

# Appeal Decision

Site visit made on 25 February 2015

**by Ian McHugh DipTP MRTPI**

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

**Decision date: 31 March 2015**

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**Appeal Ref: APP/X5210/A/14/2229092**

**9 Dartmouth Park Road, London, NW5 1SU**

- 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 Jennifer Moore against the decision of the Council of the London Borough of Camden.
  - The application Ref 2014/4129/P, dated 20 June 2014, was refused by notice dated 15 October 2014.
  - The development proposed is an extension containing a new kitchen/dining room and utility room at upper ground-floor level and extension to existing flat at lower ground-floor level.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The proposed development, as described on the planning application form and the Council's decision notice, included the creation of a self-contained flat on the lower ground-floor level. However during my site visit, I observed that there is an existing flat in the lower ground-floor of the appeal property. Following consultation with the main parties, it has been agreed that the description of the development should be amended to refer to an extension of the existing flat. Accordingly, I have considered the appeal proposal on this basis and I have revised the description in my decision.

## Main Issues

3. The main issues are:
    - Whether the proposal would preserve or enhance the character and appearance of the Dartmouth Park Conservation Area (CA).
    - The effect of the proposal on the health and condition of an existing Mulberry Tree within the rear garden of the appeal site.
    - Whether a legal agreement is necessary to ensure that the lower ground-floor flat is a car-free development.
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- The effect of the proposal on the living conditions of the occupiers of number 11 Dartmouth Park Road (number 11).

## **Reasons**

### *Conservation Area*

4. The appeal building is a semi-detached four-storey residential property, which is situated in a residential area. The property contains two dwelling units i.e. one dwelling comprising the upper ground, first and second-floor levels, and a one-bedroom flat at lower ground-floor level. The property has an enclosed rear garden.
5. The Council's adopted Conservation Area Appraisal and Management Statement shows that the appeal property is situated within Character Sub Area 2 – Dartmouth West. The Appraisal states that the arrangement of houses on Dartmouth Park Road results in significant gaps between them. However, I noted at my site visit that there are a number of examples nearby where extensions have been built on the side and rear of properties and such extensions are an established feature of the CA. These extensions vary in terms of their size and design.
6. The appeal proposal is to construct a rear and side extension at lower and upper ground-floor levels on the property. It would provide a new kitchen/dining room and utility room to the existing dwelling on the upper levels, and an additional bedroom, new kitchen and new sitting area for the existing flat on the lower-ground floor. The extension would have a contemporary appearance, with a flat roof and areas of glazing being particular design features. Another feature of the extension would be an open terrace, with a privacy screen at upper ground-floor level adjacent to the neighbouring dwelling, number 11 Dartmouth Park Road (number 11).
7. The Council states that the proposal would be detrimental to the character and appearance of the building by reason of its height, location and size. Of particular concern to the Council is that part of the proposed extension which would be on the side of the property, as it considers that this would result in the loss of the existing gap between buildings. The Council states that the proposal would conflict with Policy CS14 of the adopted London Borough of Camden Core Strategy (CS), and with Policies DP24 and DP25 of the adopted London Borough of Camden Local Development Framework Development Policies (DP). These policies seek (amongst other things) to ensure that new development is of high quality design, and that the Borough's Conservation Areas are preserved and enhanced. In my opinion, these policies are consistent with the National Planning Policy Framework (the Framework).
8. Although the proposed extension would encroach into the existing gap between the side of the appeal property and the neighbouring dwelling, it would be set well back from the main front wall of the appeal building. As a result, a significant degree of separation at the front would remain and, consequently, a terracing effect would be avoided. Whilst there would be a partial loss of view between the properties from Dartmouth Park Road, this view is already restricted by an existing highway tree and, in my opinion, the view between the properties in terms of the overall character or appearance of the CA is not significant. Furthermore, the extension would appear as a subordinate addition

to the existing building, and I am not persuaded that it would be an unattractive or incongruous addition to the property.

9. Consequently, I conclude that the proposal would preserve the character and appearance of the CA. Accordingly, it would not conflict with the policies of the CS and the DP, or with the principles of the Framework, as referred to above.

