



TOWN AND COUNTRY PLANNING ACT 1990

APPEAL UNDER SECTION 78

WRITTEN REPRESENTATIONS

APPEAL BY: Mr Ramin Sedaghat

PROPOSAL

Installation of front, side and rear dormer windows

GROUNDS OF APPEAL

SITE: Flat 2nd Floor, 9 Thurlow Road, London NW3 5PJ

8 November 2019

LPA REFERENCE: Application No. 2019/3108/P



1.0 INTRODUCTION & RELEVANT BACKGROUND

Page | 2 **1.1** Planning permission was refused for the Appeal Proposal under Delegated Powers on 16 September 2019 for the following reason:

“The proposed front and side dormer windows would disrupt an otherwise unimpaired roof slope, and undermine the symmetrical composition and appearance of the semi-detached building. In doing so, the proposal would cause harm to the character and appearance of the host property and street scene and wider Fitzjohns and Netherhall Conservation area, contrary to policies D1 (Design) & D2 (Heritage) of the London Borough of Camden Local Plan 2017.”

2.0 THE SITE AND SURROUNDING AREA

2.1 The host property relates to a three storey with lower ground floor semi-detached building located on the northern side of Thurlow road. The building is in use as three self-contained flats with the Appeal site relating to the second floor flat.

2.2 The building is located within the Fitzjohns and Netherhall Conservation Area and identified as making a positive contribution to the character and appearance of the Conservation Area. The site is also located within the Hampstead Neighbourhood Plan area.

3.0 THE APPEAL PROPOSAL

3.1 The Appeal proposal is for a loft conversion with new dormer window extensions to form new habitable accommodation as part of 2nd floor flat internal renovations to create a new 3-bedroom unit. The rear dormer has been approved under application 2018/6386/P.

3.2 The existing lower ground/ground floor flat is a 2-bed unit with a floor area of 159 sqm. The existing 1st floor flat is a 1-bedroom unit with a floor area of approximately 64 m². The existing 2nd floor flat is a 1-bedroom residential use unit with a floor area of 64 m²

3.3 The Appeal proposal is to enlarge the upper floor flat by constructing new roof extension dormer windows to create an additional 46 m² habitable area and two new bedrooms.

The proposal will involve lowering the loft floor area without impacting the existing roof profile and slope in order to create 2.4m clear headroom in loft area and 2nd floor flat area.

3.4 The scheme involves internal alterations to first and second levels by rearranging internal partitions. The proposed improved second floor flat will increase from a 1 bed flat to a 3-bedroom residential unit (1-double bedroom plus 2-single bedrooms) with a total floor area of 110m²

3.5 The proposed front, rear and side dormer windows would have a height of 1.7m and width of 2m. The dormers would retain a 500mm separation between the roof ridge and eaves and use traditional materials, with timber framed double glazed windows and lead finish.

4.0 RELEVANT PLANNING HISTORY

4.1 Erection of rear dormer and installation of 2x front and 2x side rooflights to second floor flat (Use C3) (2018/6386/P) Granted 16/04/2019

4.2 Erection of single storey rear extension with roof terrace and associated access doors, two storey side extension, demolition of existing side extension (2019/2811/P) Granted 11/10/2019

4.3 Erection of single storey rear outbuilding (2019/3093/P) Registered. New application 10/07/2019 - Full Planning Permission

5.0 RELEVANT PLANNING POLICY

National Planning Policy Framework February 2019 (NPPF)

5.1 Paragraph 11 of the NPPF states that Plans and decisions should apply a presumption in favour of sustainable development.

“For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay;

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

5.2 Paragraph 59 states that to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed.

5.3 Paragraph 68 sets out that small and medium sized sites can make an important contribution to meeting the housing requirement of an area. Notably:

“(c) support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes;”

5.4 Paragraph 117 states that *“planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.”*

5.5 Paragraph 118 sets out that planning policies and decisions should:

“d) promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure).”

