

Appeal Decision

Site visit made on 24 March 2017

by **Jonathan Hockley BA(Hons) DipTP MRTPI**

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

Decision date: 28th April 2017

Appeal Ref: APP/X5210/W/16/3165335

1A Glastonbury Street, London NW6 1QJ

- 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 Mr Brian Taitz against the decision of the Council of the London Borough of Camden.
 - The application Ref 2016/2896/P, dated 23 May 2016, was refused by notice dated 10 August 2016.
 - The development proposed is the Demolition of the existing vacant mechanics garage and erection of three-storey dwelling (including basement level) with associated access, amenity space, refuse and recycling storage and cycle storage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are as follows:
 - The effect of the proposal on the character and appearance of the surrounding area,
 - The effect of the proposal on the living conditions of neighbouring occupiers on Ravenshaw Street, with particular regard to outlook,
 - Whether the proposal would provide satisfactory living conditions for the future occupiers of the property, with regard to sunlight, daylight, headroom and provision of private amenity space, and
 - Whether the proposal would result in the loss of employment opportunities.

Reasons

Character and appearance

3. Glastonbury Street lies within a small patchwork of roads that lie in an area of land between the fairly busy Mill Lane to the north and train lines to the south. The land in the area falls roughly towards the south from the higher point of Mill Lane. Glastonbury Street itself is fairly level and is sited along the southern boundary of Beckford Primary School, an imposing yellow stock brick school with red brick dressings which stands high above the lower Glastonbury Street.
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4. Glastonbury Street itself has a short run of two storey red brick terraced properties set on its southern side, which are set back from the pavement edge, and whose rear gardens back on to the rear gardens of houses in Ravenshaw Street to the south. The houses have distinctive moulded architraves and large canted moulded flat roofed bay windows to front, with noticeable dentilled eaves below the slate roofs.
5. At the western end of the street there is a single storey flat roof building which abuts the pavement. This was previously a garage/mechanics, but at the time of my visit was derelict. Despite being set forward of the houses on the street, the single storey nature and painted brick of the building ensures that it remains fairly low key in the street scene. The garage fills its triangle shaped plot, with its eastern boundary abutting No 1 Glastonbury Street, and its southern side running along the rear of Nos 36-42 (evens) Ravenshaw Street. As a result of the topography of the area, the site is set higher than the rear gardens of these properties.
6. The proposal seeks to demolish the garage and construct a 2 storey property with basement. The eaves and ridge line of the pitched roof of the proposal would be set slightly below No 1 Glastonbury Street, with shorter windows at first floor level proposed to ensure that the ground floor fenestration follows the pattern of the street, and the scheme would be set back to follow the building line. As a result of the shape of the site, the southern elevation of the house would be angled along the rear boundary. Both southern and the shorter western elevations are proposed to be 'green walls'. The basement would be set underneath the entire plot, save for a small sunken garden in the western corner of the site.
7. Whilst the façade of the proposal clearly seeks to mimic its surroundings and follow the rhythm of the street, I am not convinced that it succeeds. Whilst the property closest to the appeal site has a lower roof ridge than those to the east, it maintains virtually the same ridge line. The reduced eaves line of the proposal would differ from this pattern, leading to the smaller first floor windows, the proportions of which would appear out of place in the street scene. Furthermore, the shortened western elevation would also I consider appear out of place in the regularly proportioned terrace. The proposed green treatment of this wall would also draw the eye to this feature.
8. I therefore conclude that the proposal would have an adverse effect on the character and appearance of the surrounding area. The proposal would be contrary to policy 2 of the Neighbourhood Plan¹, policies CS5 and CS14 of the Core Strategy² and Policy DP24 of the Development Policies document³ (the DPD), which, when taken together, state that development should provide buildings of the highest quality and standard of design that respect the local context, character, identity, and the form and scale of neighbouring buildings, providing development which positively interfaces with the street and streetscape.

