



Appeal Decision

Site visit made on 17 February 2009

by **Michael Ellison MA (Oxon)**

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:
10 March 2009

Appeal Ref: APP/X5210/A/08/2089457

27 Lupton Street, London, NW5 2HS

- 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, on an application for planning permission.
- The appeal is made by Qina Investments Ltd against the London Borough of Camden ("the Council").
- The application (Ref 2008/2392/P) is dated 13 May 2008.
- The development proposed is ground and first floor extensions to existing habitable apartments.

Decision

1. I dismiss the appeal insofar as it relates to the erection of a single storey rear conservatory plus a projecting first floor balcony to an existing first floor flat and in so far as it relates to the creation of a new vehicular access and the installation of sliding gates on the Raveley Street boundary in association with new car parking in the rear garden. I refuse planning permission for those aspects of the appeal development. I allow the appeal and grant planning permission for the erection of a two storey rear extension at 27 Lupton Street, London, NW5 2HS in accordance with the terms of the application, Ref 2008/2392/P, dated 13 May 2008 and the plans submitted with it, so far as relevant to that part of the development hereby permitted, subject to the following conditions:

- 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
- 2) All new external work shall be carried out in materials which resemble as closely as possible in colour and texture those of the existing building, unless otherwise specified in the plans hereby approved.
- 3) Before the development hereby permitted is begun, details shall be submitted to and approved in writing by the Council to demonstrate how the tree in the rear garden shall be protected during construction work. Such details shall include measures to protect the tree trunk, to prevent additional soil compaction around the root zone, and to reduce damage to the lower branches, including any proposals for crown uplifting. The development shall be carried out in accordance with the approved details.

Procedural matters

2. The appeal development is more fully described by the Council as the erection of a two storey rear extension and a single storey rear conservatory, plus

projecting first floor balcony to existing self contained flats (Class C3); plus the creation of a new vehicular access and the installation of sliding gates on the Raveley Street boundary in association with new car parking in the rear garden. I have adopted that fuller description of the proposed development in this decision.

3. Although the appeal application was not determined within the prescribed eight week period, the application was considered by the Council on 11 November 2008, just before the appeal against failure to determine was submitted. The Council resolved to refuse the application on grounds that the proposed rear extensions would be incongruous and over dominant additions, which would upset the proportions and profile of the original property; and that the use of the rear garden for car parking would result in the loss of amenity space and harm the root zone of an existing mature tree, to the detriment of residential occupiers and the surrounding area.
4. Following the Council's consideration of the application, the Appellants decided to reduce the car parking provision from that shown on drawing 505 Is 4A. The Appellants now ask for that element of the scheme to be considered as shown on drawing 505 LS4/SKI, submitted at Appendix 8 to their appeal statement. This would provide only one parking space. In effect it would retain that part of the rear garden for the use of occupants of the appeal property, since the only area which would be used for parking under these revised proposals is the area which is now filled by a large shed, which would be removed as part of the appeal scheme. Appendix 8 also includes drawing 505 Is 6 Revision A, which amends in a matter of detail the proposed treatment of the boundary wall, gate and railings which would give access to the parking area. I have taken these amendments into account in determining the application, because they do not seem to me to represent material changes in the nature of the application, and in my view they would not prejudice anyone who would normally have been consulted on the application.

Main issues

5. The main issues in this case are:
 - a. the impact of the appeal development on the street scene of Raveley Street;
 - b. the impact of the appeal development on the living conditions of neighbouring residential occupiers, with particular reference to overlooking, loss of sunlight or daylight and noise;
 - c. the impact of the appeal development on occupiers of the appeal property with particular reference to noise, lightspill and the availability of amenity space; and
 - d. whether the use of part of the rear garden for car parking would be detrimental to highway safety.

