



Appeal Decision

Site visit made on 12 September 2011

by Janet L Cheesley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 September 2011

Appeal Ref: APP/X5210/A/11/2152963

43-45 Fitzjohns Avenue, Hampstead, London NW3 5JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Loham (UK) Ltd against the Council of the London Borough of Camden.
 - The application Ref 2010/6824/P, is dated 2 December 2010.
 - The development proposed is additions and alterations including a two-storey rear extension at lower ground and ground floor levels, two-storey infill extension, alterations to both front and rear fenestration and facades to existing residential buildings that provide a combination of self-contained and non self-contained flats.
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Decision

1. I allow the appeal and grant planning permission for additions and alterations including a two-storey rear extension at lower ground and ground floor levels, two-storey infill extension, alterations to both front and rear fenestration and facades to existing residential buildings that provide a combination of self-contained and non self-contained flats at 43-45 Fitzjohns Avenue, Hampstead, London NW3 5JU in accordance with the terms of the application, Ref 2010/6824/P, dated 2 December 2010, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Map, 1000A, 1001, 1002, 1100, 1101, 1102, 1103, 1104, 1105, 1110, 2000D, 2001D, 2100C, 2101C, 2102C, 2103C, 2104A, 2105A, 2110C and 2111B.
 - 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 4) No development shall take place until full details of both hard and soft landscape works in the rear garden have been submitted to and approved in writing by the local planning authority and these works shall be carried

out as approved. These details shall include details of any proposed earthworks, including any proposed grading, mounding and other changes in ground levels.

- 5) All hard and soft landscape works comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following completion of the development hereby permitted and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
 - 6) No development shall take place until full details of measures for the protection of all the existing trees to be retained on the site have been submitted to and approved in writing by the local planning authority and these protection measures shall be carried out as approved.
 - 7) The offices hereby permitted shall only be used as ancillary offices to the residential use of the property.
2. The views of local residents and other interested parties have been taken into account in reaching this decision.

Procedural Matters

3. The planning application referred to a three-storey infill extension. This was subsequently amended during the course of the planning application to a two-storey infill and the relevant plans were amended accordingly. The revised plans are Nos. 2101C, 2102C, 2103C, 2110C and 2111B. I have determined this appeal based on these revised plans. For the avoidance of doubt, I have amended the description of the development to include reference to a two-storey infill. The Council is minded to approve the revised planning application subject to conditions.

Main Issues

4. I consider the main issues to be:

the effect of the proposal on the character and appearance of the host building and the Fitzjohns/Netherhall Conservation Area; and

the effect of the proposal on the living conditions of nearby residents, with particular reference to privacy.

Reasons

Character and Appearance

5. The *Planning (Listed Buildings and Conservation Areas) Act 1990* imposes duties requiring special regard to be had to the desirability, at Section 72(1), of preserving or enhancing the character or appearance of a Conservation Area.
6. The appeal site lies within the Fitzjohns/Netherhall Conservation Area characterised by a wide range of styles including Queen Anne and Domestic Revival architectural influences. The appeal building was originally a pair of red

brick late 1890s four-storey Gothic villas and as such makes a positive contribution to the character and appearance of the Conservation Area.

7. The external appearance of the appeal property was altered in the 1950s. The proposal includes the removal of these additions, primarily with alterations to the fenestration and facades. From my observations, I consider that these alterations would regain the architectural integrity and proportions of the building.
8. The rear lower ground floor and ground floor proposed extensions would be of a scale and design in keeping with the property, whilst retaining a significantly large rear garden area.
9. The proposal includes a glazed two-storey infill linking the two original buildings and the removal of the existing entrance and second-storey bridge. Due to the lightweight structure, height and set back position of the proposed glazed infill, I consider that it would appear subordinate and maintain the character of the property as two separate buildings.
10. For the reasons stated above, I consider that the proposal would enhance the character and appearance of the host building and the Fitzjohns/Netherhall Conservation Area. This would be in accordance with London Borough of Camden Local Development Framework Core Strategy (2010) Policy CS14 and Policies DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies. These policies, amongst other matters, seek the highest standard of design and seek to preserve and enhance conservation areas.

Living Conditions

11. Concern has been raised by nearby residents with regard to loss of privacy. From my observations, due to the position and design of the proposed development and distance to nearby properties, I do not consider that nearby residents would experience a loss of privacy when in their dwellings or gardens. This would be in accordance with Core Strategy Policy CS5 and Policy DP26 in the Development Policies. These policies, amongst other matters, seek to protect the amenities of neighbours.

Conditions

12. Apart from a standard time condition, the Council has suggested five conditions and has indicated the necessity to impose a condition with regard to the future use of the offices. I consider it reasonable and necessary in the interest of visual amenity to impose conditions with regard to materials, landscaping and protection of trees.
13. Otherwise than as set out in this decision and conditions, it is necessary that a condition be imposed to ensure that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning.
14. I consider it reasonable and necessary, in the interest of the amenity of residents of the property, to impose a condition restricting the use of the offices to only being ancillary to the residential use of the property.

15. In the interest of precision and enforceability, I have amended the suggested conditions where appropriate to accord with the principles in Circular 11/95.

Conclusion

16. I have found that the proposal would not have an adverse impact on the living conditions of nearby residents and would enhance the character and appearance of the host building and Conservation Area. In reaching my conclusion, I have had regard to all other matters raised upon which I have not specifically commented. For the reasons stated above, I allow the appeal.

Janet Cheesley

INSPECTOR