¹ Fortune Green and West Hampstead Neighbourhood Plan March 2015

² Camden Core Strategy 2010-2025 Local Development Framework, 2010

³ Camden Development Policies 2010-2025 Local Development Framework, 2010

Living condition of neighbouring residents

9. Nos 36-42 (evens) Ravenshaw Street are two storey terraced properties with outriggers to the rear. Nos 36, 38 and 40 all have flat roofed dormers located in their rear roofscapes. Their private rear amenity areas are located up to the boundary with the appeal site, and due to the difference in levels the existing rear single storey wall of the former garage forms a hard boundary of significant height.
10. The proposed two storey dwelling would significantly increase the height of this boundary wall; from Nos 36 and 38 the western wall of the proposal would be clearly visible, and from No 40 the southern wall of the scheme would be sited directly on the boundary.
11. Whilst the scheme has been designed with no windows in such elevations to avoid overlooking, and due to the orientation of the dwellings daylight and sunlight would not be significantly affected, the sheer mass and proximity of the side and rear wall of the proposal would dominate the outlook from the private amenity areas of Nos 36, 38, and particularly from No 40. This property is already affected more due to the topography of the area and the proposal would add to this adverse effect, dominating and overbearing the rear garden and the view from the rear patio doors of this property. The appellant notes that a sense of enclosure can be a good thing, providing a sense of privacy. However, the existing rear wall already provides such a sense; the proposal would effectively extend this wall and create a claustrophobic sense of enclosure.
12. The appellant draws my attention to other examples in the local area where similar building relationships exist. I fully accept that in a densely populated terraced area distances between the external walls of houses may be closer than would be the case in other less dense areas. However, I have little details of the other relationships highlighted by the appellant other than a plan; furthermore, examples of other situations where living conditions may not be optimal in terms of outlook do not justify further examples to be constructed.
13. Furthermore, whilst the green wall on the western elevation would be maintainable from the garden area of the property, it is difficult to see how the southern wall would. This wall would primarily directly border No 40 and hence maintenance would seemingly need to be through the garden of this property. In the absence of any maintenance proposal and agreement I am not convinced that a condition would cover this matter given the possible requirement to access third party land. This could lead to a situation where the wall was unmaintained, adding to the adverse outlook for neighbouring residents.
14. I therefore conclude that the proposal would have a significant adverse effect on the living conditions of neighbouring occupiers on Ravenshaw Street, with particular regard to outlook, and would be contrary to policy CS5 of the Core Strategy and Policy DP26 of the DPD which state in this context that any impact of development on their neighbours should be fully considered and their amenity protected, and permission will not be granted for development which causes harm in terms of outlook. I note on this point that paragraph 3.3.4 of the Council's appeal statement says that the proposal would comply with these policies; however, given the preceding words in this paragraph and statement and the decision notice this appears to be a typographical error.

Living conditions – future residents

15. Habitable rooms in the above ground levels of the proposed dwelling would all be north facing, with a bedroom at first floor level and a living room at ground floor. In the basement light would be provided to the kitchen diner and bedroom by large lights set in the front yard and garden of the proposal. A daylight and sunlight report⁴ submitted by the appellant finds that all rooms would meet the Building Research Establishment (BRE) target values for internal daylight levels. Sunlight levels would fall marginally below the target values, with the kitchen diner and living room. However, I note in this respect particularly in the case of the ground floor living room that this would presumably be little different to other north facing rooms in the street.
16. Concern is raised over the headroom in the basement level, which would provide 2.1m of height. Revised plans have indicated that this could be extended to 2.5m without altering the exterior design of the proposal, which would be sufficient to ensure that the living conditions of future residents in this respect were acceptable.
17. The proposal would provide a two bedroom property, with both of the rooms being of a sufficient size to host a double bed. It is reasonable to consider therefore that at least a couple or a small family could reside in the house. Based on the Council's figures, the side garden to the property would measure some 12m², with a smaller sunken garden of some 4m² adjacent to the basement bedroom. The side garden would also provide cycle storage and a large proportion of it would have the roof light to the underground bedroom as its floor/base. The daylight and sunlight report demonstrates that only a small area of the amenity area would benefit from at least 2 hours of sunshine in the spring. Whilst a larger area would benefit in the summer, when combined with the size of the garden, the fact that a large part of the side garden could not be grassed or used for sitting out due to the roof light, I do not consider that the proposal would provide a reasonable amount of private, usable amenity space.
18. Whilst I therefore consider that future residents of the scheme would experience satisfactory levels of daylight, sunlight and headroom in the basement, the proposal would not provide satisfactory living conditions for the future occupiers of the property with regard to the provision of private amenity space. In this respect the scheme would be contrary to policy CD5 of the Core Strategy and DP26 of the DPD which together state that the Council will protect the amenity of Camden's residents by making sure that the impact of development on their occupiers is fully considered and that all developments should provide outdoor space for private amenity space, wherever practical. I note that the wording and supporting text to Policy DP26 states that the Council recognise that gardens may not always be realistic or appropriate in many parts of the Borough. However, given the character of the surrounding area, of primarily residential dwellings with largely private rear amenity spaces and the reasonable size of the proposed dwelling I consider it appropriate and practical in this case.

