



Appeal Decision

Hearing Held on 12 September 2017

Site visit made on 12 September 2017

by H Butcher BSc (Hons) MSc MRTPI

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

Decision date: 16th November 2017

Appeal Ref: APP/X5210/W/16/3164577 28 Redington Road, London, NW3 7RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by 28 Redington Road LLP against the Council of the London Borough of Camden.
 - The application Ref 2016/2997/P is dated 27 May 2016.
 - The development proposed is described as demolition of the existing property, and redevelopment of the site to provide a four storey (plus basement storey and accommodation within the roof) detached property comprising 8 self-contained apartments (1x1 bed, 5 x 2 bed, 1 x 3 bed and 1 x 4 bed). The proposals also include hard and soft landscaping and the provision of off street parking.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The London Borough of Camden Core Strategy (2010) and The London Borough of Camden Development Policies (2010) are referred to in the evidence before me. However, these documents have been recently superseded by the London Borough of Camden Local Plan which was adopted in June 2017 (LP). All parties were made aware of this change in policy at the hearing and given the opportunity to comment on it.

Main Issues

3. The Council's Statement of Case originally set out 12 reasons for refusal had it been in a position to determine the application. At the hearing, however, it was clear that reasons 5-12 were no longer being pursued by the Council following the submission of further information, and a signed and dated S106 Agreement. The main issues in this appeal were therefore agreed to be:
 - Whether the development would preserve or enhance the character or appearance of the Redington Froggnal Conservation Area;
 - The effect of the development on neighbouring properties, and;
 - The effect of the development on the living conditions of occupiers of 30 Redington Road having particular regard to matters of daylight and sunlight.

Reasons

Conservation area

4. Redington Road falls within the Redington Froggal Conservation Area (CA). The CA is a well-preserved example of a prosperous late 19th century and Edwardian residential suburb as described in the Redington Froggal Conservation Area Statement (CAS). During my site visit I noted various large detached and semi-detached houses in the area which displayed a variety of architectural styles typical of this period.
5. 28 Redington Road is a large detached house of the period associated with the CA. It displays many of the key features of such properties including its Arts and Crafts style having a steep roof, asymmetrical design, and decorative chimney stacks. It also has prominent bay windows on the front and rear elevations. Whilst there have been various unsympathetic alterations and extensions to the property over the years which include a two storey, flat roof side extension and the replacement of a number of windows with uPVC much of the original form and composition of the building can still be readily appreciated. It therefore has heritage interest and as a result contributes positively to the character and appearance of the CA. My conclusion in this respect is supported by the reference made to No. 28 in the CAS as being a building that makes a positive contribution to the CA.
6. The proposal before me seeks to demolish the existing building to be replaced with one which would imitate the character and appearance of those in the CA. It would not be an historic building of the period characteristic of the CA and as such would have none of the heritage interest associated with the existing building. Policy D2 in the recently adopted LP is clear that the total demolition of an unlisted building that makes a positive contribution to the character or appearance of a Conservation Area will be resisted. Consequently I find that the proposal would conflict with Policy D2 and as such would not preserve or enhance the character or appearance of the CA.
7. In terms of the advice in the National Planning Policy Framework (the Framework) paragraph 134 the harm to the CA as a result of the demolition of No 28 would be 'less than substantial' affecting only its immediate surroundings. The Framework sets out the need to address 'less than substantial harm' in a balanced manner against benefits associated with such schemes and I address this in my overall planning balance below.

Neighbouring properties

8. The proposed development moves the ground floor of the property to more or less the position of the existing partly sunken lower ground floor and below this a basement is to be created. As set out in Policy A5 of the LP basement development that involves excavation changes the ground and water conditions of the area which can potentially lead to ground instability and as such can cause harm to adjoining neighbours' properties. Consequently Policy A5 will only permit basement development where it is demonstrated that works of this nature will not cause such harm.
9. To this end Policy A5 sets out that a Basement Impact Assessment (BIA) is required which shows that the scheme poses a risk of damage to neighbouring properties no higher than Burland Scale 1 'very slight'. The supporting text to

this policy also provides further information on BIAs stating that they must be prepared according to the specifications set out in Camden Planning Guidance 4 Basements and lightwells (CPG 4) which at paragraph 3.25 states that calculations of predicted ground movements should be provided.

10. The appellant has submitted a BIA which was independently assessed by the Council's auditor Campbell Reith. Their report highlights that the appellant's BIA anticipates that any damage to neighbouring properties will be limited to Category 2 of the Burland Scale contrary to Policy A5. Furthermore, a ground movement assessment has not been provided.
11. The appellant explained at the hearing that they were advised by their engineers that ground movement calculations did not need to be included in the BIA. However, I am conscious that CPG 4 has been adopted for some time and was most recently updated in 2015. Notwithstanding this, the appellant stated at the hearing that they were confident that these outstanding matters could be resolved with a suitably worded condition and/or legal agreement.
12. Policy A5 is clear, however, that basement development will only be permitted once it has been demonstrated that the proposal would not cause harm to neighbouring properties. The appellant's approach is therefore contrary to this. Policy A5 is part of a recently adopted and up-to-date Local Plan and therefore carries full weight. On the evidence before me I cannot, therefore, conclude that it has been demonstrated that the proposal would not be harmful to neighbouring properties.

