

Appeal Decision

Site visit made on 2 July 2024

by C Livingstone MA(SocSci) (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2024

Appeal Ref: APP/X5210/W/23/3330963

94 Arlington Road, Camden, London NW1 7HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Hopkins, Ternrock Ltd, against the Council of the London Borough of Camden.
 - The application Ref is 2023/1888/P.
 - The development proposed is described as 'Erection of new dwelling in the rear garden of 94 Arlington Rd, London, NW1 7HT.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A Daylight, Sunlight and Shading Report dated July 2023 and amended plans which include a revision to the layout of the external amenity area, were submitted as part of the appeal. Interested parties have had an opportunity to review and make comments on evidence submitted as part of the appeal. Therefore, I do not consider that the Council or any interested parties would be prejudiced by me accepting this information.
3. The appeal relates to a planning application that was not determined by the Council within the prescribed period. In response to the appeal, the Council has prepared an appeal statement outlining its view that permission should be refused. I have had regard to this statement and the suggested reasons for refusal within it in framing the main issues below.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the host property and the Camden Conservation Area;
 - whether the proposed development would provide suitable living conditions for future occupants with regard to outlook and the effect of the proposal on the living conditions of neighbouring occupants on Arlington Road with regard to privacy; and

- the effect of the proposal on the safe and efficient operation of the local highway network with regard to parking provision.

Reasons

Character and appearance

5. The Camden Conservation Area (CCA) comprises two sub areas of a distinctly different character, the mixed commercial and retail area and a quieter more formal residential area. Arlington Road is predominantly residential and consistency in the built form and street trees give the area a calm, and verdant quality. This contrasts with Camden High Street which forms the heart of the commercial and retail sub area, the mix of uses and diversity of architectural styles gives that area a busy, noisy and urban feel.
6. 94 Arlington Road (No 94) is part of a traditional, flat fronted terrace dating from the early 19th century and is within the area identified as Residential Sub Area 2 within the CCA. The property is noted within the Camden Town Conservation Area Appraisal and Management Strategy (CTCAA) as making a positive contribution to the CCA. Delancey Passage is a pedestrian access that runs along the back boundary of the rear gardens on Arlington Road. The buildings along the passage are mainly commercial, as it forms the interface between the two identified sub areas. The CTCAA notes the passage is 'intimately scaled' which is reflective of its narrow width relative to the height of the existing buildings and boundary walls.
7. The significance of the CCA is derived in part by the contrast in character and appearance between the two sub areas. High quality traditional dwellings, and their gardens, add to the residential character of the area and make an important contribution to its historical and architectural significance.
8. The proposal is for the erection of a two storey detached dwelling within the rear garden of No 94. The property would front on to Delancey Passage and would be accessed via a gate in the brick boundary wall, with a second 'limited access' via No.94. The design of dwelling would include contrasting brick work, and a living wall, and private external amenity areas would include a first floor balcony and areas to the front and rear of the proposal. The proposed dwelling would extend across the width of the garden and in terms of depth its footprint would extend over around half the rear garden area.
9. Due to its overall scale and massing the proposed dwelling would be noticeably higher than surrounding boundary treatments and would be prominent within the immediate context of Delancey Passage. Further, the scheme would introduce a large built form which would notably alter the garden character of the site. As a result, the proposed dwelling would appear as a prominent and incongruous feature which would detract from the open and verdant garden environment.
10. I appreciate that the proposal would utilise a palette of external materials and design features that reflects other buildings in the wider area, with the balcony and green wall breaking up the built form and adding visual interest. Nevertheless, it would appear prominent and out of place when viewed from

surrounding properties. Given the constrained nature of the site and the extent of the developed area, the design, including the living wall, would not ameliorate my concerns in relation to the harm to the established garden character of the appeal site.

11. There is existing development along Delancey Passage and my attention has been drawn to other mews streets and passageways within the wider area where the building density is higher. However, it does not appear that the mews streets and passageways identified are as narrow as Delancey Passage. Further, there is no substantive evidence before me to demonstrate that the existing development, along this pedestrian access was approved under the current development plan. Therefore, I am unable to give significant weight to the issue of precedent. Also, the garden areas and their boundaries remain a significant element along Delancey Passage, and are a contributing factor to the established residential character of the area. The proposal would obscure views of No 94 and would occupy a significant area of the rear garden and in doing so would be detrimental to the garden setting and residential character of the immediate area.
12. As such the proposal would harm the character, appearance and significance of the CCA as a whole. Paragraph 208 of the Framework explains that where, as I find in this case, the harm to the significance of the CCA would be less than substantial, that harm should be weighed against the public benefits. The proposal would result in a modest contribution to the housing supply in the area, there would also be economic benefits during construction.
13. The Metropolitan Police have raised concerns regarding the development in terms of the suitability of the proposed location off Delancey Passage as it is gated at one end, is poorly lit and there is a lack of existing natural surveillance; their concerns are exacerbated due to the close proximity to Camden High Street which has a busy evening economy and is noted as being an area where there are a high number of incidents of crime. The increase in natural surveillance as a result of a single dwelling does not address wider pre-existing concerns regarding the safety and security of future occupants and those visiting the property. Therefore, any public benefit in terms of natural surveillance would be limited. I thus give moderate weight to the identified public benefits which would not be sufficient to outweigh the great weight I must attach to the harm I have identified to the designated heritage asset.
14. For the reasons detailed above the proposal would have a harmful effect on the character and appearance of the host property and the CCA. Therefore, the development would conflict with Policies D1 and D2 of the Camden Local Plan 2017 (CLP). When read together, these policies seek to ensure the development respects local context and character and will not permit development that results in harm that is less than substantial to the significance of the designated heritage asset unless the public benefits of the proposal convincingly outweigh that harm. With reference to my duty set out in s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 I find that the proposal would neither preserve nor enhance the character of appearance of the CCA.

