
Appeal Decisions

Site visit made on 7 October 2014

by G M Salter BA MRTPI

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

Decision date: 20 October 2014

Appeal A Ref: APP/X5210/A/13/2201704

59 Maresfield Gardens, London NW3 5TE

- 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 Ms S Drews against the decision of the Council of the London Borough of Camden.
 - The application Ref 2012/6795/P, dated 18 December 2012, was refused by notice dated 3 June 2012.
 - The development proposed is erection of a new building comprising of a double basement and partial sub basement, lower ground, ground and first floor levels to provide a four bedroom single-family dwellinghouse (Class C3) (following demolition of an existing dwellinghouse).
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Appeal B Ref: APP/X5210/A/13/2201708

59 Maresfield Gardens, London NW3 5TE

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
 - The appeal is made by Ms S Drews against the decision of the Council of the London Borough of Camden.
 - The application Ref 2012/6812/C, dated 18 December 2012, was refused by notice dated 3 June 2012.
 - The demolition proposed is an existing family dwellinghouse (Class C3).
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Decisions

1. I allow appeal A and grant planning permission for a new building comprising of a double basement and partial sub basement, lower ground, ground and first floor levels to provide a four bedroom single-family dwellinghouse (Class C3) at 59 Maresfield Gardens, London NW3 5TE in accordance with the terms of the application, Ref 2012/6795/P, dated 18 December 2012, and the plans submitted with it, subject to the conditions set out in Schedule 1 attached to this decision.
2. I allow appeal B and grant conservation area consent for the demolition of an existing family dwellinghouse (Class C3) at 59 Maresfield Gardens, London NW3 5TE in accordance with the terms of the application Ref 2012/6812/C, dated 18 December 2012, and the plans submitted subject to the conditions set out in Schedule 2 attached to this decision.

Main Issues

3. I consider the main issues are: whether the proposal would preserve or enhance the character or appearance of the conservation area; and the effect on the living conditions of nearby residents, through noise and disturbance during construction.
4. I note that there is a signed Section 106 planning obligation which deals with a number of matters related to Development Plan policies concerning car capping, a construction management plan, an energy efficiency and renewable energy plan, highways works, a sustainability plan and structural damage to neighbouring properties. I consider that all the elements of the obligation meet the statutory tests of CIL Regulation 122 and I have taken the requirements of the obligation into account.

Reasons

Character and appearance of the conservation area

5. The Fitzjohns/Netherhall Conservation Area (CA) covers a wide area of mainly late Victorian and Edwardian houses and villas, including some larger buildings now divided into flats or used as educational premises. As the CA statement explains, there appears to be a rich variety of architectural styles and differing building form and bulk. There are some exceptions to the wider pattern of development, however; there is a large modern block on the same side of Maresfield Gardens down the hill close to the junction with Nutley Terrace and a pair of neo-Georgian brick villas at numbers 51 and 53 immediately to the south which were probably built in the inter-war years. Some mature trees, including a lime in the rear garden and a London plane in the street immediately outside the site, add to the attractive streetscape and the visual character of the area generally.
6. The appeal building itself is not typical of the area; it is part of a much smaller terrace, mostly set well below the road level, believed to date from the mid 1950s. As the CA Statement says, the sunken site has little relationship with the surrounding area. The terrace has rather plain fenestration and brickwork, with no design characteristics of special note. The appeal house has an unattractive side extension and apparently has been empty for over 10 years; its boarded up façade and neglected appearance detract from the appearance of the conservation area. As a consequence of all these factors, the appeal site and the building to be demolished have very limited significance in the overall character or appearance of the conservation area. The Council raise no objection to its demolition subject to the approval of a satisfactory replacement that would preserve or enhance the conservation area.
7. The Council confirm that the proposal is identical to a scheme granted planning permission in 2008. The replacement house would be a bold modern design, bringing a completely new style of construction to this part of the conservation area. The simply-detailed box form would be finished in a contemporary palette of materials, including rich timber veneers and louvres behind glass, including some non-transparent glazing to reflect surrounding trees, and fair-faced (architectural quality) concrete and pre-cast panels, in ivory. I agree with the Council's officers' committee report that the proposal is a well considered design of high quality that responds to its context.

