



Appeal Decision

Site visit made on 28 March 2023

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th May 2023

Appeal Ref: APP/X5210/W/22/3309395

67 Mill Lane, Camden, London NW6 1NB

- 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 Dante Mody against the decision of the Council of the London Borough of Camden.
 - The application Ref 2022/0694/P, dated 21 February 2022, was refused by notice dated 14 September 2022.
 - The development proposed is the erection of part single, part two storey rear extension and conversion of ground floor retail store room (Class E) to provide a 2-bedroom flat (Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There was no description of development provided on the application form. I have therefore taken the description of development from the Council's decision notice and the appeal form in the banner heading above.

Main Issues

3. The main issues in the appeal are:
 - The effect of the proposal on the character and appearance of the area;
 - Whether the proposal would provide adequate living conditions for future occupiers with particular regard to light, outlook and provision of internal accommodation; and
 - Whether a legal agreement to prevent occupiers from applying for car parking permits is necessary.

Reasons

Character and Appearance

4. The appeal site is a 3-storey mid terrace property, with a commercial use at ground floor level and residential accommodation above. The property has a 2 storey outrigger to the rear and a small courtyard. The rear boundary of the site abuts Oreste Mews. The surrounding area is of mixed character, Mill Lane has a busy commercial feel, with side streets such as Aldred Road being more residential in character.

5. The proposal comprises a part single, part two-storey extension to the rear of the property, which would extend in part up to the rear boundary. The two-storey part would have a mono pitched roof and the single storey element would have a flat roof. The upper storey of the extension would overhang part of the courtyard. The proposal would also involve the change of use of a storeroom which together with the extension would create an additional residential unit. The existing ground floor retail use would be retained.
6. The extension would be viewed as a continuation of the two-storey out-rigger, which would be built up to the boundary of the site. It would be a substantial addition to the property, that would not appear subordinate to the host property. The scale and design of the proposal would give rise to a prominent feature that would be significantly at odds with the existing property and the surrounding area. The overall scale, bulk and height of the proposal would not represent a sympathetic addition to the property, and it would not respect the character of the local area, resulting in harm to the character and appearance of the host property and surrounding area.
7. Orestes Mews is a narrow street and the high boundary wall to the rear of Nos 51 to 65 Mill Lane is a dominant, enclosing feature. The boundary treatment to the appeal site is by comparison, of a modest height. However, the proposal would appear as a continuation of the nearby tall wall, resulting in a highly prominent form of development that would exacerbate the sense of enclosure experienced along Oreste Mews. This would be detrimental to the character and appearance of the area.
8. The roof design, materials and windows of the proposal would respect the architectural character of the existing building. However, this would not mitigate the harm to the character and appearance of the host property and wider terrace.
9. My attention has been drawn to other extensions in the locality, particularly to the rear of Nos 77 to 83. However, none of the nearby extensions appear directly comparable to the proposal and unsightly single storey extensions that harm the original character and appearance of the area do not provide a justification for the proposal.
10. Therefore, I conclude that the proposal by virtue of its scale, bulk and design would harm the character and appearance of the host property and the surrounding area. This would be contrary to Policy D1 of the Camden Local Plan (2017) (CLP) and Policy 2 of the Fortune Green and West Hampstead Neighbourhood Plan (2015) (NP) which seek, amongst other things, high quality design that respects local character and context.
11. The proposal would also conflict with Paragraph 130 of the National Planning Policy Framework (the Framework) which requires development to be visually attractive as a result of good architecture, to function well and add to the overall quality of the area and to be sympathetic to local character.

Living Conditions – Future Occupiers

12. The proposed living accommodation would be split over two floors, providing approximately 62m² of internal floorspace. CLP Policy H6 requires all self-contained homes to meet the Nationally Described Space Standards (NDSS). There is no dispute that the proposal would fail to meet the relevant standards

set out in Policy D6 of the London Plan and the NDSS for either a 2-storey 2-bed 3 or 4 person dwelling.