Reasons

6. There are three distinct elements to the appeal proposal. The first is the two storey rear extension which would partially infill the light well between the existing rear projection of the appeal property and the adjoining house at 29 Lupton Street. This would provide additional accommodation on the ground

and the first floor of the appeal property. The second element is a rear conservatory which would be built across the whole width of the appeal property. Above the conservatory, a balcony would be constructed at first floor level across part of the width of the property. The third element is the proposal for car parking space to be provided in the rear garden, with access to the parking being created from Raveley Street.

7. I consider that those three elements are severable, since they are both physically and functionally independent. I therefore propose to issue a split decision in this case. I consider below each of the elements against each of the main issues identified above.

Impact on the street scene

8. The appeal property is a three storey end terrace house, which lies at the corner of Lupton Street and Raveley Street. It has an additional floor of accommodation within the roofspace. The area is one of traditional residential terraces. Certain of the houses in the area have, like the appeal property, been divided into flats.
9. The appeal development would not be visible from Lupton Street. The rear of the house can be seen only from Raveley Street. Even then, the built elements of the appeal proposal would be located behind the existing brick boundary wall of the property with Raveley Street. This wall increases in height in stages from around 1.5 metres to around 2 metres. Along its whole length, the wall is surmounted by iron railings.
10. *The two storey rear extension* is criticised by the Council on the basis that it would compromise the historic pattern of development associated with the terrace of buildings in which the appeal property is located. I note that the building is not listed, and the area in which it is situated is not a Conservation Area. The appeal property has already been altered to the rear, and the same is true of a number of other houses in the terrace. The building pattern is not consistent; for example, the existing rear closet wing of the appeal property does not match those of numbers 29, 31 and 33 Lupton Street. There is also a variety of other alterations along the terrace, such as rear dormer windows, which do not match in either size or style. The historic pattern of development in the area has therefore already been substantially changed.
11. The Council also argue that the two storey extension would represent a full width, bulky addition which would detract from the appearance of the building. Like the Appellants, I do not see that this extension can be criticised for its bulk, when only one elevation would be apparent from Raveley Street. That part of the proposed extension would in fact mirror the existing closet wing of 29 Lupton Street, and also those at numbers 31 and 33 Lupton Street.
12. The Development Plan for the area includes the Camden Unitary Development Plan ("the UDP"), which was adopted in 2006 and amended in 2007. Policy B1 requires development to respect its site and setting, and not to harm the appearance or amenity of its area. Policy B3 says that planning permission will not be given for alterations and extensions which would harm the architectural quality of the existing building or the surrounding area. Extensions must be subordinate to the original building in terms of scale and situation.

13. I consider that the two storey extension would meet these requirements of the UDP. In my view, subject to the inclusion of a condition requiring the use of matching materials, it would not harm the appearance of the area, the architectural quality of the host building or the architecture of the surrounding area. I consider that this proposed extension would still clearly be subordinate to the original house. In my view, this element of the appeal proposal would have no adverse impact on the street scene of Raveley Street.
14. *The proposed conservatory* would extend to the full width of the appeal property across the rear elevation, but it would be separated from part of the rear elevation of the house, because the two storey extension would still be stepped back to some extent from the full depth of the existing closet wing. It would have a height to the eaves of 2.6 metres, and a height to the ridge of 3.2 metres. It would therefore be visible above the boundary wall of the property from Raveley Street.
15. Following the adoption of the UDP, the Council provided additional and supporting practical guidance for developers in their Supplementary Planning Guidance. This was formally adopted following public consultation, and I therefore attach considerable weight to it. It deals (amongst other matters) with conservatories. Paragraph 19.22 provides that they should normally not extend to the full width of the host building, and that, if a conservatory fills a gap beside a solid extension, it should be set back from the building line of the solid extension. This proposed conservatory would fail to meet both of those requirements.
16. Although it would be only a single storey structure, in extending across the full width of the host building I consider that the limited view of it which would be available from Raveley Street would have a substantial presence in the street scene. Moreover, its apparent separation from part of the host building would make it appear as an ungainly and discordant addition to the host building. In my view, this element of the appeal proposal would have an adverse impact on the street scene of Raveley Street.
17. *The car parking proposal* would affect the street scene of Raveley Street through its treatment of the access arrangements to the parking area from the street. The Council recognise, correctly in my view, that the proposals for the provision of a sliding gate to give access to the proposed parking area and the alterations to the existing wall and the decorative railings above it have been well handled in the scheme produced. The access arrangements would, however, also require the provision of a vehicle pavement crossing over the footway of Raveley Street outside the appeal property. Although a detailed proposal for such a crossing has not been included in the appeal application, it would of necessity affect part of the area of footway outside the appeal property which has been attractively and distinctively paved in connection with the Home Zone area declared by the Council. This seeks, through the use of design features, to encourage motorists to give informal priority to other road users. Disruption to the existing paving treatment which marks the Home Zone could not be avoided in my view, and I consider that would have an adverse effect on the street scene of Raveley Street.

