



# Appeal Decision

Hearing held on 15 January 2009  
Site visit made on 15 January 2009

by **Michael Ellison MA (Oxon)**

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

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**Decision date:**  
22 January 2009

## Appeal Ref: APP/Y5420/A/08/2078623

### Land to the rear of 94 Park Lane, London, N17 OJP

- 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 Heritage Land plc against the decision of Haringey Council ("the Council").
- The application Ref HGY/2008/0120, dated 10 January 2008, was refused by notice dated 5 March 2008.
- The development proposed is erection of a two bedroom detached dwelling.

### Decision

1. I allow the appeal, and grant planning permission for the erection of a two bedroom detached dwelling on land to the rear of 94 Park Lane, London, N17 OJP in accordance with the terms of the application, Ref HGY/2008/0120, dated 10 January 2008, and the plans submitted therewith, subject to the following conditions:
  - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
  - 2) The development hereby authorised shall be carried out in complete accordance with the drawing 404/P100.
  - 3) Development shall not commence until precise details of the materials to be used in the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using those approved materials.
  - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as currently amended (or any Order revoking or re-enacting that Order with or without modification), no development otherwise permitted by any part of Class A, B and D of Part 1 of Schedule 2 to that Order shall be carried out on the site.
  - 5) Construction works in connection with the development hereby permitted shall not be carried out before 08.00 or after 18.00 hours on Mondays to Fridays or before 08.00 or after 12.00 on Saturdays, and not at all on Sundays or Bank Holidays.
  - 6) Prior to the occupation of the development hereby permitted, the existing pavement crossings in front of the appeal site shown on drawing 404/P100 shall be reinstated as footway pavement.

## **Main issues**

2. It is common ground between the parties that the principle of residential development on the appeal site is acceptable. The Council also accept that the appeal development would have no adverse impact on the living conditions of adjoining occupiers or on highway safety in the area.
3. The main issues in this case are:
  - a. the impact of the proposed development on the street scene of Park Lane and St Paul's Road;
  - b. whether the proposed development would provide acceptable living conditions for future occupiers, with particular reference to privacy, security and amenity space; and
  - c. the effect of the proposal on the supply of land for housing in Haringey having regard to national, regional and local policy on housing.

## **Reasons**

### ***Impact on the street scene***

4. The property at 94 Park Lane is located at the junction of Park Lane and St Paul's Road. It has a return frontage to St Paul's Road. The appeal site lies to the rear of 94 Park Lane, and has a frontage only to St Paul's Road. The appeal development would, however, be seen from both Park Lane and St Paul's Road, and would have an impact on the street scene in both roads.
5. Properties on Park Lane include both houses and commercial premises. They display a variety of styles, consistent with their different ages and uses. They include recent development, some of which is purely residential, and some of which provides for commercial use on the ground floor, with residential use on upper floors.
6. On the other hand, properties in St Paul's Road comprise principally more traditional two storey terraced housing, of similar age and design, although some of the houses have dormers in the roofs to accommodate loft conversions. The St Paul's Road houses tend to have small areas of defensible space between their front elevations and the back of the footway. In fact, for the most part there is a well defined building line to either side of St Paul's Road. However, the substantial return frontage of 94 Park Lane, which runs for around 32 metres along St Paul's Road, does not respect that building line, extending to the back of the footway in both Park Lane and St Paul's Road.
7. The Haringey Unitary Development Plan ("UDP") was adopted in July 2006, and forms part of the Development Plan for the area. Policy UD3 amongst other matters requires development proposals to complement the character of the local area, and to be of a nature and scale sensitive to the surrounding area. This is dealt with in more detail in Policy UD4 and in adopted Supplementary Planning Guidance ("SPG") contained in SPG1a, where the impact of a development proposal on building lines and the need to respect the form,

rhythm, massing, height and scale, and the fenestration of nearby properties is highlighted.

