
Appeal Decision

Site visit made on 20 September 2016

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 13 October 2016

Appeal Ref: APP/N5660/W/16/3152322

139 Crescent Lane, London SW4 8EA

- 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 Crescent Lane Property Limited against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 15/07326/FUL, dated 22 December 2015, was refused by notice dated 1 March 2016.
 - The development proposed is change of use of existing ground-floor and basement from vacant A4 commercial use to C3 residential use comprising 2 x 1 bedroom units, alterations to elevations at ground-floor level, and associated cycle and refuse storage.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of existing ground-floor and basement from vacant A4 commercial use to C3 residential use comprising 2 x 1 bedroom units, alterations to elevations at ground-floor level, and associated cycle and refuse storage at 139 Crescent Lane, London SW4 8EA in accordance with the terms of the application, Ref 15/07326/FUL, dated 22 December 2015, subject to the conditions set out in the Schedule attached to this permission.

Procedural Matters

2. Since the Council's decision the London Plan (LP) has been further revised and regard has been given to the latest version of both this and the Mayor's Housing Supplementary Planning Guidance¹ (HSPG), both published in March 2016.
3. As set out in the Planning Practice Guidance, it is Government policy that contributions for affordable housing should not be sought from developments of 10 units or less. This follows the Court of Appeal judgement² of 11 May 2016 which restored the policy made through the Secretary of State's Written Ministerial Statement of 28 November 2014 to this effect. In the light of this, the Council no longer seeks an affordable housing contribution from this proposal and is therefore not now contesting this appeal on the grounds given in reason 2 of its decision.
4. The Council's first reason for refusal relates in part to Policy 3.3 of the LP which concerns increasing housing supply. Whilst this proposal is relevant to housing

¹ Mayor of London - Housing Supplementary Planning Guidance March 2016.

² Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ. 441

supply, the Council's concerns relate more to the quality and design of the development which is addressed through LP Policy 3.5. It is assumed, therefore, that it is the latter policy the decision intended to refer to.

5. I have dealt with this appeal on the basis of the matters outlined above.

Main Issues

6. Consequently, the main issues in this case are:

- Whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to outlook and the provision of private outdoor space.
- The effect of the changes to the ground-floor elevations on the character and appearance of the host building and surrounding area.

Reasons

Living conditions

7. The proposal relates to the ground-floor and basement of a recently built three/four storey building, which includes 9 flats, situated on the corner of Crescent Lane and Lyham Road. These floors had been approved to provide for a wine bar, reflecting the fact this redevelopment had involved the loss of a public house, for which it has not proved possible to find an occupier. The Council accepts the principle of the proposed change of use of this space from A4 to C3 residential, although it considers the lack of any private garden space would make this unsuitable for family accommodation.
8. I consider that non-family accommodation would be the most appropriate use, given the characteristics of the building, and that the available floorspace would in this respect provide for two quite spacious, one-bedroomed flats. The space would be divided vertically, with both flats having ground-floor and basement sections. The scheme has sought to provide adequate daylight to the basement accommodation in each flat by various means. Light would be borrowed from the ground-floor elevations, where the extent of glazing is maximised using sections of glazed block-work with planters to maintain privacy, be obtained via the double height spaces and by use of internal glass block walls and be taken directly from opaque/obscured rooflights running along the boundary.
9. Whilst the Council's reasons for refusal do not relate to inadequate daylight to basement rooms this issue is bound up with that of outlook. There remain concerns from the Council over at least one habitable room in each unit having to rely heavily on artificial light or light borrowed through internal glazing. Having considered the submitted daylight/sunlight assessment³, and the Council's concerns that this might not have accounted for the effect of the proposed planters, I am satisfied that the main habitable rooms in the basements flats, which for Flat 1a would be the living room/library and in Flat 1b the kitchen/dining room, through the combination of the rooflights and the double height spaces, would gain adequate daylight and outlook to provide acceptable living conditions.

³ Daylight/Sunlight Assessment: 139 Crescent Lane, London – Hawkins Environmental – 17 December 2015

