



Appeal Decision

Site visit made on 25 May 2010

by **D E Morden MRTPI**

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

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Decision date:
14 June 2010

Appeal Ref: APP/X5210/A/10/2120205 10 Lindfield Gardens, London, NW3 6PU

- 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 Mrs C Bernardi against the decision of the Council of the London Borough of Camden.
- The application Ref 2009/3436/P, dated 7 July 2009, was refused by notice dated 6 October 2009.
- The development proposed is the enlargement of an existing basement storey with new rear light-well and front driveway renewal.

Summary of Decision: The appeal is dismissed as set out in the Formal Decision at paragraph 19 below.

Preliminary Matters

1. The Council's refusal to grant planning permission was based on three separate and distinct reasons, one of which concerned the effect on a yew tree. Following the submission of detailed information with the appeal papers regarding the protection of that tree the Council has confirmed that subject to the imposition of suggested conditions, that particular objection is withdrawn.
 2. The Council has, however, objected to the amended plans being considered as part of the appeal process; there was considerable public interest in the development and the Council has not been able to consult those who wrote in and invite further comments. I note that three of those who sent in representations were concerned about the effect of the development on the yew tree. Everyone commented about how the more formal, hard area for parking would affect the character and appearance of the Conservation Area.
 3. The Courts have made it clear that it is not appropriate to consider substantially different plans if interested persons or groups might feel they had been deprived of the right to comment on those amended plans. There was a lot of further information added to the plans, particularly regarding levels at the site and the notes of an arboriculturalist. There were also some small changes to the levels of that area, the two drives either side of it and the details of the retaining wall that are there to protect the land around the tree.
 4. On the original plans, the roughly surfaced, semi circular driveway which went between the yew tree and the entrance steps to the property was shown to be removed. Two more formal parking areas were proposed occupying the areas between the two accesses and the front wall of the house. What was proposed behind the front boundary wall of the property was a grassed area around the yew tree between the two new driveways/parking areas.
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5. None of this has changed and the principle of the design is unaltered. I do not consider that anyone's position would be prejudiced if I dealt with the amended plans and the objections raised can be looked at in the context of what are very minor changes to the detail of the retaining walls, driveways and grassed area around the yew tree. I will take those objections into account even though the Council is satisfied that what is now proposed would not harm the long term health of the tree.

Main issue

6. The main issue in this case, having regard to the objectives of the relevant saved policies of the London Borough of Camden Replacement Unitary Development Plan (UDP), adopted in June 2006, is whether the development preserves or enhances the character or appearance of the Redington and Frogna Conservation Area.

Reasoning

7. The Council has no objection in principle to the detailed design of the proposed windows on the front or rear which, I agree, are well proportioned and in character with the existing windows on the property, nor is there any objection to the new rear light well. The Council stated that light into the two rooms proposed at the rear would be less than ought to be provided but, given that the other habitable rooms in the ground floor flat are spacious and well lit, no objection could be justified.
8. The Council also has no objection to the replacement of the outside staircase access to the building. Whilst it appears that the design may be original, it has been altered considerably and only three brick piers survive. The new design retains the symmetry around the front entrance doors and this is considered acceptable. I agree that the design is acceptable from that standpoint.
9. Turning to the main issue the Planning (Listed Buildings and Conservation Areas) Act 1990 states, at Section 72, that special attention should be given to the desirability of preserving or enhancing the character or appearance of conservation areas when considering proposals for development within them. This general guidance is reiterated in Policy B7 of the adopted plan. Policy B1 sets out General Design principles and B3, criteria against which proposals for alterations and extensions should be considered. These factors are even more important when a proposal within a conservation area is being determined.
10. Looking at the particular objections raised by the Council and nearby occupiers, I acknowledge that there are a number of developments in the street that have been approved which detract significantly from its character and appearance (as well as the Conservation Area generally). Whilst that may be the case, my view was the Lindfield Gardens had not, as the appellant suggested, been altered quite considerably. It still retains much of its original character and appearance and, more importantly, it contributes positively to the Conservation Area as a whole.
11. I do not agree that the building has the appearance of a large mansion block; it is certainly more akin to a two storey house in that it has a main two storey element which is clearly seen and identified from the street as the living area. Underneath that a lower floor which, like those other properties close by where

- the levels rise considerably from the street, is given over to garaging or parking and does not appear as part of the living accommodation.
12. Many other properties do not have this change in level and they have rooms on the ground floor which on those properties is at approximately the same level as the street and front garden area. There are, in my view, those two clearly identifiable types of property both in Lindfield Gardens and in some of the adjoining roads inside the Conservation Area. The open nature of the frontage means the development is easily seen and forms part of the general street scene. Where there is this difference in levels, the lower level has not been used for living accommodation, even if in some places the actual development that has occurred is unsympathetic.
 13. I consider that this development would undermine the hierarchy of the elevation where there are two main floors of living accommodation and the one below appears subservient to that (that is still the case on those other unsympathetic developments along this side of the road). Looked at in that context, I consider the introduction of clearly identifiable living rooms with large windows (albeit matching those above) on the ground floor of this property would be materially harmful to the character and appearance of the Conservation Area.
 14. The second reason for refusal was concerned with the alterations to the front garden area and in particular the provision of a more regimented and prominent hard area including retaining walls down the inside edge of each of the driveways. At present there is a mainly un-surfaced (shingle and crazy paving) but hard semicircular drive with a natural slope up towards the middle of the plot. It would be replaced with a far more formal paved driveways and parking areas on either side of the site, retaining walls on the inside edge and two sets of entrance steps to the internal ground floor that would project forward slightly closer to the site frontage than occurs at present. They would also have brick side walls, some facing the street frontage, rather than the iron railing and poles currently on site.
 15. Overall there would be a far more prominent appearance from the street of a harder more formal frontage area to this property even though the front garden boundary wall and hedge are to be retained along the central part of it. Such frontages are still in the minority in the Conservation Area and even in Lindfield Gardens. The approval of this scheme and the landscaping proposed would, in my view, erode still further the character and appearance of the Conservation Area thereby causing significant harm.
 16. Regarding the yew tree, some local residents as well as the Council were concerned regarding its long term future. I agree that the minor revisions show how that objection cannot now be substantiated. Whilst that is a factor in favour of the appellant it is clearly outweighed by the conclusions I have reached regarding the effect on the Conservation Area of the changes proposed to the front garden and the building.
 17. A number of other points were raised by nearby occupiers including the method of construction, subsidence and effects on adjoining properties due to digging down to construct the development proposed. These are matters mainly covered by the Building Regulations or civil matters between neighbours rather

than objections that it is appropriate for me to take into account in dealing with this appeal.

Conclusion

18. For the reasons given above I conclude that the proposal conflicts with the objectives of the relevant development plan policies. Having regard to that and all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

19. I dismiss the appeal.

D E Morden

INSPECTOR