8. At present, there is an unused single storey double garage, with a small, single storey, flat roofed outbuilding to the side, on the 53.5 square metres appeal site. Following their demolition, the footprint of the appeal development would cover 46.5 square metres of that total area, providing a dwelling on three floors. The top (second) floor would be located within the roof space, which would be barrel vaulted to provide more headroom than a conventional pitched roof. The front facade would be set back at first and second floor levels, forming a roof terrace across part of the frontage, accessible from the first floor living room. To the south side of the dwelling, adjacent to 86 St Paul's Road, the front facade would be set back further at all floor levels, so that the overall footprint of the dwelling would be L shaped.
9. In terms of building lines, the first 5.3 metres of the front facade (adjacent to 94 Park Lane) would match the back of footway line of 94 Park Lane at ground floor level. The stepped back terrace at first and second floor levels would run across that part of the front elevation. The remaining 3.2 metres of the frontage would be stepped back by around 1.7 metres across the whole of the front elevation, as a transition to the setback of around 3.4 metres of 86 St Paul's Road and the other houses in the terrace on the east side of that street. I consider that to be an acceptable approach to the issue of the building line in St Paul's Road, particularly when the appeal development would be a detached building, with space between it and the adjoining properties. I consider that development of the site with a full 3.4 metres set back across the whole of the frontage would sit oddly with the adjoining building line of the flank frontage of 94 Park Lane.
10. In terms of form and rhythm, the Council accept that it would not be appropriate to try to match the style of the existing terraces of properties in St Paul's Road, and I consider that to be a reasonable position given the location of the appeal site at a point of transition between St Paul's Road and the much more diverse street scene in Park Lane.
11. In terms of height, the appeal development would have the same overall roof height as its neighbours to the south in St Paul's Road, and it would be considerably lower than the major, three storey part of the adjoining building to the north at 94 Park Lane. I see no reason to criticise the height of the appeal development.
12. In relation to the massing, scale, and fenestration of the appeal development, the Council consider that the barrel vaulted roof and the *brise soleil* proposed at second floor level above the terraced area, together with the large window covering both first and second floor levels proposed for the set back section of the front elevation, would make for a "top heavy" development. The Council consider that the large vertical window, which would extend above the eaves line of the adjacent property at 86 St Paul's Road, would over emphasise the height of the appeal development. Certainly these are design features which are not typical of the immediate area, and they would call attention to the appeal development; but I do not consider them to be unacceptable in relation

to massing or scale. I understand the point the Council make, but I do not share their view. I consider that the set back of the terraced area at first and second floor levels would successfully avoid a "top heavy" feeling for the development.

13. Nor do I consider the approach which has been taken to fenestration to be offensive to the street scene. The fenestration of the return frontage of 94 Park Lane does not match that of the houses along the rest of St Paul's Road. Once a decision has been taken that it is not necessary on the appeal site to attempt to replicate the style of the remaining houses in St Paul's Road, in my view it becomes open to the developer to take a slightly different approach to an issue of detail such as fenestration.
14. I consider that the modern design of the appeal development, which picks up a number of design details and uses materials present in the surrounding properties, would work well in the street scene of both Park Lane and St Paul's Road. In my view, it would complement the character of the local area and be of a nature and scale which is sensitive to the surrounding area, as required by Policy UD3 of the UDP. **I conclude** that the appeal development would have a positive impact on the street scene of Park Lane and St Paul's Road.

***Living conditions of future occupiers***

15. At ground floor level, two windows to the dining room of the appeal development would be adjacent to the back of the footway in St Paul's Road. The Council are concerned that this would result in inadequate privacy for future occupiers of the appeal development. This is a matter identified for consideration by developers in SPG3b. I was told that this document had been the subject of consultation, but that it had not been formally adopted by the Council. I therefore give the document limited weight.
16. In fact, I agree with the Appellants that there are many dwellings in this area, along Park Lane and further afield, which have windows to one or more habitable rooms immediately adjacent to the footway. There is a relatively new development on Park Lane which has been built in this way. In my view, this is a matter which a potential future occupier would consider in deciding whether or not to buy or to rent the appeal development, rather than an issue justifying refusal of planning permission.
17. The Council have similar concerns regarding the dining room windows in terms of security, a matter dealt with in SPG5, which I was told has also been the subject of consultation but not of formal adoption. The Council's view is that windows set back from the back of footway offer increased security for future residents. I note, however, that the appeal proposal provides for those windows to be bottom hung and to open inwards by 100mm only. In addition, like all the windows of the proposed dwelling, they would be fitted with locks and alarm sensors, and would use toughened glass. The house would also be fitted with a Redcare type alarm system. It has been designed to meet the "Secured by Design" guidance. I do not consider that the appeal development would offer inadequate security for future occupiers.

