
Appeal Decision

Site visit made on 7 September 2016

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 30 September 2016

Appeal Ref: APP/N5660/W/16/3149999

Hilden House, 44 Parry Street, London, Lambeth, SW8 1RU

- 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 Abel Espin against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 15/01663/FUL, dated 19 March 2015, was refused by notice dated 10 November 2015.
 - The development proposed is 2 storey extension to existing 4 storey residential building to create a 6 storey residential building with roof terrace. Addition of 6 No. new self-contained flats, retention of existing 12 No. flats and remodel of 2 No. existing flats to increase provision from 14 flats to 20 flats. Remodelling of existing street frontage; creation of rear service lift; creation of new cycling and refuse storage; replacement of side boundary wall; removal of first floor doorway and existing external staircase to side elevation and creation of new door in rear courtyard at ground floor level.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The property shown as 56 Bondway on the submitted plans is now known as 59, 61 and 63 Bondway. There is no dispute on this matter. Therefore I have referred to this property as No 59 in my decision.
3. The parties have confirmed that the correct 'proposed roof plan' is P007 Rev B and not Rev C as detailed on the decision notice. I have considered the appeal on this basis.
4. The appellant has suggested that policy Q6 of the Lambeth Local Plan is not relevant to the proposal. This policy refers to urban design and the public realm. It details the type of development that would be supported with specific reference to the interaction with the public realm. Therefore I consider that it is relevant albeit less so than the other policies referenced within the reason for refusal. The appeal is considered on this basis.
5. A number of changes to the scheme by way of condition are suggested within the grounds of appeal. These changes would not be consulted upon. As such if I were to take them into account interested parties would not have the opportunity to consider them. As such I have considered the appeal on the basis it was determined by the Council.

Background and Main Issues

6. The site was the subject of a previous application¹ and this is a material consideration in assessment of the current proposal. Nonetheless, I note the differences between the two schemes and I have taken these into account. In particular I have considered the individual circumstances of this current proposal in the light of current national policy and guidance.
7. Accordingly the main issues are:
 - The effect of the proposal on (a) the character and appearance of the area and (b) the living conditions of existing occupiers or nearby dwellings with particular regard to outlook, privacy, daylight and sunlight;
 - Whether the proposal would (a) provide appropriate living conditions for future occupiers with particular regard to outlook and provision of private garden areas and (b) make appropriate provision for affordable housing.

Reasons

Character and appearance

8. The appeal scheme would create a six storey building. It would be located in an area where there is a variety of building height and appearance. Nevertheless, when considering the context of the area, in spite of this variation, the buildings generally have some definition of the ground floor level. Furthermore, the window patterns are regular with smaller window proportions typical on upper stories.
9. The plans indicate that the front elevation of the building would be treated with brick. As submitted this material would be used across the entire elevation. As a result there would not be any articulation of the ground floor on the extended building. The second issue raised in the reason for refusal relates to the detail of the windows. I appreciate that the windows across the ground, first, second and third stories would be regular and of similar proportions. However, the fourth floor windows would be wider than they are long. In addition the fifth floor windows would be tall and narrow. As a result the overall composition of the front elevation would appear at odds with the surrounding buildings.
10. I therefore conclude that the proposal would harm the character and appearance of the area. It would be in conflict with policies Q5, Q6, Q7, Q8 and Q11 of the Lambeth Local Plan (LP) which amongst other things seek high quality new development that responds to positive aspects of local context and reinforces local distinctiveness.

Living conditions of existing occupiers

11. No 59 is adjacent to the appeal property. This building contains flats. There are windows located within the recess adjacent to the courtyard and also within its mansard roof.

¹ LPA Ref 14/03045/FUL

12. There is no dispute that the proposal would lead to an overall increase in height of the building. In addition the stairwell would be reduced in depth. The new stories would be designed with a 'stepped' approach to the new rear elevation.
13. To minimise loss of privacy to No 59 the terrace areas for the new flats would have privacy screens. Taken together with the 'stepped' approach these elements of the design would ensure that there would not be a significant loss of privacy to No 59.
14. I appreciate that the windows within the mansard at No 59 would slope away from the appeal scheme. Nevertheless, the new mansard roof and balustrade would extend in front of at least two of these windows. In addition the new stairwell, albeit positioned away, would be taller and immediately in front of a further two. As such the new building would be visible and dominant when viewed from No 59. As such it would be harmful to outlook.
15. The appellant has undertaken a daylight and sunlight assessment. This identifies that the change in the stairwell and lowering of the site boundary walls would be design improvements. This is because they would increase light penetration for rooms in the existing building, open up the rear area and in some cases result in more visible sky.
16. The report highlights one window within the elevation of No 59. This is shown to be enlarged on the submitted plans. The report identifies that there would be a 'borderline' loss to this dwelling if the window change is undertaken. Without it then the report states it would be close to an 'excessive' loss. The appellant proposes the window change to be secured through use of a negatively worded condition. The Council does not support this approach on the basis that it would not be enforceable. The condition would rely on the agreement of the residents and/or owner of the dwelling to which this window relates. I have no information on this issue. I agree with the Council that the enforceability of this element of the proposal is therefore questionable. This in turn leads me to question if reliance on this change to make the proposal acceptable is in fact reasonable. In this regard it would be in conflict with the tests in paragraphs 203 and 206 of the National Planning Policy Framework (the Framework).
17. In any event making these changes to the window size shown at No 59 would not address my concerns regarding outlook. I therefore conclude that the proposal would have a harmful effect on the living conditions of existing occupiers of nearby dwellings with particular regard to outlook, daylight and sunlight. It would be in conflict with LP policy Q2 which amongst other things seek to ensure adequate outlook is provided, avoid an undue sense of enclosure and sets out that new development should not have an unacceptable impact on levels of daylight and sunlight. It would also be in conflict with the Framework which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Living conditions of future occupiers