Living conditions

15. The proposed dwelling would be close to the existing high boundary wall. The open plan living area on the ground floor would be served by a large window and a glazed door to the front and a glazed door to the rear. The window and doors to the front, that face Delancey Passage, would be a short distance from the high boundary wall and would result in an enclosed and poor outlook from the living area. Given the depth of the building the glazed rear door does not resolve my concerns in this respect.
16. The first floor bedroom would be served by a window and a glazed door which would access a balcony area. There would be a sufficient separation distance between these openings and the building on the other side of Delancey Passage, to achieve a suitable outlook for future occupants from the bedroom. The windows on the rear elevation would serve a hall and a bathroom. In order to ensure the privacy of neighbouring occupants is protected, if the development was otherwise acceptable, these windows would need to be fitted with obscure glazing. As the hall and bathroom are non-habitable rooms I have no concerns regarding outlook from the rear first floor windows.
17. The rear elevation of the proposed dwelling would be in close proximity to the rear of the properties on Arlington Road. The proposed boundary would mitigate potential overlooking issues at ground floor level and as detailed above it would be acceptable for the first floor rear windows to be fitted with obscure glazing. While the first floor rear windows may result in a perception of overlooking, they would not serve habitable rooms and could be fitted with obscure glazing. This would be sufficient to ensure that the proposal would not have a harmful effect on the privacy of neighbouring occupants on Arlington Road.
18. Nevertheless, as detailed above I have found that the proposed development would fail to provide suitable living conditions for future occupants with regard to outlook. Therefore, the proposal is contrary to Policy A1 of the CLP which seeks to ensure the amenity of occupiers is protected in regard to outlook.

Parking provision

19. I noted on my site visit that opportunities for on-street parking are limited and controlled in order to allow the free flow of traffic.
20. Whilst future occupants may not be dependent on private cars for day to day transport requirements they might want to own and park a vehicle for those journeys that aren't possible or practical on public transport. This would exacerbate the level of parking stress in the area and encourage travel by private car which has a detrimental impact on air quality, personal health and well being, and the environment.
21. In light of these impacts Policy T2 of the CLP requires all new residential developments to be car free only allowing car parking in exceptional circumstances. There is no evidence before me to demonstrate that the proposal would be in accordance with any of the criteria listed. Therefore, a

legal agreement would be required to prevent the proposed dwelling from being occupied by individuals that hold a parking permit.

22. In the absence of a completed legal agreement to secure the development as car free, I have no mechanism for securing the required restriction. Therefore, the proposal fails to comply with the requirements of Policy T2 of the CLP which requires that new residential development is car free.

Other Matters

23. The Council's fourth reason for refusal included reference to a legal agreement to secure £4194 toward the implementation of a Construction Management Plan and an impact bond of £8000 which would require to be secured by a legal agreement. However, given that I have found harm, the absence of a legal agreement in these respects does not go to the heart of the main issues and is not determinative in my assessment.
24. The Council have raised no objection in relation to internal space standards, external amenity space, accessibility, daylight, sunlight, energy and water efficiency, waste and cycle storage. They have also raised no concerns regarding the living conditions of neighbouring occupants in terms of daylight, sunlight, outlook and noise and disturbance. Further, the appeal site is in an area that is not at risk of flooding and would not result in the loss of trees. However, the absence of harm in these respects form neutral factors in my assessment of the appeal, weighing neither for nor against the proposal.
25. The proposal would provide an additional housing unit in a suitable location where there is an identified need. This would maximise the use of the site and make a modest contribution to the housing supply in the area. In so doing, the proposal would support the aims of Policies H1 and H2 of the London Plan 2021, which amongst other things, set housing targets and encourage the development of small sites in order to meet London's housing needs. There would also be associated economic benefits during construction and the development may have a positive impact on biodiversity.
26. In light of the conflict I have found with a number of policies, as detailed above, I conclude that the proposal would be in conflict with the development plan as a whole.

Conclusion

27. For the reasons given above the appeal should be dismissed.

C Livingstone

INSPECTOR