



Appeal Decision

Site visit made on 10 October 2017

by Caroline Jones BA (Hons) DipTP MTP MRTPI

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

Decision date: 7th November 2017

Appeal Ref: APP/X5210/W/17/3178421
13 Fitzjohn's Avenue, London NW3 5JY

- 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 A Tilsiter, Shakib Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref 2017/0575/P, dated 30 January 2017, was refused by notice dated 1 June 2017.
 - The development proposed is alterations to front garden to form off street parking, including adaptations to existing boundary wall to create shared vehicle and pedestrian access via vehicle crossover from street.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Following the determination of the application and submission of the appeal, the Council adopted the Camden Local Plan (LP) which has replaced the Camden Core Strategy and Camden Development Policies. Therefore, in determining the appeal, I have had regard to the LP policies identified by the Council which supersede the policies of the Core Strategy and Development Policies set out in the decision notice. The appellant has had the opportunity to comment on the implications of the recently adopted policies to his case at the final comments stage.

Main Issues

3. The main issues are:
 - i) Whether the proposed development would preserve or enhance the character or appearance of the Fitzjohns/Netherall Conservation Area (FNCA)
 - ii) The effect of the proposed development on parking stress and the promotion of sustainable modes of transport.

Reasons

4. Fitzjohn's Avenue is an imposing tree lined street which runs through the centre of the FNCA. The appeal property is a large detached mansion set back from the road in a generous plot, similar in character and appearance to surrounding properties. The front boundary is denoted by a brick wall with a

small punctuated pedestrian access. The front garden area contains attractive mosaic tiles with the remainder laid with slate chippings, a number of planters and a cycle rack. The property is in use as a house in multiple occupation (HMO) and currently has no off street parking.

5. As the site lies within the FNCA I must have regard to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which places a duty upon me to give special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
6. The FNCA is mainly a residential area. The Council's Conservation Area Statement-Fitzjohns/Netherall (2001) (CAS) states that the long views along the Avenues combine with substantially scaled properties and generous grounds to create an imposing district. The street layouts, buildings and streetscape all contribute to the significance of the heritage asset. Fitzjohn's Avenue is identified within the CAS as having a powerful impact on the FNCA. It goes on to say that the dramatic descent to Swiss Cottage, generous width and length of the road and numerous detached houses make it the most prominent street of the area.
7. The CAS identifies boundary walls as a consistent feature of the FNCA. Although they vary in their details from street to street and in some streets house to house, the palette of materials, repeated details and underlying design conventions give a remarkable consistency. In terms of Fitzjohn's Avenue, the front boundary walls are identified as displaying the richness of brick, terracotta and stone that is characteristic of the Conservation Area as a whole. The loss of front gardens and original features is identified within the CAS as harming the character of the area.
8. There is some dispute between the parties as to whether the front boundary wall is original. However, there is no compelling evidence before me to suggest that the wall is not original. Notwithstanding, I consider that the front wall makes a positive contribution to the character and appearance of the area, bestowing a sense of rhythm and one of the defining features of the street scene. In this context, the removal of approximately 2.8 metres of the front boundary wall to allow for a wider gap for vehicle access would have a small, but nonetheless unduly harmful impact on the street scene. It would neither preserve nor enhance the character and appearance of the area.
9. I note there are other examples of where either some of or the entire boundary wall has been removed in the locality. To my mind, these have to a noticeable extent materially harmed the character and appearance of the area, eroding the positive contribution the consistent boundary features provide.
10. I note that the front garden area currently has a distinct lack of greenery. The proposal includes the provision of grass-crete and additional planting and in this respect offers the opportunity to improve its aesthetic contribution.
11. Nonetheless, the partial loss of the boundary wall would unacceptably harm the character and appearance of the FNCA. The finding of harm to a heritage asset is a matter to which I must attach considerable importance and weight. However, given the scale of the proposal, I consider the harm to be less than substantial. As such, the harm must be weighed against the public benefits of

the proposal. Whilst the proposal would be of private benefit to the occupiers of the HMO there would be no public benefits as such to outweigh the harm identified above.

12. Accordingly, the proposal would have a materially harmful effect on the character and appearance of the FNCA thereby conflicting with Policy D2 of the LP which requires, amongst other things, that development within conservation areas preserves, or, where possible, enhances the character or appearance of the area.

Parking and promotion of sustainable modes of transport

13. The appeal site is within a controlled parking zone where residents are required to hold a parking permit. The Council state that there is a car parking ratio of 1:10 meaning that 110 permits are issued for every 100 on street car parking spaces. At the time of my site visit, which I acknowledge was just a snapshot in time, on street parking appeared to be more or less at capacity. In light of the above I agree with the Council that the area is subject to a high degree of parking stress. The proposal would result in the loss of 3 on street parking spaces. The appellant claims that the loss of the spaces would be off-set by the ability to park within the front garden. However, the spaces that would be removed are currently available to all residents. By reason of the limited availability of parking spaces, the loss of 3 on street parking spaces would result in an unacceptable increase in further parking stress.
14. In order to limit the availability of parking, the Council requires all new developments within the borough to be car free. Policy T2 of the LP states that on new development, the Council will resist the development of boundary treatments and gardens to provide vehicle crossovers and on-site parking. However, the HMO is already in use and there is nothing before me to suggest that the existing or future residents are excluded from entitlement to parking permits. In this respect the provision of two off street spaces would just offer an alternative for those residents. There is no reason to believe that the provision of off street parking would lead to an increase in car ownership or that the primary means of travel to and from the site being the private car particularly as the site lies within an extremely accessible location with a PTAL rating of 5. In this regard, the proposal would not compromise the Council's aim of promoting sustainable transport choices.
15. Nonetheless, I have found that the proposal would lead to an unacceptable increase in parking stress and find conflict with Policy A1 of the LP in this regard which states, amongst other things, the Council will resist development that fails to adequately assess and address transport impacts affecting communities, occupiers, neighbours and the existing transport network.

Conclusion

16. For the reasons given above and taking into account all matters raised, I conclude that the appeal should be dismissed.

Caroline Jones

INSPECTOR