10. This would not result in large parts of the accommodation that would be either gloomy or over-reliant on artificial light, nor would create the feeling of undue confinement or enclosure. The main living room in the basement of Flat 1b is labelled a cinema room and would only have the benefit of borrowed light from the kitchen. However, there would be alternative living room space on the first floor, which could be used during daylight hours and offer better outlook and access to natural light. The basement bedroom in Flat 1a would rely on natural daylight from the rooflights. Despite not providing any outlook, given the main use of this room for sleeping, this would not amount to unacceptable living conditions.
11. The proposed scheme is such that only Flat 1a would offer a dual aspect and Flat 1b would have only a single, east-facing aspect. I consider the principle of converting both the existing ground-floor and basement to be acceptable, and that this space would be better divided up as two, quite spacious, non-family units rather than as a single, family-sized unit. Given this, and taking into consideration the constraints imposed by the host building, this would demonstrate the exceptional circumstances, required under LLP Policy H5, for Flat 1b to be a single-aspect, one-bedroom dwelling.
12. The arrangement of the host building limits the nature and scope for providing private outdoor space for these flats, whereby any extent of external balcony would be beneath the overhang of above ground-floor parts to the building and face north or east, directly onto the street. The scheme only provides outside balcony spaces of 5m², which meets the guidelines set by the HSPG but not the 10m² sought by Policy H5 of the Lambeth Local Plan⁴ (LLP). Despite these drawbacks, I am persuaded that the limitations of these outside spaces would be compensated for by both the proposed flats offering internal spaces significantly in excess of the SPG standards that, for the reasons given, would in large parts be of an acceptable quality, in respect of both daylight and outlook.
13. For the above reasons I consider both the proposed flats would offer acceptable living conditions for future occupiers, including in respect of outlook and private outdoor space. The scheme would satisfy the aims of LLP Policy H5, in respect of adequate standards of outlook and aspect, and of LLP Policy Q2 in respect to providing acceptable standards of privacy, daylight and outdoor space, without undue sense of enclosure. These proposals would similarly address the requirements of LP Policy 3.5, and the accompanying SPG, in regard to the overall quality of the internal space that would be provided.

Character and appearance

14. The existing building is of a unified contemporary design, featuring an outwardly leaning east section of burgundy render with parallelogram windows, contrasting with adjacent upright sections of white render and red brick with square windows. The scheme would cut back the ground-floor section of the projecting east section and remove the white pillars to the north elevation. The glazed east and north fronts to the ground-floor flats would be inset to provide the space for the rooflights, enclosed by the sections of opaque glazed block-work and planters, and the two raised balconies.

⁴ Lambeth Local Plan – adopted September 2015

15. Whilst the new ground-floor elevation would disrupt the current unity with the upper floor design this is a common feature in buildings, such as with shop fronts. The artist's impression of the front elevation persuades me that the combination of the burgundy coloured planters and the sections of external glass block-work panels, with the windows/glazed block-work to the rear of this, would be of a relatively uncluttered and contemporary appearance, that would complement the remainder of the building and introduce both contrast and animation that would enliven the host building and the surrounding street scene and fit in with the mixed architectural character in this area.
16. Whilst contrasting, the opaque glass wall and planters would neither render the elevations alien nor incongruous and the design quality of the host building would not be compromised and the character and appearance of both it and the surrounding street scene would not be harmed. As a consequence, the scheme would satisfy the aims of LLP Policy Q2, in respect of not compromising visual amenity from the public realm or adjoining sites, and of Policy Q11 in regard to the design responding positively to the original architecture of the host building. These proposals would similarly address the requirements of LP policies 7.4 and 7.5 in responding acceptably to the surrounding local character and the public realm.

Conditions

17. Consideration has been given to the conditions suggested by the Council. In addition to the standard time limit, a condition is necessary in the interests of certainly, that the development be carried out in accordance with the plans submitted. In the interests of the satisfactory appearance of the development a condition is necessary for the Council to agree details of all external facing materials.
18. Although the appellant has submitted a Unilateral Undertaking to this effect it is necessary that, in the interests of safety and convenience of highway users by not adding to the pressure on on-street parking in the locality, that a condition requires an agreement with the Council that future occupiers of this development be not eligible for parking permits in the surrounding Controlled Parking Zone.
19. To ensure adequate provision for cyclists a condition requires the increased cycling storage in the development be provided before the approved flats are occupied.

Conclusion

20. I have not seen the earlier, withdrawn iterations for schemes providing two flats in the ground-floor and basement of this building, which the Council had previously rejected. However, I consider this scheme would be successful in providing two good quality one-bedroom units, designed to fit in acceptably with the character of the host building and offering reasonable living conditions for future occupiers. For the reasons set out, having taken into account all other matters raised, I conclude that this appeal should be allowed.

Jonathan Price

INSPECTOR

Schedule of Conditions
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139 Crescent Lane, London SW4 8EA

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1405.3/A001 (Location Plan); 1405.2/A001; 1405.2/A002; 1405.2/A003; 1405.2/A004; 1405.2/A005; 1405.2/A006; 1405.2/A007; 1405.3/A002; 1405.3/A003; 1405.3/A004.
- 3) No development shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) No development shall take place until arrangements shall have been made to secure the development as a car-free development in accordance with a detailed scheme or agreement which shall have been approved in writing by the local planning authority. The approved scheme or agreement shall ensure that:
 - i. no occupiers of the approved development shall apply for, obtain or hold an on-street parking permit to park a vehicle on the public highway within the administrative district of the local planning authority (other than a disabled person's badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 or similar legislation); and
 - ii. any occupiers of the approved development shall surrender any such permit wrongly issued or held.Such scheme or agreement shall be implemented prior to the occupation of the development hereby permitted and shall be retained and operated for so long as the use hereby permitted continues.
- 5) Prior to the first occupation of the units hereby permitted, the alterations to the layout of the cycle store to provide an additional two spaces shall be carried out. The cycle parking shall thereafter be implemented in full in accordance with the approved details before the use hereby permitted commences and shall thereafter be retained solely for its designated use.

---End of conditions---