13. The appellant suggests that the upper floor bedroom could be an office/study, thereby changing the accommodation to a 1 bedroom dwelling for 2 persons and which would meet the floor space requirements of Policy D6. The Council has indicated that it would be agreeable to such an amendment. Amended plans to overcome the Council's concern in this regard could be dealt with by imposition of planning conditions.
14. The proposed living accommodation would be predominantly located on the ground floor, with limited outlook to the rear by virtue of its location within the sunken courtyard. The bedroom window would face onto the steps, bin store and rear boundary of the site, which would, due to the size of the courtyard appear cluttered and overbearing. The living room window to the rear, would similarly overlook the cycle and bin storage areas and would also be located beneath the first-floor overhang. Cumulatively, this would provide a poor outlook for the future occupiers. Whilst the provision of soft landscaping could enhance the appearance of the courtyard, taking into account its small size and significant enclosure, planting would not overcome the harm in terms of the outlook from the habitable room windows.
15. The retained space within the rear courtyard would be small. The location of cycle and refuse storage would further reduce and constrain the size of the courtyard. A section of the courtyard would also be located beneath the two-storey overhang. This would limit the amount of natural light to this space and to the windows in the rear elevation.
16. The provision of a lightwell and full height window would seek to maximise available daylight into the property. However, its relationship to built features including the proposed first-floor overhang would mean that the accommodation, particularly the habitable rooms would be overshadowed. Therefore, I am not satisfied that the habitable rooms would receive adequate levels of natural light.
17. My attention has been drawn to the outlook of the nearby Oreste Mews properties. In terms of their similarities to the appeal site, the site layout plan provided suggests, that these properties have small courtyard style gardens, that are, in some cases, located close to a high boundary wall. However, their general arrangement and orientation are different to the appeal site, and they mostly appear to benefit from more than one area of outdoor amenity space. There is little evidence that these properties are directly comparable to the appeal proposal in terms of living conditions, and they do not provide justification for it.
18. Therefore, I conclude that the proposed development would not provide adequate living conditions for future occupiers with particular regard to light, outlook and provision of internal accommodation. This would conflict with Policy D1 and H6 of the CLP, Policy D6 of the London Plan, and the Framework which together, requires high-quality housing, that provides adequate internal accommodation, daylight and outlook.

Car-Free Housing

19. The appeal property is part of a terrace of mostly commercial properties with a range of shops and services. It also has very good public transport accessibility with a PTAL rating of 5. The site is an accessible location where future occupiers would have genuine alternatives to car-based travel.
20. The site is within a Controlled Parking Zone (CPZ), where parking is restricted. In terms of parking stress, I observed on my mid-morning site visit that on street parking along Mill Lane and the surrounding streets was at or very near to capacity. Demand for parking is likely to be higher at peak periods.
21. No on-site parking is proposed and the dwelling would not be eligible to apply for an on-street parking permit. While the parking requirements generated by an additional residential unit would be limited. Policy T2 of the CLP requires all development within the Borough to be car-free. Therefore, there would be harm to wider environmental interests, the promotion of which is an objective of both national and local policy.
22. I note the appellant would be willing to provide a legal agreement to secure a car free development. However, no such planning obligation has been provided and no other mechanism has been suggested to address this matter. Having regard to the Planning Practice Guidance, the planning obligation should properly be in place before planning permission is granted and there is little evidence that this is a matter that could be satisfactorily dealt with by the imposition of a planning condition.
23. Accordingly, in the absence of a signed legal agreement, the proposal would not be car free. It would therefore conflict with Policies T1, T2 and A1 of the CLP and Policy T6 of the London Plan, which together seek to manage parking requirements and promote car free housing and sustainable travel.

Other Matters

24. The Government's Housing Delivery Test 2021 measurement for the Borough, reflects an ongoing under-delivery of housing, but this appears to be beneath the threshold to engage Paragraph 11d of the Framework. Moreover, I am not aware of any shortfall in the Council's 5-Year Housing Land Supply (5YHLS). The proposal would contribute to the Government's aims in relation to boosting the supply of housing in a location that is suitable for housing and accessible to local services. However, even if the Council was unable to demonstrate a 5YHLS, the benefits from one additional unit would be limited, and although the site has good access to services and public transport links, the adverse impacts on the character and appearance of the area, the living conditions of future occupiers, and the absence of a planning obligation to secure car-free housing would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
25. I have had regard to the concerns raised in relation to the use of Oreste Mews and any provision of access and a gate onto this access road; however, these matters are a civil matter between the parties.

Conclusion

26. For the reasons set out above, I conclude that the proposal would conflict with the development plan taken as a whole. There are no material considerations which would outweigh that conflict. Therefore, the appeal should be dismissed.

K Lancaster

INSPECTOR