



Appeal Decision

Site visit made on 17 August 2010

by Roland Punshon BSc (Hons) MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
15 September 2010

Appeal Ref: APP/X5210/A/10/2126997

107 West End Lane, London NW6 4SY

- 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 Maurice Lawee against the decision of the Council of the London Borough of Camden.
- The application Ref 2009/4126/P, dated 24 August 2009, was refused by notice dated 21 October 2009.
- The development proposed is alterations to existing 'house in multiple occupation' (HMO) including single storey rear extension, new basement and associated lightwell to create 9 no. bedrooms (8 double, 1 single) and 1 no. one-bedroom flat at basement level.

Decision

1. I dismiss the appeal.

Main issues

2. I consider that the main issues in this case are:
 - The effect of the proposed lightwell, railings and stairs on the character and appearance of the host property, the terrace of which it is part and the wider Conservation Area;
 - Whether the basement flat would provide its occupiers with acceptable living conditions in terms of natural light and outlook;
 - Whether adequate safeguards are in place to ensure that the proposed works could be undertaken without undue harm to the safety and free-flow of traffic on the adjacent highway; and,
 - Whether adequate safeguards are in place to ensure that the proposed works would not have unacceptable effects on on-street car parking in the area.

Reasons

Character and appearance

3. The appeal premises comprise a 3 storey terraced house which is currently used as a House in Multiple Occupation (HMO). It is proposed to up-grade and extend the existing accommodation and to excavate the ground under the building and at the rear to create a basement flat. Access to the flat would be gained from the front by way of a lightwell and stairs.

4. The Council's Swiss Cottage Conservation Area Statement identifies front garden spaces with garden walls and railings as one of the most prominent characteristics of the Conservation Area. The excavation of basement areas for additional accommodation is identified as being one of a number of development pressures in the Conservation Area. Paragraph 9.17 of the document states that the excavation of basements will generally be resisted for traffic and design reasons and because the works can have a detrimental effect on the character and appearance of the building and the wider Conservation Area.
5. The terrace of which the appeal property is part has a staggered frontage. The buildings generally retain their original frontage detailing and the front garden areas are essentially open. The front garden at the appeal property is about 4-6 metres (m) deep and contains a row of substantial conifer trees at the back edge of the pavement. I accept that gardens on the West End Lane frontage are generally larger than those in side streets. However, I do not agree with the appellant that the front garden at the appeal property is significantly larger than others on this frontage. The proposed lightwell would need to be large enough to contain steps which would lead down to the flat entrance door. Whilst the proposed basement would be entirely below existing ground level and would be largely hidden, the necessary safety railings and gates would be visible from the road. These, together with the required bin storage space, would give the front garden area a somewhat cluttered appearance and would detract from a feature which the Conservation Area document identifies as being important. In my opinion this would disrupt the regular rhythm of the frontage of the terrace and would harm the character and appearance of the Conservation Area.
6. I note that a basement window has been installed at the front of 99 West End Lane. However, that window is only partially below ground level and involves a much smaller 'light well'. In my view the appeal proposal would have a much greater effect on the Conservation Area.
7. In these circumstances I conclude on the first main issue that the proposed lightwell, railings and stairs would have a harmful effect on the character and appearance of the host property, the terrace of which it is part and the wider Conservation Area. It would therefore be contrary to Policies B1, B3 and B7 of the London Borough of Camden Replacement Unitary Development Plan 2006.

Living conditions

8. As I have described above, the whole of the proposed basement would be below existing ground levels. The room at the front of the proposed flat is described on the submitted drawings as a 'home study'. Whilst this may be the appellant's intention, it would be difficult to enforce any planning condition which sought to ensure that the room was not used as a habitable room. Being a continuation of the bay windows above, the window serving the room would be relatively large. Nonetheless, the amount of natural light which would reach it would be extremely limited given its position below ground levels, the proximity of the steps leading down into the lightwell and the shading provided by the existing trees. Outlook from the window would be very limited.