#### *Effect on Mulberry Tree*

10. The Council states that the proposed extension would encroach within the root protection area (RPA) of an existing Mulberry Tree, which is situated in the rear garden of the appeal property. The tree is the subject of a tree preservation order. The Council states that no information has been submitted by the appellant to demonstrate that the tree would not be adversely affected by the proposal.
11. As my site visit took place during the winter season, it was not possible to fully assess the visual effect of the tree within the CA. However, I have no reason to doubt that it makes a positive contribution to the local environment. The appellant has submitted a statement from a landscape architecture consultancy, which states that no trees within the works area are likely to be affected by the development and, therefore, an arboricultural report is not necessary.
12. I note that whilst the main body of the proposed extension would not encroach within the RPA, part of the proposal also includes a wrought iron staircase which would lead from the garden up to the kitchen/dining area on the upper ground-floor. Part of the staircase would be constructed within the RPA of the tree. However, I am not persuaded that the health and condition of the tree would be adversely affected, due to the small footprint area of the staircase and its relatively light-weight construction. Consequently, the proposal would not conflict with Policy CS15 of the CS, which seeks (amongst other things) to protect trees and green spaces within the Borough.

#### *Car-Free Development*

13. The appeal site is located in a sustainable urban location, with good access to public transport. On-street car parking is regulated by the Council and there appears to be a high demand for such space in the vicinity of the site.
14. In such locations, the Council seeks to ensure that new development is car-free. This requirement is normally secured by a planning obligation, which prevents applications for on-street car parking permits. The Council also refers to Policy DP18 of the DP, which aims to address congestion and encourage sustainable modes of travel by seeking car-free development in Controlled Parking Zones that are easily accessible by public transport.
15. I consider that the development plan policy referred to above is in line with the principles of the Framework regarding the promotion of sustainable transport. However, there is an existing flat within the appeal building and therefore an additional dwelling is not being created. Therefore, I am not persuaded that the appeal proposal would result in any additional demand for car parking space in the locality. Consequently, I conclude that the proposal would not conflict with Policy DP18 of the DP.

### *Living Conditions*

16. Representations against the proposal have been received from the occupiers of the adjoining dwelling at number 11. The objections relate mainly to loss of privacy, and to noise and disturbance arising from the use of the proposed terrace area at upper ground-floor level, which would adjoin the shared side boundary of the two properties.
17. I note that the Council did not object to this element of the proposal. I have also taken into account that the rear garden of number 11 can be overlooked from the existing windows in the upper floors of the appeal property; the relatively small size of the terrace; and the proposed privacy screen on the side of the terrace adjacent to number 11.
18. However, in my opinion, the position of the terrace would have the potential to adversely affect the amenity currently enjoyed by the occupiers of number 11. The proposed terrace would be positioned in close proximity to the relatively private outdoor space associated with number 11. Whilst the privacy screen would prevent direct views towards the side of number 11, users of the terrace would still be able to have a clear view into the garden and patio space of number 11. Terraces also tend to be used for outdoor socialising, and noise can be particularly intrusive when such structures are positioned close to and above the level of adjacent gardens, as would be the case with the appeal proposal.
19. Although the appeal property is situated in a densely developed urban area where overlooking and noise from adjoining properties can be expected, I consider that the proposed terrace would be unacceptably harmful for the above reasons. The proposal would therefore fail to accord with paragraph 17 of the Framework, which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.
20. Concern has also been expressed by the occupiers of number 11 regarding the design of the extension, and the creation of a flat on the lower-ground floor of the building, which they consider could lead to more people using the appeal property garden and the proposed terrace. As the lower ground-floor flat already exists, I give little weight to this objection. With regard to the design of the extension, I have already concluded that it is acceptable. Whilst the extensive use of glazing will afford views into the garden of number 11, in my view this would not be materially different from the current situation at the property.

### **Other Matters**

21. I have taken into account the personal circumstances of the appellant. However, this does not outweigh the harm that I have identified above.

### **Conclusion**

22. For the reasons given above regarding living conditions, it is concluded that the appeal should be dismissed.

*Ian McHugh*

INSPECTOR