation

Character and appearance

4. No.58 is a three-storey end of terrace dwelling, located on Batoum Gardens within the Melrose Conservation Area (the CA). The property also incorporates a basement with a lightwell in the front garden¹.

¹ Planning approval ref: 2004/00533/FUL

5. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) places a duty upon the decision-maker, in the exercise of planning functions, to have special regard to the desirability of preserving or enhancing the character or appearance of conservation areas. The Framework further advises 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.
6. The CA is comprised of groups of three-storey terraces with two storey bay windows and paired recessed porches. These are setback from the road behind front gardens and a variety of low wall boundary treatments. Though the majority of the green landscaping has been replaced with hard surfacing, the front garden area remains integral to the character of the CA which is derived from the homogeneity in form and appearance of the buildings which presents a neat and unified street scene.
7. I observed on the visit to the site that a few properties have dug out basement areas. As stated in The Melrose Conservation Area Character Profile², where this results in the loss of the front garden it has had a negative effect on the character of the area due to loss of the front garden area, and the visual increase in height of the properties.
8. Key principle - BL1 Assessment of Lightwells of Hammersmith and Fulham's Planning Guidance Supplementary Planning Document - February 2018 (the 'SPD')³ states that where they are not part of the original design, proposals to insert stairs into the front lightwell would normally be resisted. This is in order to prevent loss of the front garden area.
9. With the exception of the appeal property, there are no other front lightwells and no access stairways at the front within the even numbered terrace block nos.38-58 Batoum Gardens. The proposed excavation of the existing front light well and installation of a staircase to basement level would result in the loss of the front garden and would result visually in the appearance of the appeal property as a four-storey building. It would represent an incongruent addition to the terraced block which, according to observation of other properties with stair access at the front leading to basements, would appear as a prominent feature when viewed from the street. This conclusion is despite the proposed planting at the front, where the branches are likely to provide seasonal visual mitigation but be bare at certain times of the year.
10. The appellant has referred to planning permissions granted by the Council for front light wells at other properties on Batoum Gardens. I note however that these approvals precede the adoption of the Hammersmith and Fulham Local Plan (2018) (the 'LP'), and thus are likely to have been subject to other planning considerations. Nevertheless, the proposal would be inconsistent with the external appearance of the host building and block and by virtue of the scale of excavation and resultant form of the property including the staircase, it would have a visually harmful effect upon the character and appearance of the CA and its significance.

² Obtained from Council's website. See paragraph 5.8

³ Obtained from Council's website

11. I am satisfied that the harm caused is less than substantial but this must be weighed against the public benefits of the proposed development. In this regard, no public benefits of the proposal have been advanced by the appellant, with the improvements to the property amounting to a private benefit to the appellant. Therefore, on this basis, it is not considered that there are any demonstrable public benefits that would outweigh the identified harm to the significance of the CA.
12. Consequently, I find that the excavation of an enlarged front light well and installation of a staircase to basement level would fail to conserve or enhance the character or appearance of the CA. Accordingly, the scheme fails to accord with the Act, and conflicts with the National Planning Policy Framework and Policies DC1, DC4, DC8 and DC11 of the LP and relevant Key Principles of the SPD, which amongst other things seek to ensure that applications affecting designated heritage assets, including alterations and extensions to buildings conserve or enhance the significance of the heritage asset.

Flood Risk

13. The site is located within Environment Agency (EA) Flood Zones 2 and 3. A site specific Flood Risk Assessment (FRA) was required as part of the planning submission.
14. As part of the original submission, the appellant has relied on flood risk details submitted to the Council for the construction of the existing light well in 2004. However, the proposal before me is not for the same development scheme, and it is considered that further excavation to create the basement access and the entrance would have the potential to increase flood risk, a point I note that the Council has raised in objection to this proposal.
15. The site's vulnerability to flood risk from all sources requires assessment. There is an absence of evidence before me to demonstrate that there has been any further consideration of flood risks and whether additional mitigation measures would be required. The proposed development does not therefore demonstrate that flood risk has been adequately addressed.
16. Based on the site's vulnerability to flood risk from all sources, the use of planning conditions would not be appropriate as there is no certainty that any risk could be adequately mitigated, and therefore such an approach would not satisfactorily meet the tests set out at paragraph 56 of the Framework.
17. To conclude on this matter, the proposed development does not demonstrate that there is adequate means to minimise flood risk and that it would be a safe development, as well as provide adequate water efficiency measures. The proposal therefore fails to comply with Policies CC3 and CC4 of the LP and relevant Key Principles of the SPD in their aims to minimise flood risk.

Conclusion and Recommendation

18. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Ifeanyi Chukwujekwu

APPEALS PLANNING OFFICER

Inspector's Decision

19. I have considered all the submitted evidence and the Appeal Planning Officer's report, and on that basis, I agree with the recommendation and shall dismiss the appeal.

Martin Seaton

INSPECTOR