9. At the rear the full-height windows serving the bedroom and the kitchen/living room would face out into a below ground level 'courtyard'. During the summer months these windows may receive some direct sunlight and outlook from them would be greater than from the window at the front. However, the 'courtyard' would be enclosed by high walls and is likely to be a gloomy, oppressive and overlooked space.
10. In overall terms I consider that the proposed flat would provide dark and uncomfortably confined living space. Whilst light and outlook at the rear would be better than at the front, I consider that in overall terms the proposal is unacceptable in this regard.
11. In these circumstances I conclude on the second main issue that the basement flat would not provide its occupiers with acceptable living conditions in terms of natural light and outlook. The proposal would therefore be contrary to Policies SD6 and H1 of the Unitary Development Plan.

Construction management

12. The construction of the basement flat and its 'courtyard' would involve a considerable amount of excavation works during which time it would be necessary to support the existing structure and the adjacent houses. The only external spaces available for the performance of these works would be the front and rear gardens. The only vehicular access is from the front. The street serving the premises is a busy main road and there is a bus stop immediately outside the premises. Working from the street is likely to be disruptive to traffic. Third parties have raised concerns about harm which the works could cause to the adjacent structures.
13. I have no reason for believing that the works could not be built. However, given the space limitations of the site, it is likely to involve a complex operation. The appellant has submitted a draft of an agreement made under Section 106 of the Town and Country Planning Act 1990 (as amended) which contains a commitment that the works would be undertaken in accordance with a Construction Management Plan which would need to be approved by the Council. However, the Agreement is not signed or dated and therefore cannot carry any weight in my decision. I have seen no evidence to persuade me that there is a realistic prospect of the works being carried out without there being an unacceptable level of disruption to traffic. Given the limitations of the site, I consider that, in this particular case, it may be more appropriate that the details of the Construction Management Plan should be considered as part of the decision whether or not to grant planning permission. Leaving the decision to a later date implies that an acceptable solution exists when there is no evidence to support that belief.
14. In these circumstances I conclude on the third main issue that the proposal does not include adequate safeguards to persuade me that the proposed works could be undertaken without undue harm to the safety and free-flow of traffic on the adjacent highway. It would therefore be contrary to Policy T12 of the Unitary Development Plan.

Car-parking

15. The draft Section 106 Agreement which I describe above would also prevent occupiers of the development from benefiting from parking permit schemes which operate in the area. This would effectively make the development car-free and would reduce demands on available on-street car parking spaces. I have noted the ready access to public transport facilities which exist and I am satisfied that completion of the Agreement would overcome the concerns about car parking. However, as the Agreement has not been completed, it cannot be enforced and can, therefore, carry no weight in my decision. In these circumstances I consider that the proposal would lead to increased demands for on-street parking spaces which, because of the parking restrictions in the area, could not be readily met.
16. In these circumstances I conclude on the third main issue that the proposal does not include adequate safeguards to ensure that the proposed works would not have unacceptable effects on on-street car parking in the area. It would therefore be contrary to Policies T8 and T9 of the Unitary Development Plan.

Other matters

17. I have taken into account all other matters raised. Although I was unable to inspect the rear of the building during my visit, I have no grounds for considering that the proposed extension at the rear of the property would have any significant effect on the living conditions of neighbours. Given that the proposed flat would have its own outside amenity space, I do not consider that this would cause nuisance through increased use of the rear garden area although I accept that the works would reduce the size of the rear garden and the external space which could be used communally by the occupiers of the property. However, I do not consider that this would necessarily increase nuisance to neighbours to the extent that the refusal of planning permission would be warranted on these grounds alone.
18. I have taken into account concerns about privacy, noise, light and cooking smells. However, given the existing layout of buildings in the area, I do not consider that, that sufficient additional harm would be caused by the proposal to justify the refusal of permission on these grounds.

Conclusion

19. For the reasons given above I conclude that the appeal should be dismissed.

Roland Punshon

INSPECTOR