
Appeal Decision

Site visit made on 19 May 2015

by Paul Freer BA (Hons) LLM MRTPI

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

Decision date: 3 July 2015

Appeal Ref: APP/X5210/W/15/3002900
Flat 2, 12 Lyndhurst Gardens, London NW3 5NR

- 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 Daniel Burbidge against the decision of the Council of the London Borough of Camden.
 - The application Ref 2014/4740/P, dated 22 July 2014, was refused by notice dated 30 October 2014.
 - The development proposed is the erection of a single storey timber clad garden room to be used as a hobby room.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are
 - the effect of the proposal on the setting of 12 Lyndhurst Gardens, a Grade II listed building
 - whether the proposed development would preserve or enhance the character or appearance of the Fitzjohns/Netherall Conservation Area, and
 - the effect of the proposed development on the living conditions of the occupiers of properties in Village Close, specifically in relation to outlook.

Reasons

Setting of the Grade II listed building

3. No 12 Lyndhurst Gardens is a Grade II listed building. The listing description refers to the front elevation being an asymmetrical composition in Queen Anne style over three full storeys with dormers in the roof. Other notable features identified in the listing description include a projecting square-sided bay window, steeply hipped roof and tall chimneys. The significance of this heritage asset therefore derives in part from these features, but also from the fact that it is one of a number of substantial houses built by the same developer on Lyndhurst Gardens that form a compact and powerful group.
4. I accept that the majority of the features specifically referred to in the listing description are located towards the front of the building and would therefore not be affected by the proposed development. However, the statutory listing applies to the building as a whole and, whilst the rear elevation has been

- altered to some extent, this elevation nonetheless retains some of the original features and character of the host building. Moreover, No 12 Lyndhurst Gardens is a substantial building, the setting of which benefits from the garden space to the rear that befits the size and status of the original building.
5. The proposed garden room would be a relatively large building of its type. The proposed building would be located on the lower tier of the rear garden, and I noted that there is a significant change in levels between the two tiers. Nonetheless, in views from the lower tier of the garden back towards the rear elevation of the main building, the proposed garden room would be a dominant and intrusive presence that would harm the setting this listed building. Due to the overall size of the structure, the use of a natural material such as Cedar Cladding on the external surfaces would not be sufficient to offset its visual prominence.
 6. Moreover, the proposed garden room would occupy a significant proportion of the rear garden and would therefore erode the area of soft landscaping that provides the setting of this listed building. In this context, I noted that much of the available garden space is already occupied by areas of timber decking. The proposed garden room would therefore add to the hard landscaping in the rear garden and this too would harm the setting of the listed building.
 7. Whilst I consider that the proposed development would harm the setting of the listed building, the harm to the significance of this designated heritage asset would be less than substantial. In accordance with paragraph 134 of the National Planning Policy Framework (Framework), it is therefore necessary to weigh this harm against the public benefits of the proposal. The proposed garden room would be for private use of the occupiers of No 12 Lyndhurst Gardens only and, whilst this facility would enhance the living conditions for those occupiers, that does not amount to a public benefit. I therefore consider that there are no public benefits resulting from the appeal proposal to outweigh the harm to the setting of the listed building.
 8. The appellant cites the rear extension to No 10 Lyndhurst Gardens, suggesting that the single storey extension granted planning is comparable in size to the garden room now proposed at the appeal property. However, an extension to and therefore alteration of a listed building raises different considerations to the erection of an outbuilding that affects the setting of a listed building. Moreover, I have been provided with no details of the circumstances that led to planning permission being granted for that extension, and I therefore cannot be certain that they were directly comparable to those relating to the appeal proposal. I have therefore determined this appeal on its own merits.
 9. I conclude that the proposed development would harm the setting of this Grade II listed building. The proposed development would therefore be contrary to Policy CS14 of the London Borough of Camden Local Development Framework Core Strategy (Core Strategy) as well as Policies DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies (Development Policies). These policies indicate, amongst other things, that the Council will not permit development that would harm the setting of a listed building.
 10. The Council also cites policy CS15 of the Core Strategy in the Decision Notice (erroneously identified as Policy CS13 in that document but subsequently corrected by the Council). However, in any event, that policy relates primarily

to the protection and improvement of parks and open spaces, and is therefore of only limited relevance to the appeal proposal.