18. There is no dispute that the quantity of outdoor space provided would meet policy requirements. The issue in dispute relates to the quality of the spaces. The appellant is seeking to provide a variety of different spaces. It is submitted that some of the changes would bring about a benefit to the occupiers of the existing units on the site. In particular the beneficial use of

the existing space for the ground floor units. I understand that this would be in close proximity to the new cycle storage area. However, planting would also be proposed in that area. Therefore my considerations focus on the provision for the new units.

19. Each of the new units would have access to a terrace area or winter garden. In addition the area to the rear of the building would change with the reduction of the stair tower and the rear boundary wall of the site.
20. The rear terrace areas at third floor level would be about level with the existing roof terrace at No 55, a building which is in office use. The terrace areas at the fourth and fifth floor would be above this level and stepped in from the main rear elevation of the building. In addition the larger terrace areas would be treated, in part, with privacy screens. Overall, for these reasons, I do not consider that there would be a significant loss of privacy for future occupiers.
21. I understand that the aspect of the terraces would be to the north and east. Nevertheless, they would be of a reasonable size and directly accessible from the new units. However, the outlook would predominantly be into the area behind the building or of other buildings. In addition privacy screens would be required on some of the terrace areas to ensure that there would not be an significant overlooking of No 59. I note that these screens would be set away from the openings and would be opaque. However, I agree with the appellant that they would prevent mutual overlooking. Therefore, as a result of this function they would also limit outlook for future occupiers.
22. It is not disputed that the site is in close proximity to the railway, a nightclub and delivery space. The appellant submitted a noise report with the application. This concluded that to ensure a suitable internal noise environment that a mechanical ventilation system would have to be utilised. The appellant's view is that the use of the outdoor space would be adapted to when the noise sources are lower. I appreciate that these elements are not within the appellants' control. If this were the only issue then I would be satisfied to accept this position on the basis that future occupiers could chose to go inside during periods where noise was high.
23. However, in this case the new dwellings would have outdoor areas that would have a poor aspect and where the design approach would have to be managed in order to ensure privacy. In addition the areas would potentially be unpleasant to use when noise levels are high. Taken together I consider that the areas proposed would not be of a suitable quality to ensure that suitable living conditions would be provided for future occupants. In reaching this conclusion I have carefully considered the benefits to existing residents of the building that would come forward. However, this does not alter my finding on the main issue.
24. I note the appellant's point that LP Q6 would not be directly relevant to this issue. Nevertheless it would be in conflict with policies D2 and the London Plan Housing Standards Policy Transition Statement which, amongst other things seek a high quality of new development where the home is a place of retreat. The proposal would also be in conflict with the Framework which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Affordable housing

25. LP policy H2(a)(ii) is clear that on sites providing fewer than 10 units then a financial contribution towards the delivery of off-site affordable housing will be sought, in line with the council's preferred methodology. The appellant has submitted a viability assessment with the grounds of appeal. This has been undertaken using the GLA toolkit. The conclusion of this document is that the scheme would not be viable to deliver affordable housing. The content of this submission is not disputed by the Council. I have not been provided with any detailed information regarding the methodology referred to in H2 and whether the appellant's assessment would in fact meet it. However, as I am dismissing the appeal for other reasons I have not pursued this matter further.

Other matters

26. The appellant highlights that the matters of a contribution for parks and open space are addressed by the Council's Community Infrastructure Levy which is now in place. This is addressed in the submitted viability assessment. I have also been provided with a unilateral undertaking that would ensure future residents would not be able to get a parking permit. However, I am dismissing the appeal therefore these matters do not have a significant bearing on my decision.

Conclusion

27. For the reasons given and having regard to all other matters raised the appeal is dismissed.

D J Board

INSPECTOR