Impact on neighbouring occupiers

18. *The two storey rear extension* would bring a first floor bedroom window slightly closer to the rear garden of the adjoining house at 29 Lupton Street, but it would still be further away than the existing first floor bedroom window of the existing closet wing, and it would offer an even more oblique view over the rear garden. It would not cause any loss of sunlight or daylight to the adjoining property. The occupier of 29 Lupton Street is concerned about the potential for the transmission of increased noise through what would become an increased area of shared wall, but I consider that this is a matter which would be addressed under the Building Regulations. I do not consider that the two storey rear extension would have any adverse impact on the living conditions of adjoining residential occupiers.
19. The suggestion that the building of this element of the scheme would result in a reduction in the value of the adjoining house raises a matter which is not a relevant planning consideration.
20. *The proposed conservatory* would not give rise to overlooking, since it would be a single storey building, and there is an existing boundary wall with a height of around 2 metres along the part of the boundary with 29 Lupton Street which would adjoin the site of the conservatory. The proposal to add a balcony to the first floor flat on the rear elevation above the conservatory would, however, have a significant adverse impact on the privacy of the rear garden of the adjoining house. While I accept that the appeal proposals include a 1.8 metres obscure glazed screen at the northern end of the balcony, this would not restrict more oblique views over the adjoining rear garden. I appreciate that the balcony would be only just forward of an existing bedroom window from which oblique views of the adjoining rear garden are available at present, but I consider it to be quite a different matter for views to be available from a balcony on which people might sit out for some time rather than from a bedroom window.
21. I consider that any impact of the conservatory on daylight and sunlight in the west facing garden of the adjoining property would be minimal. In terms of noise, I do not see that there should be a particular concern about additional noise from a conservatory as compared with the open patio area which exists at the present time. The use of amenity space can generate a certain amount of noise, and this must be considered as a normal feature in a residential area. I share the concern of third parties, however, at the possible generation of noise from the proposed courtyard area, which would be left open to the air, but would be enclosed between the two storey rear extension and the rear of the conservatory. I agree that the funnelling effect which this arrangement would have could increase the perception of any noise generated in that area. Overall, I consider that the conservatory element of the scheme would have an adverse effect on the living conditions of adjoining occupiers.
22. *The car parking element* of the proposal would not have any impact on overlooking or on daylight or sunlight. It would bring a small amount of a different type of noise to the area concerned, and it would bring one vehicle slightly closer to the adjoining garden, but I do not consider that either of those matters amounts to a criticism of substance such as to justify refusal of this element of the appeal application. I consider that the existing tree in the

garden of the appeal property represents a valuable amenity for occupiers of the appeal property and their neighbours. I do not consider, however, that its future need be prejudiced by the parking proposal. The scheme proposes the use of porous paving for the parking area, which would allow rainfall to drain to earth over an area where this is currently not possible because it provides the site for a large shed. The shed would be removed as part of the scheme. In my view the car parking element of the scheme would not have any adverse effect on the living conditions of adjoining occupiers.