Employment Opportunities

19. Policy DP13 of the DPD seeks to protect employment uses in the Borough. Any loss of employment land is required to demonstrate that the site or building is

⁴ Daylight and Sunlight Report, Malcolm Hollis 06/05/16

no longer suitable for existing building use, and evidence is provided that the possibility of retaining, reusing or redeveloping the site or buildings has been fully explored for an appropriate length of time. Policy 12 of the Neighbourhood Plan provides for a presumption in favour of retaining existing employment sites and Policy CS8 of the Core Strategy states that the Council will safeguard existing employment premises in the borough that meet the needs of modern industry.

20. On my visit, although secure, I noted that the premises were fairly run down, with evidence of water ingress and internal plant growth. A structural report for the Council dating from 2011 states that the property was at that time in poor structural conditions with numerous inherent defects. The report states that the condition of the structure is such that it should be considered for demolition; remedial works could be undertaken but would only enhance the structure for a limited time.
21. Fairly limited marketing information has been provided, covering less than the two years that the supporting text of DPD Policy DP13 refers to. However, marketing has taken place for around 12-18 months with no interest received. Given the documented condition of the property, along with the fact that such condition would have deteriorated since 2011, exacerbated since the unit became derelict since around the end of 2015, it is not surprising that little interest has been received in continuing the garage as an employment use.
22. I also note the residential nature of the surrounding area; aside from the school the area is solely residential. When combining all these factors together I consider that the limited loss of employment land that the proposal would cause would not be unreasonable, and realistically the proposal would not result in a loss of employment opportunities. The Framework notes that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Whilst the proposal would conflict with DPD Policy DP13 and Neighbourhood Plan Policy 12 I find the circumstances of the site and the case such that these considerations outweigh the development plan in this one particular instance, and given the condition of the unit I find no conflict with Core Strategy policy CS8.

Other Matters

23. The evidence includes a Basement Impact Assessment (BIA) to consider the structural integrity of the scheme and the impact that subterranean activity could have on adjoining properties and land. The report notes that the basement would involve excavation into London clay which can shrink and swell, and recommends mitigation, including structural condition reports of adjacent properties prior to development commencing.
24. Supplementary Planning Guidance in the form of Camden Planning Guidance Note 4⁵ (CPG4) requires independent verification of BIAs to provide greater certainty over the impacts of such development. Given the fact that the basement would cover the whole of the proposed site, and the topography of this area I consider such verification would be required. The appellant has not provided this information, considering that this could be conditioned if necessary.

⁵ Camden Planning Guidance Basements and lightwells CPG4, July 2015

25. Whilst I note and sympathise with their view that there was little point in going to the expense of commissioning verification during the application process once they were aware that the scheme was going to be refused, I do not consider it a matter that can be conditioned. Such verification may flag up issues or unexpected costs which may make a scheme unviable or technically impossible, and not therefore resolvable by condition. The proposal would therefore be contrary to CPG4, as well as Core Strategy Policy CS5 and DPD policy DP27, which together state that the impact of development on neighbours should be fully considered and demonstrated. This conflict adds weight to my overall decision.
26. Reasons for refusal are also based on the lack of a legal agreement to provide for a construction management plan, a car free development and a contribution towards public highway works. A draft legal undertaking has been submitted by the appellant to address such matters, although the undertaking remains in draft. However, given that I am dismissing the appeal on other grounds I have not considered this matter further.
27. The appellant raises concern over the quality of service provided by the Council during the consideration of the application, and considers that the Council changed their mind through the process. I have dealt with the appeal on its own merits; complaints over the Council's decision making process should, in the first instance, be made through the Authority's own complaints procedure.
28. I note that the proposal would provide a new dwelling, with economic and social benefits. However, these benefits would not outweigh the conflict with the development plan and the harm that the scheme would cause.

Conclusion

29. Whilst I have considered that the proposal would not realistically result in the loss of employment opportunities, I have concluded that the proposal would have an adverse effect on the character and appearance of the surrounding area, the living conditions of neighbouring occupiers on Ravenshaw Street with particular regard to outlook and would not provide satisfactory living conditions for the future occupiers of the property with regard to the provision of private amenity space.
30. Therefore for the reasons given above, and having regard to all other matters raised, I dismiss the appeal.

Jon Hockley

INSPECTOR