18. In relation to amenity space, again there is relevant SPG. SPG3a has, however, been the subject of consultation and has been formally adopted. It therefore attracts considerable weight. It provides in paragraph C2 that, wherever possible, a family dwelling should be provided with a private garden space of at least 50 square metres. The Council accepted at the hearing that the appeal development would not be a family dwelling, but they argue that a minimum amenity space of 25 square metres should be provided, although that is not a figure which appears to me to be explicitly supported by the SPG. In fact, I consider that neither area could realistically be provided on an appeal site with a total area of 53.5 square metres.
19. The appeal development would have a Yorkstone paved front yard of around 7 square metres (between the back of footway and the front door of the building, on the set back part of the front elevation), but this would also accommodate the bin store and the bicycle storage facilities for the property. In reality, the only usable amenity space would be the roof terrace, with an area of approximately 4.5 square metres. That would, however, receive sunlight during most of the day.
20. The Appellants argue that the guidance contained in SPG3a is no more than guidance, to be followed "wherever possible". In this case, it is not possible for it to be met. They point out, however, that the immediate area of the appeal site is well provided with public open space within easy walking distance. There is an amenity area around 90 metres away from the appeal site off Park Lane; Hartington Park lies around 540 metres away; and Bruce Castle Park and the Lee Valley Regional Park is each less than 1km from the appeal site.
21. The Council accepted at the hearing that the issue of amenity space would not alone justify the refusal of planning permission for the appeal development. In the circumstances and given the location of the appeal development close to a variety of public open space, I agree.
22. **I conclude** that the appeal development would provide acceptable living conditions for future occupiers of the proposed dwelling.

***Policy and supply of land for housing***

23. Policy 3A.1 of the London Plan (which is also part of the Development Plan for the area) underlines the need to increase the supply of housing in London. The Plan sets a revised target of 6,800 additional dwellings to be provided in the Council's area between 2007/08 and 2016/17, and this is reflected in UDP Policy G3. The Council have listed the sites which are suitable for housing in Table 4.1 of their UDP, and it is estimated that these will accommodate a total of 4,838 dwellings. The balance of the target is to be achieved through dwellings to be built on windfall sites.
24. There is housing need in the area, with the issues document for the emerging Local Development Framework showing 824 homeless people and 14,500 people on the housing waiting list in 2008.
25. UDP Policy HSG1 indicates that new housing developments will be permitted providing five specified conditions are met. The Council accepted at the

hearing that, in so far as the conditions arise in the case of the appeal development, all of them are met. The appeal development would also involve the re-use of previously developed land to create housing in a sustainable location.

26. Although it would only add one dwelling to the housing stock of the area, I **conclude** that the appeal proposal is supported by local and regional planning guidance, as well as by national guidance contained in PPS1 and PPS3.

### ***Conditions***

27. The Council did not submit suggested conditions to be imposed on any planning permission in advance of the hearing, but conditions were discussed between the Council and the Appellants during a short adjournment of the hearing. A list of conditions agreed between the parties was produced, and I have largely followed these in the conditions which I have imposed, amending the wording slightly in some instances to improve clarity.

28. The plan submitted with the appeal application contains considerable detail regarding the proposed development, and the development should incorporate all the features shown on that plan. The precise materials used in the construction of the appeal development will have an important effect on the overall impact of the development, and I consider that the Council should have the chance to approve those materials. The site is of limited area, and I agree that it is necessary to remove permitted development rights in relation to the enlargement, improvement or alteration of the approved development, any addition or alteration to the roof, and the construction of a porch. I have done that by reference to the Town and Country Planning (General Permitted Development) Order 1995 as amended, rather than by reference to the 2008 Amendment (No 2) (England) Order as the parties suggested, since the 2008 Order simply inserts a revised part of a Schedule into the parent Order. I agree that in this largely residential area there should be limits on the hours during which construction work should take place. All these conditions are imposed in the interests of amenity. As requested by the Transportation Department of the Council, I have imposed a condition requiring the removal of the existing vehicle pavement crossing in front of the appeal site. This will improve conditions for pedestrians and also facilitate the use of the kerbside in front of the appeal development for on-street parking, which is permitted in the area subject to restrictions.

### ***Overall conclusion***

29. Subject to the conditions which I have imposed, for the reasons set out above, I **conclude** that planning permission for the appeal development should be granted.

***Michael Ellison***

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

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FOR THE LOCAL PLANNING AUTHORITY:

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DOCUMENT SUBMITTED TO THE HEARING

LPA1 Agreed list of conditions