



Appeal Decisions

Hearing and site visit held on 16 March 2010

by **M F Aldous BA (Hons), Dip Mgt, MRTPI**

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

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Decision date:
22 March 2010

Appeal A Ref: APP/X5210/E/09/2116939

11 Netherhall Gardens, London NW3 5RN.

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for conservation area consent.
- The appeal is made by Avonhead Investments Limited against the Council of the London Borough of Camden.
- The application dated 12 August 2009 was not registered by the Council due to an administrative error on its part. However, it indicated in an informative attached to the decision on the application below that conservation area consent would have been refused for the reasons stated therein.
- The demolition proposed is the substantial demolition of the property referred to above.

Appeal B Ref: APP/X5210/A/09/2116848

11 Netherhall Gardens, London NW3 5RN.

- 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 Avonhead Investments Limited against the decision of the Council of the London Borough of Camden.
- The application Ref 2009/3889/P, dated 12 August 2009, was refused by notice dated 8 October 2009.
- The development proposed is additions and alterations including a full width rear extension at ground level, a rear extension at first and second floors, a roof extension with dormer windows and an enlarged basement excavation to comprise 1 one bedroom, 3 two bedroom and 5 three bedroom self contained flats to the existing residential building, following substantial demolition of the existing property.

Decisions

Appeal A

1. I dismiss the appeal.

Appeal B

2. I dismiss the appeal.

Preliminary Matters

3. The description of the proposal shown above is taken from the Council's decision notice. It provides a more comprehensive and explicit description of the works proposed than that contained on the application forms.
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4. Although there are two appeals, the issues relating to both are essentially the same. Clearly conservation area consent should only be issued when an acceptable replacement scheme has been approved. On this basis the reasoning that follows will consider the merits of both appeals concurrently.
5. The Council's reasons for refusal numbers 2 and 3 related to the failure of the Appellant to provide a legal agreement to secure the terms of a construction management plan and a sustainable energy and water plan, in line with adopted development plan guidance. The Appellant was however receptive to the provision of documentation of this kind and this was later provided to the satisfaction of the Council. It accepted that the terms contained therein, which were based upon the Council's own model, were satisfactory and effectively discharged the Appellant's obligations in this regard. I agree that this is an acceptable situation and I shall therefore make no further reference to such matters.

Main issues

6. On this basis the main issues are:
 - i) Whether the proposal would preserve or enhance the character or appearance of the Fitzjohns / Netherhall Conservation Area, within which the appeal site is located; and
 - ii) Whether the proposal should make provision for affordable housing.

Reasons

Effect on the Conservation Area

7. The appeal property is a substantial building containing ten flats, situated on the western side of Netherhall Gardens. Originally a house in single occupancy, it has been added to over the years on both sides and was converted to flatted occupation several decades ago. Much of the addition and remodelling work that was undertaken to achieve this result was not done very sympathetically, although several attractive and interesting architectural features remain on the original parts of the main elevations. The building has however become seriously neglected in recent times, and this was readily apparent from both the outside and inside of the building at the time of my site visit. The associated gardens are in a similar condition, quite wild and overgrown.
8. The overall result is that in its current form the building detracts significantly from the visual qualities of this part of the conservation area. Otherwise the designated area is very well maintained and attractive, featuring generally very large and quite grand houses and buildings on substantial plots, some of which are now in occupational usage. The buildings are largely redolent of the Victorian period when most were constructed, often sharing similar design features such as prominent front gables, steeply sloping roof forms, tall chimneys, projecting bays, decorative detailing and the consistent use of materials of external construction, with red brick prominent. Although varied in nature, size and design the buildings therefore enjoy a broad coherence which leads to a pleasing visual effect from which the appeal building, I conclude, detracts.

9. The proposal before me would see the substantial demolition of much of the existing building, although the front elevation would be largely retained. The replacement building would have a greater mass and bulk and would extend significantly further into the plot. Its design has however been carefully formulated, utilising a range of architectural features and local design references that have been interpreted in a contemporary manner.
10. It seems to me that the Council's prime concerns relate to the proposed roof treatment. The elevational treatment was not the subject of strong criticism. The remodelled roof would undoubtedly be more pronounced as the building would be considerably increased in footprint and mass. However, the new roof would not be higher than the existing, although it would be extensively changed. To the front, the most visible elevation would, in my view, feature a better proportioned range of openings within the roof form when compared with the rather uncoordinated dormer features found in the extended part of the existing arrangement.
11. To the rear the roofline would be significantly remodelled featuring prominent gables whilst repeating the central projecting bay which is a feature of the building in this area. Overall, I do not judge the revised arrangement to be visually uncharacteristic or discordant. Given the size of the building, its relationship to neighbouring properties and the constraints imposed by the retention of parts of the existing structure, I consider that the net result would be to form a building of some presence and distinction that would sit comfortably within a road which already exhibits a number of other buildings of comparable size, mass and bulk.
12. Although the replacement building would extend further back into the plot, the rear elevation of the adjoining property to the north at number 13 is also set back to a similar degree to that proposed. Sufficient land would be retained for the proposed communal garden at the rear which would be cleared of the considerable scrub growth which currently disfigures this area. There is every reason to believe that a new landscaped scheme, which could be the subject of a planning condition, and which would be communally managed by future residents, would also provide a distinct improvement over the current situation, which impairs the visual qualities of the conservation area.
13. Taking all these findings into account, I consider that the proposal would deliver a substantially remodelled building that would enhance the appearance of this part of the Fitzjohns / Netherhall Conservation Area, and as such is consistent with the objectives of saved policies B1, B3 and B7 of the London Borough of Camden Unitary Development Plan (UDP).

