
Appeal Decision

Site visit made on 27 February 2017

by H Butcher BSc (Hons) MSc MRTPI

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

Decision date: 27 April 2017

Appeal Ref: APP/N5660/W/16/3155044

130 Brixton Hill, London, Lambeth, SW2 1RS

- 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 Paul Gillieron against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 16/00466/FUL, dated 25 January 2016, was refused by notice dated 23 March 2016.
 - The development proposed is the erection of a single storey extension above existing building to rear of existing building to form two flats.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The surname of the appellant given on the appeal form is different to that on the application form. I have chosen to go with the spelling 'Gillieron' as this seems to be the most frequently used iteration in the evidence before me.

Main Issues

3. The main issues are:
 - Whether the appeal site is a suitable location for residential development having regard to local planning policy;
 - The effect of the development on the character and appearance of the surrounding area, having particular regard to the setting of the Rush Common Brixton Hill Conservation Area, and the setting of the adjacent Grade II Listed building 132 Brixton Hill, and;
 - Whether the development should make a contribution towards affordable housing.

Reasons

Suitable location

4. 130 Brixton Hill is a rectangular building with a modern four storey element to the front which is finished in a grey render with grey aluminium windows. To the rear of this is a deep single storey rear projection on top of which it is proposed to erect an extension to create two residential flats. The application
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before me is a revised scheme to one which was refused in June 2014 (ref 14/01503/FUL).

5. The building currently comprises a mix of commercial studios, offices and residential flats. The properties immediately to the north and south of the appeal site also comprise a mix of commercial and residential uses. The site falls within the Waterworks Road Key Industrial Business Area (KIBA). KIBAs form the borough's strategic reserve of employment land and business use.
6. Policy ED1 of the Lambeth Local Plan (2015) sets out that development in KIBAs will only be permitted for business, industrial, storage and waste management uses, including green industries, and other compatible industrial and commercial uses (excluding large scale retail) ancillary to, or providing for, the needs of the KIBA. The proposed development would clearly be contrary to this policy in that it is solely for residential use.
7. The appellant argues that the proposal would provide much needed housing without adversely affecting the employment activity of the KIBA or undermining the objectives of Policy ED1 as the existing employment floor space at the site would be retained. However, Policy ED1 is not just concerned with retaining existing industrial and business uses. As set out in the Council's Economic Development Topic Paper (2013), which provides a detailed justification for this policy, it is designed to encourage growth as a way of improving the economy of the borough, creating new employment opportunities and reducing unemployment.
8. I acknowledge that there is a need to significantly boost the supply of housing as set out in the National Planning Policy Framework (the Framework). However, the Framework is also clear that sustainable economic development must take into account the needs of both residential and business communities. The creation of residential development here would fail to maximise the employment opportunities of the site. This would adversely affect the employment activity of the KIBA and as such would be contrary to the aims of Policy ED1. I therefore find that the appeal site is not a suitable location for residential development.
9. The appellant refers to two appeals relating to the redevelopment of 124-128 Brixton Hill to create 10 studio/offices and eight residential flats¹. Each appeal must be determined on its own planning merits and I consider these to be materially different to that which is before me. Firstly, 124-128 Brixton Hill concerned a long-term derelict petrol station in a prominent site. The development proposed was also a mixed use with the split in favour of commercial uses therefore it met some of the aims of the KIBA. Furthermore, planning policy has moved on since that time with the adoption of the Lambeth Local Plan in 2015. A planning permission granted at the plot adjacent to 31 Blenheim Gardens is also referred to but again is materially different from the appeal before me being for a mixed use of live-work units. These matters do not, therefore alter my findings above.
10. I note the appellant's point that a change of use from B1a (offices) to C3 (residential) can be permitted development in certain cases, but that does not apply here. This matter can therefore only be afforded limited weight.

¹ APP/N5660/W/15/3128978 & APP/N5660/W/14/2216737

Character and appearance

11. The adjacent property, 132 Brixton Hill, is a Grade II Listed building. The site is also adjacent to the Rush Common Brixton Hill Conservation Area. Therefore there are a number of traditional buildings in the surrounding area to the appeal site. The Council have raised concern over the materials proposed for the extension which would include patinated zinc cladding for the walls and a zinc roof.
12. The extension would be a contemporary addition to the rear of what is a relatively contemporary four storey element of the building, and due to its siting it would be largely screened from public view. Its contemporary design and materials would therefore not appear out of place nor would it appear unduly prominent. It would also sit clearly within the curtilage of the appeal site and would be sufficiently separate, both physically and visually, from No 132 so as to not cause harm to the setting of this Listed building, nor would it cause harm to the adjacent conservation area.
13. In light of the above I find no harm to the character or appearance of the surrounding area including the settings of the adjacent conservation area or Listed building. I therefore do not consider it is necessary that the proposed extension match the more traditional materials used on No 132 or buildings in the adjacent conservation area. Consequently I find no conflict with the relevant provisions of Policies Q11, Q20 or Q22 of the LP which require extensions to positively respond to the host building and to not harm the setting of either listed buildings or conservation areas.

Affordable housing

14. Policy H2(a) (ii) sets out that on sites providing fewer than 10 units, which is the case here, a financial contribution towards the delivery of off-site affordable housing will be sought. However, the order of the Court of Appeal dated 13 May 2016 gave legal effect to the policy set out in the Written Ministerial Statement (WMS) of 28 November 2014 which introduced a threshold beneath which affordable housing contributions are not to be sought. New and updated paragraphs have also been added to the Planning Practice Guidance section on planning obligations to reflect this. These clearly state that contributions for affordable housing should not be sought for sites of 10-units or less.
15. Appeals must be determined in accordance with the development plan unless material considerations indicate otherwise. The policies in the WMS are Government Policy and are a material consideration to which I attach significant weight. As such this justifies a departure from policy H2(a) (ii). Consequently a contribution towards affordable housing is not necessary.

Other matter

16. The site has a Public Transport Accessibility Level score of 5 which is considered 'very good'. It is also located within a Controlled Parking Zone. It is agreed between the main parties that the development be 'permit free' and to this end parking permits for future residents are to be restricted. The absence of an obligation to secure this was a reason for refusal but one has now been provided. However, given that I am dismissing for other reasons it is not necessary for me to consider this matter in any further detail.

Conclusion

17. I have found no harm to the character and appearance of the surrounding area including the setting of the Rush Common Brixton Hill Conservation Area. Nor have I found harm to the setting of the adjacent Listed building. I have also found that a contribution towards affordable housing is not necessary. However, due to the appeal site being located within a KIBA it is not a suitable location for residential development. For this reason, and having had regard to all other matters raised, the appeal is dismissed.

Hayley Butcher

INSPECTOR