Living conditions

13. 30 Redington Road is a large detached building located to the north-west of the appeal site and sited on lower ground. It has been subdivided into flats and a ground floor flat at this property has side windows which face onto the side of the appeal site. These include a kitchen, baby room/small bedroom and a secondary window to a lounge/diner. The appellant's Daylight, Sunlight & Overshadowing Report dated August 2017 finds that the proposal would result in a loss of sunlight and daylight to the baby room/small bedroom and the lounge/diner but that this would be a negligible amount and as such would not be noticeable.
14. Whilst the reduction in sunlight and daylight between the existing situation and proposed would be small the rooms in question already experience poor daylight levels that do not meet Building Research Establishment criteria. I therefore consider any additional loss of daylight or sunlight, no matter how small, would be unacceptable. Consequently I find conflict with Policy A1 of the LP which seeks to ensure that the amenity of neighbours is protected against development that causes unacceptable harm in terms of daylight and sunlight.

Overall planning balance

15. As set out previously I have found conflict with the development plan in that the proposal would neither preserve nor enhance the character or appearance of the CA. I now return to the Framework and the paragraph 132 balance which sets out that where a development would 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.

16. The proposal would result in public benefits in terms of improvements to accessibility, sustainability, and landscaping in respect of the replacement building and an overall increase in residential units. However, this is tempered by the fact that the existing building could provide similar benefits by way of conversion and improvement. After the hearing I also received a signed and dated Unilateral Undertaking which makes a commitment to providing a financial contribution towards the provision of affordable housing which would also be a benefit, albeit a modest one. Nevertheless, I consider that that, even taken together, the public benefits would not outweigh the harm I have found to the CA.
17. In addition to the above I have been unable to conclude that the proposal would not be harmful to neighbouring properties. I have also found harm to the living conditions of occupiers of a ground floor flat at 30 Redington Road.
18. Taking all of the above points together the proposal would not be a sustainable form of development and accordingly I conclude that the proposal would not represent sustainable development and should be dismissed.

Other matters

19. It is not necessary for me to reach a finding on the submitted S106 agreement which would provide for, amongst other things, the submission of an Energy Efficiency and Renewable Energy Plan and Construction Management Plan, as well as a highway contribution and the restriction of future occupants of the development acquiring Resident's Parking Permits as a conclusion either way could not affect the outcome of this appeal given my findings above.
20. Various other matters were discussed at the hearing including the size of the basement and its subservience to the property, and newly adopted Policy T2 of the LP which requires all new developments to be car-free. However, given my findings in respect of the main issues in this appeal it is not necessary for me to consider these matters any further.

Conclusion

21. The appeal is dismissed.

Hayley Butcher

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

James Pereira QC	Francis Taylor Building
Simon Wallis BA Hons MA	Savilles
MRTPI	
Jo Cowen ARB RIBA	Jo Cowen Architects
Kate Graham MA (Hons) MA	The Heritage Practice

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Michael O'Regan BSc CEng

FOR THE LOCAL PLANNING AUTHORITY (LPA):

David Peres Da Costa LPA Planning

Olga Obushenkova LPA Legal

Graham Kite Campbell Reith

Catherine Bond LPA Heritage

Tatai Dewes LPA Transport

INTERESTED PERSONS:

Cllr Siobhan Baillie Local Councillor

Michael De Feritas Engineering Geologist

Eddie Booth The Conservation Studio

David Castle Heath & Hampstead Society

Dr Vicki Harding Heath & Hampstead Society

Mojgan Green Hampstead Conservation Area Advisory Council

John Malet-Bates Hampstead Conservation Area Advisory Council

Nancy Mayo Redington Frongal Neighbourhood Forum

Janet Gompertz Local resident

Alex Midgen Local resident

Carman O'Brien Local resident

Gary Linton Local resident

Penny Davis Local resident

Peter Corner Local Resident

Harlan Zimmerman Local Resident

Nigel Dexter Savills

DOCUMENTS

1 Letters of notification

2 Policy A5

- 3 Cumulative Effects Plan
- 4 Cross Section Plan
- 5 Photo of 26 Redington Road
- 6 Policies D1 and D2
- 7 Policy A1
- 8 Policy H4
- 9 Air pollution figures
- 10 Policy T2
- 11 Policy H6
- 12 Policy CC1
- 13 Ground floor plan of 30 Redington Road
- 14 Condition to secure basement details
- 15 S106 Agreement