Affordable Housing

14. There is clearly a pressing need for affordable housing within and throughout Camden as the development plan, as supported by recent housing needs surveys, vividly demonstrates. It is also clear from the adopted guidance that such provision from new development is taken to be provided across the full range of qualifying schemes irrespective of their nature and location. That is fair and reasonable.
15. Saved policy H2 of the UDP is of direct relevance to this issue, as is the more recent policy 3A.11 of the London Plan. The Appellants or their agents would

- have been aware of these policies which are obviously within the public domain. The site is well related to public transport, shopping and other services and therefore enjoys a high PTAL rating.
16. Policy 3A.11, which provides very up to date guidance on affordable housing provision, and is applicable throughout the metropolitan area, clearly states that affordable housing should be sought on sites which have a capacity to provide 10 or more homes. The current arrangement at the site provides for ten quite generously proportioned flats, so it cannot be argued that the site is not capable of accommodating that number of units.
 17. The proposal before me would in fact see the overall level of habitable floorspace increase very significantly from around 824 square metres to something like 1480 square metres. The fact that the overall number of units would decrease from ten to nine is not in my view mathematically significant because the new apartments would be very large by modern standards. It is therefore quite clear to me that a redevelopment on this scale could very easily achieve the threshold of 15 units set out in UDP policy H2, although the Council asserts that this figure has, in effect, been superseded by the more modern guidance contained in the London Plan.
 18. I appreciate and have taken into account the nature of the area and the prestigious type of redevelopment envisaged by the Appellant. However, as indicated above, such factors should not be advanced in order to inhibit the generation of affordable housing within the borough, which remains a key planning objective, particularly in an area such as this which commands high property prices. There is no financial evidence before me to indicate that affordable provision of the kind envisaged by the adopted development plan would render the scheme financially unviable. Neither is the Appellant suggesting that such provision could be made off site or through a financial contribution to provision elsewhere. The Appellant has chosen to rely on contesting the principle of provision of this kind.
 19. From the information made available to me, it is quite clear that the site has a size, and the development a capacity, to trigger the need for affordable housing provision. The fact that the projected number of units falls just short of the minimum level indicated under the terms of policy 3A.11 is not telling given the very generous size of the proposed units, most of which would have three bedrooms and which would have an average floor space of in excess of 160 square metres, with some considerably exceeding this level of accommodation.
 20. In conclusion, I concur with the view expressed by the Council that this proposal, which is for the substantial redevelopment and extension of this already large property, should make provision for affordable provision in line with the adopted development plan guidance. In its current form, without convincing evidence to the contrary, the proposal is in conflict with policy H2 of the UDP and policy 3A.11 of the London Plan.

Other Matters

21. From my inspection of the submitted plans, and as supplemented by my site visit, I am content that the proposal would not have the effect of causing any harmful additional overlooking to adjoining properties. New window openings

on the southern elevation at upper levels are shown to be fitted with obscured glazing, and a condition could be applied requiring all work to be undertaken in strict accordance with the approved plans. The current party wall in this area will also be retained.

22. Car parking will be contained in a new subterranean car park to be excavated. In addition, the Appellant has indicated a willingness to ensure via the legal agreements referred to in paragraph 5 above, that future residents of the building will not be entitled to be granted residents parking permits. In this manner there should be no adverse impact on local on street car parking conditions.

Conclusions

23. I have determined that this proposal would enhance the appearance of the conservation area. However, for the reasons given above, I consider that it generates the need for affordable housing provision. In this regard it is not consistent with adopted development plan objectives. In my view this is the decisive factor against the proposal. In the absence of an approved scheme of redevelopment, conservation area consent must also be resisted. For the reasons set out above, and having had full regard to all other matters raised, I therefore conclude that these appeals should not succeed.

Michael Aldous

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Mr M Ledger Prospect Planning Ltd

Mr S Lowe PKS Architects

Dr M Miller

FOR THE COUNCIL

Mr G Sexton Planning Officer, London Borough of Camden

Mr E Jarvis Design and Conservation Officer, London Borough of Camden

INTERESTED PERSON

Mr M Hillman Local resident

DOCUMENTS

Document 1 Letter giving notification of hearing arrangements.

Document 2 Revised versions of legal agreements.

Document 3 Copies of written representations from the application stage.

PLANS

Plans 1-21 The full set of application plans as listed in the schedule of documentation attached to the Appellant's letter dated 16th November 2009.