



Appeal Decision

Site visit made on 26 October 2015

by Jonathan Hockley BA(Hons) DipTP MRTPI

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

Decision date: 16 November 2015

Appeal Ref: APP/X5210/W/15/3063786

94 Frognal, London NW3 6XB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms N Farhi against the decision of the Council of the London Borough of Camden.
 - The application Ref 2014/7696/P, dated 15 December 2014, was refused by notice dated 8 April 2015.
 - The application sought planning permission for the erection of new garden room without complying with a condition attached to planning permission Ref 2014/0559/P, dated 8 May 2014.
 - The condition in dispute is No 3 which states that: 'The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plans; 212/10; 09; 08 C; 07 B; 06B; 05B; 04B; 03 B; 02 B; 01 B'.
 - The reason given for the condition is: 'For the avoidance of doubt and in the interest of proper planning'.
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Decision

1. The appeal is allowed and planning permission is granted for erection of new garden room at 94 Frognal, London NW3 6XB in accordance with the application Ref 2014/7696/P dated 15 December 2014, without compliance with condition number 3 previously imposed on planning permission Ref 2014/0559/P dated 8 May 2014, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new conditions:
 - 1) Within 3 months of the date of this decision, the window in the side elevation of the garden room shall be obscure glazed in accordance with Plan no 273 001 A and shall be retained as such thereafter.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan 212 01 B, 03B, 04B, 05B, 06B, 07B, 273 001 A, and plans 02B and 212/10 insofar as they relate to Orangery works only.

Preliminary Matters

2. The application form refers to the alteration or variation of a condition relating to a consent dated 8 May 2014, reference 2014/0693/L for repair and refurbishment works to existing orangery building and erection of new garden room. However, the decision notice and appeal form refer to the consent stated in the bullet point above, and I have not been provided with a copy of

the former consent. I have therefore dealt with the appeal as stated on the appeal form and decision notice.

Background and Main Issues

3. Planning permission was granted in May 2014 for a new garden room. The approved structure was built larger than that allowed for by the original permission and is sited in a different position. The proposal therefore seeks to regularise this matter by amending condition 3 of the original consent, which concerned the approved plans for the development.
4. The Council consider that the enlarged garden room has an overly dominant appearance when viewed from neighbouring properties, detracting from the open green character of the area, and thereby harming the character and appearance of the conservation area. The main issue in this appeal is therefore the implications that the removal of condition 3 would have on the character or appearance of the Hampstead Conservation Area and on the living conditions of neighbouring occupants, with particular reference to outlook.

Reasons

5. The rear garden of 94 Frognal roughly has an 'L' shape, with the majority of the garden lying due south of the house. This area of the garden is framed by a orangery which follows the western boundary of the property. The tail of the 'L' tracks round to the south east and contains the garden room at its far end. This section of the garden is well landscaped and secluded, and borders the rear gardens of No 94a Frognal, 1a Frognal Gardens, and 88, 90 and 92 Frognal and 12b Church Row, to the north, east, and south respectively. The room is a reasonably large flat roofed cedar clad structure. The west elevation, facing down the garden, contains aluminium bi-fold glass doors. The garden levels rise towards the east, and steps lead up to the doors of the room. An overhang protects the front of the structure from the elements. Other light in the room is provided by rooflights and a window on the southern elevation.
6. Hampstead Conservation Area (HCA) is a substantial one, and is characterised by its topography and the contrasting dense urban centre and spaciousness of the upper primarily residential areas. Frognal is distinguished by large detached and semi-detached dwellings set in spacious and well treed gardens. The HCA Statement¹ notes that the area was a distinct hamlet in the 17th and 18th century.
7. There is disagreement between the parties over the precise size of the garden room as constructed. However, it is not in dispute that the built structure does not match the approved plans, nor that it is set in a slightly different position within the garden, further to the west and to the south.
8. The garden room is not substantial enough to resemble anything other than an outbuilding. Whilst the Council note that such outbuildings are rare within the HCA, directly behind the structure is a large building set to the rear of No 1a Frognal Gardens. The location plan indicates that whilst outbuildings within the gardens in the HCA might not be commonplace, there are enough of them for them not to be an anomaly. Furthermore, the additional volume of the garden room over and above that which was approved is not significant in this context.

¹ Conservation Area Statement – Hampstead, London Borough of Camden October 2002

9. There is screening to the north of the room and the structure adjoining to the east effectively screens that direction. However, the appeal site is set on higher ground than the gardens to the south. A brick wall forms the boundary between these properties and is higher at the east end of the boundary. The increased height of the garden room, when coupled with the positioning slightly further to the west and south means that more of the structure is visible from the gardens to the south than would have been the case with the approved building. A clear photograph of the structure from the south is included in the evidence.
10. The extra extent of the structure that is now visible results from the increased height of the building, some 64cm from the Council's figures, the increased width of the structure of around 83cm, coupled with the altered positioning of the room. There is no doubt therefore that the mass and bulk of the structure visible to those properties to the south has increased. However, a substantial part of the approved structure would also have been visible. There is a large tree in the adjacent garden and the appellant have erected some trellis in an attempt to screen the structure. The cedar cladding blends well with the landscaped setting and adjacent brick wall, helping to reduce the dominance and massing of the structure and this will also weather to reduce the effect further. I do not consider that this extra height, width and positioning of the structure has a significant adverse effect on the outlook of neighbouring properties and their garden settings over and above what the approved structure would have created.
11. I therefore conclude that the removal of the aspects of condition 3 relating to the garden room would preserve the character and appearance of the Hampstead Conservation Area. I also consider that the alteration to the approved plans and subsequent additional size of the built room does not have a significant adverse effect on the living conditions of neighbouring occupants, with particular reference to outlook. The development complies with Policy CS14 of the Camden Core Strategy 2010-2025 and policies DP24 and DP25 of the Camden Development Policies 2010-2025 which together state that development is required to be of the highest standard of design that respects local context and character, and preserves and enhances Camden's conservation areas and listed buildings.

Other matters

12. The neighbours to the south have concerns over the location of the side window in the garden room and its effect on their privacy, leading to concerns of overlooking. The window is set above a small sink in the studio and the angle of view from the window of the neighbouring garden is reasonably oblique. Nevertheless, I consider that whilst direct overlooking may not be highly likely, the presence of the window at such proximity to the boundary would lead to a genuine sense of overlooking. I consider in this case therefore that the proposal to replace the glass in the window with obscured glass is both necessary and reasonable. This matter could be reasonably conditioned.
13. 94 Frognal is a Grade II* listed building (along with the attached 94a Frognal), dating from circa 1700. The listing notes that the south garden façade was refaced in the later 18th century and contains reference to the Orangery/Conservatory. The Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) states that, when considering whether to grant

planning permission for development which affects the setting of a listed building, special regard should be had to the desirability of preserving this setting. In this case due to the positioning of the garden room I consider that the structure preserves the setting of the listed building.

Conditions and conclusion

14. As stated above, I have included a condition to ensure that the side window is obscure glazed. I have allowed 3 months for this alteration to be made, which I consider to be a reasonable amount of time for the change to be affected, particularly given the time of year.
15. The original consent also included various details concerning proposed works to the orangery. It is unclear from the details I have been provided with, how much, if any, of these works have been completed. Therefore, although I have removed the original plans condition I have imposed a new condition replicating those plans relating to the orangery works, for the avoidance of doubt and in the interests of proper planning.
16. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed and the planning permission varied as set out in my formal decision.

Jon Hockley

INSPECTOR