Impact on occupiers of the appeal property

23. *The two storey rear extension* would result in a reduction in the natural light available in two minor habitable rooms of the ground floor flat and in one minor habitable room of the first floor flat, but these losses would in my view be more than offset by the additional living space which would be provided in this popular area, which has good local facilities and excellent access to public transport. On balance, overall I do not consider that this element of the scheme would have an adverse impact on the living conditions of occupiers of the property concerned.
24. *The conservatory* would not in my view cause a problem in relation to additional noise to occupiers of the appeal property directly, but, as indicated at paragraph 21 above, I believe that there would be a problem regarding noise from the open courtyard area, and I note that there are bedroom windows of the upper floor flats immediately above that area. In terms of lightspill from the conservatory roof to those bedroom windows, I agree with the Appellants that this could be addressed by their proposed use of dark grey tinted glass in the roof slope facing the rear wall of the existing property. The conservatory would be available only to the occupier of the ground floor flat. It would therefore reduce the overall area of the rear garden available to the occupiers of the first and second floor flats by the amount of its proposed footprint. Overall, it would therefore have an adverse impact on the living conditions of some occupiers of the appeal property.
25. *The car parking area* would not in my view reduce the garden area available to occupiers of the flats, since it would simply take up the area currently occupied by the shed at the end of the rear garden. This area is presently inaccessible as an amenity space.

Impact of car parking use on highway safety

26. UDP Policy T9(B) indicates that permission will not be given for off street parking which would harm highway safety or require a detrimental amendment to an existing or proposed Controlled Parking Zone. Third parties are concerned that the car parking element of the proposal would have an adverse impact on highway safety as a result of the potential conflict between a vehicle accessing or leaving the parking area and children playing outside on Raveley Street in the Home Zone. The Eleanor Palmer Primary School is located on Raveley Street, just opposite the proposed access point.
27. I agree with the Appellants, however, that the Home Zone provides road space to be shared between motor vehicles and other users. It is not a pedestrianised area, but one in which informal priority for pedestrians is

encouraged. I do not consider that a properly designed and properly used vehicle pavement crossing should give rise to any highway safety concern.

Conclusions

28. In relation to the two storey rear extension, I conclude that it would have no adverse impact on the street scene of Raveley Street; it would have no adverse impact on the living conditions of adjoining occupiers; and on balance it would not have an adverse impact on occupiers of the appeal property. Subject to conditions which I deal with below, **I conclude** that this element of the appeal should be allowed.
29. In relation to the conservatory, I conclude that this part of the proposal would have an adverse impact on the street scene of Raveley Street; it would also have an adverse impact on the living conditions of adjoining occupiers through overlooking from the proposed balcony and noise from the open courtyard associated with the proposal; and it would have an adverse impact on some occupiers of the appeal property through noise and loss of part of the existing amenity area. **I conclude** that this element of the appeal should be dismissed.
30. In relation to the car parking area, I conclude that this would necessarily have an adverse impact on the street scene of Raveley Street through the alteration it would require to the treatment of the paved area. I do not believe that it would have any adverse impact on the living conditions of adjoining occupiers or on residents of the appeal property. Nor do I believe that it should have any adverse effect on highway safety. **I conclude**, however, that on balance the damage which this proposal would do to the street scene of Raveley Street is so significant that this element of the appeal should also be dismissed.

Conditions

31. In relation to the element of the scheme which I allow (the two storey rear extension), I have imposed conditions on matters suggested by the Council, but with variations which I consider to be necessary to make them fully effective. Matching materials should be used in the permitted extension in the interests of the amenity of the area. I also consider it to be necessary to take steps to ensure that the tree in the rear garden of the appeal property is protected during construction work because of the valuable contribution it makes to the appearance of the area. I consider that condition to be necessary even though I am allowing only the element of the overall scheme which is furthest away from the site of the tree concerned. The conditions imposed also in my view meet the other requirements for conditions set out in Circular 11/95.

Michael Ellison

INSPECTOR