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## Appeal Decision

Site visit made on 8 November 2016

**by Katie Peerless Dip Arch RIBA**

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

**Decision date: 24 November 2016**

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**Appeal Ref: APP/E5330/W/16/3148088**

**White Swan, 22 The Village, London, SE7 8UD**

- 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 Milan Babic, Mendoza Limited against the decision of Royal Borough of Greenwich Council.
  - The application Ref:15/2968/F dated 22 September 2015, was refused by notice dated 2 December 2015.
  - The development proposed is a semi-detached house (2 X 3-bedroom family dwellings) on a dis-used plot of land to the rear of The White Swan public house.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. I consider that the main issues in this case are:
  - (i) the effect of the proposed development on:
    - (a) the character and appearance of the Charlton Conservation Area, including reference to the detailed design of the dwellings and the impact on the trees on the site and
    - (b) the living conditions of future occupants with particular reference to noise and disturbance, safety and security and the availability of outdoor amenity space.
  - (ii) whether the proposal amounts to sustainable development with reference to local and national planning policy and guidance .

### Site and surroundings

3. The appeal site, which lies within the Charlton Village Conservation Area consists of a derelict area of garden space associated with the White Swan Public House, which has been registered as an Asset of Community Value (ACV), and part of the garden currently in use by the pub. The disused section of land is presently separated from the useable garden by a concrete block and post wall. The pub garden is paved and contains tables and bench seating beneath a mature willow tree.
  4. The site is adjacent to Torrance Close, which is a no-through road that provides access to the rear gardens of the properties on the south side of The Village. Torrance Close is bounded on the south side by a substantial brick wall backed by mature trees that encloses the grounds of Charlton House and Park. The other side of the road has a lower brick wall interspersed with timber gates serving the gardens.
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## Appeal proposal

5. The application seeks planning permission for a pair of semi-detached houses, with 2 storeys and a basement. These would each have 3 bedrooms, 2 on the first floor and one in the basement, open-plan living /kitchen area, a dining room and study. The basement rooms would take natural light from a lightwell to the front of the building and there would also be amenity areas at this level and gardens including bicycle storage at ground level.
6. The houses would have flat roofs with wildflower planting and would utilise a palette of materials that include black brick, timber cladding, white render and substantial areas of glazing.
7. At the site visit, the agent for the appellant indicated that the appeal site boundary was the concrete wall, but it is clear from the submitted plans that it would, in fact, lie beyond this line at a point very close to the willow tree. The tree survey carried out for the appellants confirms that this tree (T1), the groups of trees close to the wall, (G1 and G2) and an elder in the corner of the site (T1) would be removed in the redevelopment scheme.

## Reasons

### *Character and appearance*

8. Policy H(c)v of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies (CS) requires backland development to maintain the character of the area with particular regard to the scale, design and density of the development. CS policies DH1 and H5 and policies 3.5 and 7.4 of The London Plan 2015 (LP) set design standards and, amongst other things, requires a high quality that would provide a positive relationship between the proposed and existing urban context.
9. CS policy DH3 seeks to protect heritage assets, including conservation areas and I also have a statutory duty<sup>1</sup> to pay special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area.
10. In this case, the appeal proposal would be the only dwellings fronting Torrance Close and would therefore change the character and grain of this part of the Conservation Area. At present, the close is clearly a service road and the positioning of a pair of dwellings fronting the highway, even if set behind a substantial wall, would be a distinct departure from its current, subsidiary character. The scheme would be the only example of backland development in the road and I consider that as such, it should meet a high standard that would be an exemplar for any other such development that may come forward at a later date.
11. I am concerned that the 2 houses would be somewhat cramped on the plot and that the available space around them would be too limited to serve the available indoor space. All the garden space would be at the front of the properties and restricted further by the lightwells at basement level. Although the living areas are shown with full height sliding windows to the garden elevation, these would be unusable as they would give directly onto the space above the lightwell. Access to the gardens would have to be taken by the side windows via a narrow strip of land leading past the lightwells.

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<sup>1</sup> S.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended

12. This, in my view would be an awkward arrangement that is atypical of other properties that incorporate a lightwell feature. Although this aspect of the design would not be seen from public or private viewpoints other than within the site it nevertheless indicates to me that the scheme is attempting to provide more accommodation on the site than could comfortably be incorporated while still preserving the character of the surroundings.
13. The design of the properties is contemporary and does not attempt to relate to the other residential properties against which it would be seen. This would not necessarily be a problem but there seems to have been little regard paid to the features and materials that contribute to the character of the Conservation Area. The use of black brick and timber cladding, which are not materials that are used to any great extent elsewhere in the vicinity, would, in my view, contrast unfavourably with the mellow brick that sets the character of the surroundings.
14. The proposal would result in the loss of the trees noted above and, while this would not, on its own, be a reason to refuse the scheme given the report that concludes they are not of a particularly good quality, their loss would nevertheless have an urbanising impact on this area where there is presently a preponderance of vegetation providing a welcome transition between the open space of the Park and the denser built development fronting The Village.
15. In conclusion on this topic, I consider that the proposal would not preserve the character and appearance of the Conservation Area, for the reasons set out above, including its scale in terms of site coverage and the detailed design. It would consequently conflict with the Development Plan policies noted above that aim to ensure a high design quality that respects the character of the surroundings.