5.6 Paragraph 127 sets out that *“Planning policies and decisions should ensure that developments:*

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”

5.7 Paragraph 195 states that *“Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss.”*

5.8 Paragraph 196 states that *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*

5.9 Paragraph 197 sets out that *“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”*

5.10 Paragraph 201 states that *“Not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 195 or less than substantial harm under paragraph 196, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.”*

London Plan (March 2016)

5.11 POLICY 3.3 states that *“The Mayor recognises the pressing need for more homes in London in order to promote opportunity and provide a real choice for all Londoners in ways that meet their needs at a price they can afford.”*

5.12 POLICY 3.5 states that *“Housing developments should be of the highest quality internally, externally and in relation to their context and to the wider environment, taking account of strategic policies in this Plan to protect and enhance London’s residential environment and attractiveness as a place to live.”* Further it states *“The design of all new*

housing developments should enhance the quality of local places, taking into account physical context; local character; density; tenure and land use mix; and relationships with, and provision of, public, communal and open spaces, taking particular account of the needs of children, disabled and older people.”

5.13 Table 3.3 sets out the minimum GIA space standards for new dwellings and for a 1 bed 2 person dwelling the minimum space should be 50 sqm and a 3 bed 4 person flat the minimum space is 74 sqm with one storey and 84 sqm with two storeys. Additionally, it sets out that the nationally described space standard sets a minimum ceiling height of 2.3 meters for at least 75% of the gross internal area of the dwelling.

5.14 POLICY 3.8 states that *“Londoners should have a genuine choice of homes that they can afford, and which meet their requirements for different sizes and types of dwellings in the highest quality environments.”*

London Housing SPG (March 2016)

5.15 Paragraph 2.1.13 states that Policy 3.5 of the London Plan housing standards apply to all new housing in London including conversions where new dwellings are created.

5.16 Paragraphs 2.1.18 and 2.1.19 articulate the need for flexibility and a degree of sensitivity in applying the Housing Standards, as follows:

2.1.18 Failure to meet one standard would not necessarily lead to an issue of compliance with the London Plan, but a combination of failures would cause concern. In most cases, departures from the standards will require a clear and robust justification. Policy 3.5 (see Part d) provides flexibility in this respect where development proposals meet specific, identified needs.....

2.1.19 application of the standards in relation to Listed Building related development, some conversions and developmentmay require sensitivity and flexibility; in some circumstances it may be justified to not apply certain standards. Policy 3.5 and this SPG are designed to provide the flexibility necessary to respond to the constraints and opportunities presented by individual sites. As with all development proposals, implementation of planning policy, including Policy 3.5 and associated Building regulations, should take account of the range of policy concerns bearing on a particular site.

Camden Local Plan (2017)

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5.17 Policy H7 states that *“The Council will aim to secure a range of homes of different sizes that will contribute to creation of mixed, inclusive and sustainable communities and reduce mismatches between housing needs and existing supply.*

We will seek to ensure that all housing development, including conversion of existing homes and non-residential properties: a. contributes to meeting the priorities set out in the Dwelling Size Priorities Table; and b. includes a mix of large and small homes.”

5.18 Policy D1 sets out that *“The Council will seek to secure high quality design in development. The Council will require that development:*

a. respects local context and character;

b. preserves or enhances the historic environment and heritage assets in accordance with Policy D2 Heritage;

c. is sustainable in design and construction, incorporating best practice in resource management and climate change mitigation and adaptation;

d. is of sustainable and durable construction and adaptable to different activities and land uses;

e. comprises details and materials that are of high quality and complement the local character;

f. integrates well with the surrounding streets and open spaces, improving movement through the site and wider area with direct, accessible and easily recognisable routes and contributes positively to the street frontage;”

5.19 Policy D2 states that *“ The Council will not permit the loss of or substantial harm to a designated heritage asset, including conservation areas and Listed Buildings, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.”*

5.20 Policy A1 states that *“The Council will seek to protect the quality of life of occupiers and neighbours. We will grant permission for development unless this causes unacceptable harm to amenity.”*

Hampstead Neighbourhood Development Plan (October 2018)

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5.21 Policy DH1 sets out that “*Development proposals should demonstrate how they respect and enhance the character and local context of the relevant character area(s) by:*

a. Ensuring that design is sympathetic to established building lines and arrangements of front gardens, walls, railings or hedges.

b. Incorporating and enhancing permeability in and around new developments to secure safe and convenient access for pedestrians and cyclists, and avoiding lockable gates and fencing that restricts through access.

c. Responding positively and sympathetically to the existing rhythm, proportion, height, scale, massing, materials and storey heights of surrounding buildings.

d. Protecting the amenity and privacy of neighbouring properties.”