Character and appearance of the Fitzjohns/Netherall Conservation Area

11. The character and appearance of the Fitzjohns/Netherall Conservation Area is derived in part from a mixture of architectural styles set within a framework of broadly similar building types. The Fitzjohns/Netherall Conservation Area Statement also explains that, whilst not always visible from the street, the rear gardens of the houses within this conservation area form large blocks of open land and that these make a significant contribution to the character of the area.
12. The proposed garden room would occupy a significant proportion of the rear garden and would therefore erode the block of open land to the rear of this building. I accept that the proposed garden room would not be visible from public areas although, as explained in the Conservation Area Statement, the fact that it would not be visible in these views would not negate the effect on the character and appearance of the conservation area. Moreover, the garden room would be visible in the semi-public views possible from the residential properties that surround the appeal site. Because the block of land to the rear of this building, in conjunction with similar spaces to rear of adjoining properties, makes a significant contribution to the character of the area, the erosion of this openness would harm the character and appearance of the conservation area.
13. Whilst the harm to the significance of the Fitzjohns/Netherall Conservation Area would be less than substantial, I have no evidence before me to suggest that any public benefit would outweigh that harm. I therefore conclude that the development would fail to preserve the character or appearance of the Fitzjohns/Netherall Conservation Area. The proposed development would therefore be contrary to Policy CS14 of the Core Strategy as well as Policies DP24 and DP25 of the Development Policies. These policies indicate, amongst other things, that the Council will only permit development that preserves and enhances the character of the conservation area within which it is located.

Living conditions

14. The rear garden of the appeal property backs onto the rear elevations and rear gardens of the houses in Village Close. The latter have relatively short rear gardens and are also set at a lower ground level than the appeal property, such that the first floor windows in the rear elevation of the houses in Village Close are at a level broadly equivalent to the lower tier garden of No 12 Lyndhurst Gardens. These first floor windows appear to serve habitable rooms.
15. The proposed garden room would be sited some 3.4 metres in from the shared boundary with the properties in Village Close and would therefore be in relatively close proximity to the windows in the rear elevation of those houses. The proposed housing would, by reason of its size and height, be clearly visible above the boundary fence when viewed from the properties in Village Close. However, the proposed garden room would be orientated such that the end elevation would face onto those properties. Consequently, notwithstanding that the houses in Village Close are set at a lower level, the siting of the proposed garden room would allow views across the appeal site. I therefore consider that the proposed garden room would not be unduly intrusive or result in a sense of enclosure when viewed from those properties.

16. I conclude that the proposed development would not unacceptably harm the living conditions of the occupiers of properties in Village Close in relation to their outlook. I therefore conclude that the proposed development would not conflict with Policy CS5 of the Core Strategy or Policy DP26 of the Development Policies. These policies indicate, amongst other things, that the Council will seek to protect the quality of life of neighbours by only granting planning permission for development that does not cause harm to amenity, including in relation to outlook. The proposed development would also accord with the Camden Planning Guidance 6: Amenity.

Conclusion

17. I recognise that the proposed garden room has been specifically designed to incorporate a green roof, not as a means of offsetting any loss of garden space, but in order to accord with the Council's policies and guidance in relation to biodiversity and urban growth. I have no reason to believe that the green roof would not be successful in achieving those objectives but the benefit in these respects would not outweigh the harm caused to the setting of the listed building and the harm to the character and appearance of the Fitzjohns/Netherall Conservation Area.

18. Accordingly, I conclude that this appeal should be dismissed.

Paul Freer

INSPECTOR