*Residential amenity*

16. The Council is concerned that the siting of the development so close to the garden of the pub would result in unacceptable noise levels for the future occupants. The appellants have produced a noise report that submits that this would not be a problem and the Council has produced no evidence that contradicts this finding. The report deals with internal noise levels, but there is no mention of any impact that the noise from the pub garden might have on the amenities of the residents when using the external areas of the properties or if they wanted to open their windows in the summer months.
17. I consider that it has not been satisfactorily demonstrated that noise from the pub garden would not have an adverse impact on the living conditions of the future occupiers and this could lead to pressure on the business that is operating from the ACV. While, again, this would not be sufficient in my view to refuse the scheme if it were the only objection to it, it nonetheless adds to the objections to the proposal. There is consequently a degree of conflict with CS policy E(a) which seeks, amongst other things, to protect standards of residential amenity.
18. The Council are concerned that the relatively secluded position of the new houses could lead to an adverse impact on the safety and security of the occupants. However, I give little weight to this concern as there is nothing to indicate that Torrance Close has any record of being an unsafe area and measures could be taken to ensure that the properties are well lit at night. There have been no objections to the proposal on these grounds from the Police Security Design Officer.

19. In terms of residential amenity space, I have already noted the restricted outdoor amenity space available to the proposed new properties which is less than the recommended area for dwellings of this size. The appellants, in their statement, refer to a roof terrace that would add to the space and bring one of the gardens over this standard. However, there is no indication that there is any access to the roof and no railing or balustrade to provide for safety if occupants were to use it as such. Neither has any consideration been given to the privacy implications for adjoining occupiers should the roof be a useable terrace.
20. I conclude therefore, that the amenity space does not meet the recommended size although I acknowledge that site is well located to public open space. Again, this is not a matter that, on its own, could warrant refusal but it adds to the weight against the scheme in the overall planning balance.

### *Sustainability*

21. The Council is concerned that the development would be unsustainable in the terms of the National Planning Policy Framework (the Framework) because it would be development on garden land. However, the Framework definition of previously developed land includes that within the curtilage of developed land but excluding land in built-up areas such as (my emphasis) '*private residential gardens*'. I am told that part of the appeal site was once used as a car park for the pub and I saw at the site visit that there is some surface hardstanding remaining, as well as steps leading down to the main garden. The appellants therefore submit that the site is previously developed land and note that the Framework, in paragraph 17, encourages the re-use of such land.
22. However, although the site does not necessarily qualify as a '*residential*' garden, representations from interested parties note that part of it is still within the amenity area for the pub and is therefore included in the AVC designation. The designation is a material consideration in any planning application affecting an ACV and I have been given no analysis of how the loss of part of the pub garden land would impact on the viability of the business.
23. The land is in a built-up area that forms part of a garden to which the public have access. In these circumstances, and given that the exclusions in the Framework glossary definition is not a closed list, I consider that the appeal site should not be regarded as 'previously developed' in Framework terms. Consequently, there is no automatic assumption or support for its redevelopment in the Framework.

### *Other matters*

24. Concerns have been raised by third parties over the lack of any parking provision for the scheme. The parking standards set out in the London Plan (LP) require up to 1.5 spaces for 3 bedroom properties and the appellants consider that the proposal would generate the need for 0 – 3 parking spaces. In terms of location, there is no dispute that the site is well situated for links to public transport and other services and the appellants therefore submit that the proposal is suitable as a car-free development. They have commissioned a parking survey to support the appeal and this has concluded that, even if the occupiers of the site owned cars, there would be plenty of available parking space available within 200m of the site. I find no reason to dispute this finding.

## **Conclusions**

25. The Framework makes clear that sustainability must be judged on a combination of economic, social and environmental factors and, in my opinion, the fact that the proposal would be a backland development that would not respect the character and appearance of the Conservation Area and would have some detrimental impacts on the living conditions of future occupants means that it would fail the social and environmental tests.
26. I give substantial weight to the benefits of providing 2 new dwellings but find that the degree of conflict with the adopted Development Plan policies noted above means that these benefits are not enough to outweigh the harm that would be caused by the proposal. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

*Katie Peerless*

**Inspector**