5.22 Policy DH2 states that “*Planning applications within a Conservation Area must have regard to the guidelines in the relevant Conservation Area Appraisal(s) and Management Strategies.”*

Camden Planning Guidance (CPG)

5.23 CPG Design (July 2015 Updated March 2019)

The key messages are: “*Camden is committed to excellence in design and schemes should consider: •The context of a development and its surrounding area; •The design of the building itself; • The use and function of buildings; • Using good quality sustainable materials; • Creating well connected public spaces and good quality public realm • Opportunities for promoting health and well-being • Opportunities for improving the character and quality of an area”*

5.24 CPG Altering and Extending your Home (March 2019)

“4.4 Roof dormers should be designed sensitively so they do not dominate the roof plane. This means they should sit within the roof slope so that the overall structure of the existing roof form is maintained. To do this, the following circumstances must be met:

a. The pitch of the existing roof is sufficient to allow adequate habitable space without the creation of disproportionately large dormers or the raising of the roof ridge. Dormers should not be introduced to shallow-pitched roofs.

b. Dormers should be appropriately designed and subordinate in size to the main roof and host building – see figures 3a & 3b for general design principles. They should not be introduced where they cut through the roof ridge or the sloped edge of a hipped roof. They should also be sufficiently below the ridge of the roof in order to avoid projecting into the roofline when viewed from a distance. Usually a 500mm gap is required between the dormer and the ridge or hip as well as from the party wall and eaves to maintain an adequate separation (see Figures 3a & 3b). However this distance should not be treated as a maximum entitlement and sometimes greater distances will be required to provide a smaller dormer to ensure that it is not too bulky or prominent as a roof feature. Full-length dormers, on both the front and rear of the property, will be discouraged to minimise the prominence of these structures.

c. Dormers should not be introduced where they interrupt an unbroken roofscape.

d. In number, form, scale and window pane size, the dormer and window should relate to the façade below and the surface area of the roof. They should appear as separate small projections on the roof surface. They should generally be aligned with windows on the lower floors and be of a size that is clearly subordinate to the windows below. In some very narrow frontage houses, a single dormer placed centrally may be preferable. It is important to ensure the dormer cheeks (window surrounds) are no wider than the structure requires as this can give an overly dominant appearance. Deep fascias and eaves gutters should be avoided.

e. Where buildings have a parapet the lower edge of the dormer should be located below the parapet line

f. Materials should complement the main building and the wider townscape and the use of traditional materials such as timber, lead and hanging tiles are preferred.”

The Fitzjohns/Netherhall Conservation Area statement (March 2001)

5.25 The stated character of the area is: *Roofs are an important and conspicuous element The most common types of roof are gables (various designs), pitched with dormers, shallow pitched with overhanging eaves.”* The majority of the properties are detached or semi-detached.

5.26 The appraisal states that on the north side of Thurlow Road are semi-detached Italianate villas, numbers 1-10 and 29&30 are three storey with a minimal square bay at ground floor, hipped roofs with overhanging eaves, sash windows, porticos with columns.

5.27 The Appraisal states that *“The distinct quality of Fitzjohns/Netherhall is that it largely retains its homogenous mid-late 19th century architectural character. For this reason most of*

the 19th century buildings make a positive contribution to the character and appearance of the Conservation Area.”

Page | 10 **5.28** 1-10 cons, 13-16 cons and 19-30 cons Thurlow Road are identified as unlisted buildings which make a positive contribution to the character and appearance of the area.

5.29 In relation to roof extensions, the appraisal states that *“Dormers at the front and side will not be allowed where a cluster of roofs remain largely, but not necessarily completely, unimpaired.”*

6.0 PLANNING ASSESSMENT

6.1 The Council considers the key issues in the determination of the Appeal Proposal to be the impact of the new dormers on the character and appearance of the host building, and the Conservation Area generally.

6.2 The Appeal proposal includes the installation of a rear dormer, which is identical to that granted permission under application reference 2018/6386/P. Self-evidently, the Council considered that the scale, bulk and detailed design of the rear dormer acceptable in relation to the host property and the wider Conservation area.

6.3 Furthermore, the Council stated that, *“By virtue of its position on the roof, set back from the eaves, the proposed rear dormer windows would not cause any harm to neighbouring amenity in terms of loss of light, outlook or privacy.”*

6.4 The refusal reason focuses solely on the front and side dormer windows, which the Council argues would disrupt an otherwise unimpaired roof slope and undermine the symmetrical composition and appearance of the pair of semi-detached houses. This the Council asserts would cause harm to the character and appearance of the host property, street scene and Conservation area generally.