8. The exterior bulk of the proposed building would be very similar to that of the house at present. The site coverage, in terms of percentage of building footprint compared to the site area, would be very similar to that of the existing house. Although the top storey would project slightly in front of the existing roof plane at the front, it would be no higher than the existing ridge line. A small gap of about 1m at entrance and top floor levels between the new house and the remaining two houses would provide a clear visual break between the different building styles. When viewed from private gardens to the rear, the new house would be of very similar height and bulk to the adjoining houses, both of which have quite large dormer windows which extend right up to the ridgeline.
9. The Council's main concern appears to be with the apparent depth of the building. The depth of the building below the ground would not really be visible from outside the site, due to the angle of view from the road and, to the rear, angles of view, boundary screening and the very limited area of the light well. To say that this would 'vastly increase the perceived scale of the building' is completely without substance. As the appellant's section shows, confirmed by my own site inspection, the windows of the extra storey below the existing ground floor at the front, which would have only a partial light well, would not be visible from a person walking along the street.
10. The amount of accommodation within the building would not have any noticeable impact outside the site, subject to the satisfactory safeguarding of the structural stability of neighbouring properties and the water environment, which I discuss below. The relative openness of this part of the conservation area, particularly when viewed from the back of nos. 36-40 Netherhall Gardens to the north, would be preserved therefore.
11. There is a lime tree at the front of the site that is the subject of a TPO. Another lime stands at the rear corner of the site and there is a London plane on the front boundary. These mature trees make an important contribution to the character and appearance of the area. However, the scheme has the same building footprint as the previous approval and would not result in any further encroachment on the root systems of the trees or the deep retaining wall in front of the existing house. The Council acknowledges that the trees can be adequately protected by a condition.
12. In conclusion, bearing in mind the non-descript quality of the existing building, I have concluded that the well-designed new proposal would enhance the character and appearance of the conservation area, thus meeting the statutory requirement of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. There has been no material change in planning policy for the protection of heritage assets, such as conservation areas, since the previous permission, either at national level in the NPPF or locally. I have concluded that the proposal would meet the requirements of criteria c), d) and e) of Policy CS5 of the Camden Core Strategy 2010, by providing a sustainable building of the highest quality which would enhance the environment and heritage of the Borough and protect the amenity and quality of life of the local community. There would be no conflict with Policies DP24, DP25 and DP27 of Camden Development Policies or Policies F/N1 and F/N25 of the supplementary guidance in the Conservation Area Guidelines.

Residential amenity

13. One change in local policy since the previous permission concerns proposals for basements. The appellant has submitted a study in accordance with the Council's policy requirements, which has been verified by a nationally known structural engineering consultancy as independent assessors. They reported that the revised basement study overcame objections raised when an earlier renewal scheme was put forward in 2011. The study and the independent assessment confirmed that the basement could be constructed without adverse impact on the structural stability of adjoining properties. Although the building could take one year to construct, extracting soil from the proposed basement area would take place for only part of that time. The Council's claims that the works would have a disproportionate effect on nearby residents are unsubstantiated. The structural stability of adjoining properties could be safeguarded through implementation of provisions in the Section 106 obligation, which is in the form of an agreement signed by the Council.
14. Other disturbance during construction could be properly managed through a Construction Management Plan, as required by the Section 106 agreement, and within the control of the Council. While residents' fears may be understandable, there is no evidence to support the contention that there will be an unacceptable impact on neighbours through noise and disturbance, even in the very short term, following the agreement of a Construction Management Plan. The proposal would not therefore conflict with Policies DP26 of the Camden Development Policies or CS5 of the Core Strategy.

Other matters

15. Policy DP22 of the adopted Camden Development Policies 2010 requires development to incorporate sustainable design and construction measures. The application was accompanied by an assessment which indicates that the scheme could achieve Level 4 of the Code for Sustainable Homes, in a way which meets the Council's current standards. The Section 106 obligation would secure this building quality, together with a number of energy saving measures.

Conditions

16. Bearing in mind the need to preserve or enhance the conservation area, conditions requiring development in accordance with approved plans, the use of specified materials, samples of facing panels, measures for the retention of trees, full details of landscaping, including hard surfaces, and the withdrawal of permitted development rights for extensions are required in the interests of visual amenity. The requirements regarding Lifetimes Homes, a sustainable urban drainage scheme, waste storage and cycle storage all derive from and comply with adopted Development Plan policy. The requirements regarding basement construction are now covered by a signed Section 106 obligation and conditions are not necessary. The provision and retention of the proposed screen on the side boundary of the terrace is necessary to protect neighbouring residents' privacy. For the conservation area consent, the normal requirement for a redevelopment contract before demolition commences is necessary to protect the visual amenity of the area.

Geoff Salter

Conditions Schedule 1 – Appeal A

- 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: Nos 1/1095/100; 1067/101-105; 1095/106-108; 1095/200-214; 1095/302; 1095/305.
- 3) Notwithstanding condition 2, no development shall take place until details of the external materials including windows, glazing, balconies, doors render and boundary treatment 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 samples of all facing materials to be used in the construction of the external surfaces of the building hereby permitted have been provided for inspection on site and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (i) and (ii) below shall have effect until the expiration of 1 year from the date of the occupation of the building for its permitted use.
 - i) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard [3998 (Tree Work)].
 - ii) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
 - iii) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.
- 6) No development shall take place until full details of both hard and soft landscape works 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 trees to be retained; proposed earthworks and grading, including finished levels; means of enclosure; and hard surfacing materials.
- 7) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation

of any part of the development or in accordance with the programme agreed with the local planning authority.

- 8) The development hereby permitted shall not be occupied until the lifetimes homes features and facilities have been provided in accordance with details shown on the plans hereby approved.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no development within Part 1 (Classes A-H) of Schedule 2 of that Order shall be carried out without the written permission of the local planning authority.
- 10) No development shall take place until details of the implementation, maintenance and management of a sustainable drainage scheme have been submitted to and approved by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details.
- 11) The development hereby permitted shall not be occupied until the following details shown on the approved plans have been constructed: the 1.8m high screen on the southern boundary of the rear raised ground floor terrace; and the waste storage area and the covered cycle storage area for two cycles at lower ground floor level. These features shall be retained permanently thereafter.

Conditions Schedule 1 – Appeal A

- 1) The works hereby authorised shall begin not later than 3 years from the date of this consent.
- 2) The works of demolition hereby authorised shall not be carried out before a contract for the carrying out of the works of redevelopment of the site has been made and planning permission has been granted for the redevelopment for which the contract provides.