6.5 In the Council’s delegated report they state that *“Para 196 of the NPPF (2018) states that ‘where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use’.”* The Council concludes that *“The proposal would result in ‘less than substantial harm’ to the character, appearance and historic interest of the conservation area as well as to the host property.”* However, the Council state that *“There is no demonstrable public benefit that would outweigh this harm.”*

6.6 Having accepted the proposal would result in *'less than substantial harm'* there should, in our submission, be an assessment whether any other benefits would outweigh this harm. The Council have not done this simply stating that *"The proposal would provide no public benefits to outweigh the less than substantial harm to the conservation area."*

6.7 The Appeal proposal increases the amount of residential floorspace in the host property by enlarging the top flat from a 1-bedroom to a 3-bedroom flat. It is therefore providing a greater choice of units within the host building from the existing 2 x one bed units and 1 x two bed unit to 1 x one bed, 1 x two bed and 1 x three bed unit. This complies with Policy 3.8 of the London Plan which states that *"Londoners should have a genuine choice of homes that they can afford, and which meet their requirements for different sizes and types of dwellings in the highest quality environments."*

6.8 Furthermore, paragraph 118 of the NPPF says that planning policies and decisions should *"promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively."* The Appeal proposal would result in better use of the host property which is in an area where land for housing is constrained.

6.9 This proposal would also secure the host property's *'optimum viable use'*, which Paragraph 196 of the NPPF considers is a public benefit which should be weighed against this *"less than substantial harm to the significance of a designated heritage asset."*

6.10 The Appeal proposal will provide good quality residential accommodation exceeding the minimum GIA space standards for new dwellings set out in Table 3.3 of the London Plan. The Council has not objected relating to the accommodation proposed. Therefore, it is our contention that there is public benefit to the Appeal scheme which would outweigh the less than substantial harm.

6.11 Additionally, Council Officers confirmed, in the attached email dated 3 April 2019, that if number 10 was agreeable to a front and side dormer and a joint application submitted for both Nos. 9 and 10 this would overcome the Council's concerns regarding symmetry. The objection by the Council is not the disruption of an otherwise unimpaired roof slope but the alleged lack of symmetry.

6.12 The Conservation Area statement (March 2001) identifies 1-10 cons, 13-16 cons and 19-30 cons Thurlow Road as unlisted buildings which make a positive contribution to the character and appearance of the area.

6.13 Many of the identified buildings making a positive contribution to the character of the Conservation Area have front dormers, some of which have been done as pairs of buildings and some of which are only one of the pair such as No. 3 which has a front dormer and 4 which does not and similarly with Nos. 5 and 6.

6.14 The same is the case with side extensions where sometimes one of the pair of buildings has a side extension and the other does not, eg No. 7 has a side extension but 8 does not.

6.15 In fact, 6 of the buildings within 1-10 have front dormers and 2 have side dormers, all the buildings 13-16 have front dormers and 1 has two side dormers and 7 of the buildings 19-30 have front dormers and one building has a modern side extension. We can therefore conclude reasonable that dormers are an established feature in the Thurlow Road street scene and this part of the Conservation Area. In fact, the Conservation Area Appraisal refers to the fact that one of the common types of roof in the Conservation Area are “*pitched with dormers*”.

6.16 Additionally, the Conservation Area Appraisal states that “*Dormers at the front and side will not be allowed where a cluster of roofs remain largely, but not necessarily completely, unimpaired.*” However, in view of the large number of buildings in Thurlow Road that have dormers, it can be argued that there is not a cluster of roofs largely unimpaired.

6.17 Having regard to the number of buildings along Thurlow Road which have dormer windows, either as a pair or individually, together with the Council’s acceptance that the Appeal proposal would result in less than substantial harm we refute the Council’s reasons for rejecting the appeal application.

7.0 THIRD PARTY OBJECTIONS

7.1 The third-party objections have been addressed in the section above.

8.0 CONCLUSIONS

8.1 We have addressed the Reason cited by the LPA against the proposal and demonstrated that the Appeal scheme would not result in harm to the character and appearance of the host property and street scene and wider Conservation Area. Accordingly, we respectfully request that our Client’s Appeal is upheld, and conditional planning permission granted for the proposal.

