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## Appeal Decision

Site visit made on 24 July 2017

**by Caroline Jones BA (Hons) DipTP MTP MRTPI**

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

**Decision date: 7<sup>th</sup> August 2017**

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**Appeal Ref: APP/N5660/W/17/3173742**

**117 Dulwich Road, Lambeth, London SE24 0NG**

- 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 Mustak Ibrahim against the decision of the Council of the London Borough of Lambeth.
  - The application Ref 16/05553/FUL, dated 23 September 2016, was refused by notice dated 12 January 2017.
  - The development proposed is erection of three storey rear extension and conversion of building to provide three self-contained two bedroom flats, retention of existing ground floor shop unit to the front elevation.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the proposed development on:
  - (i) the character and appearance of the surrounding area;
  - (ii) the living conditions of the occupiers neighbouring properties , with particular regard to light and outlook; and
  - (iii) the living conditions for future occupiers with respect to outdoor space

### Reasons

#### *Character and appearance*

3. The appeal site comprises a three storey building located on a prominent corner plot on the junction of Dulwich Road and Rymer Street. The ground floor is occupied by a retail unit on Dulwich Road with a total of 5 flats occupying the remainder of the building. The property has a small two storey mono-pitch rear projection and extends at ground floor level to the rear of the plot towards the gated alleyway which separates the site from the adjacent terraced properties on Rymer Street.
4. The proposal encompasses the erection of a rear three storey, full width extension which would extend approximately 9 metres from the original rear wall with a single storey rear extension at the rear most part of the site.

5. I acknowledge that the proposed development has been reduced in size from that previously refused by the Council. Nonetheless, by virtue of the bulk, mass and height of the extension it would appear an over dominant and insubordinate addition to the existing building. The extension would be prominent in the street scene particularly when viewed from Rymer Street. It would be uncharacteristic of rear elevational treatment of the adjacent terraced properties on Dulwich Road and its forward projection of the adjacent terrace to the rear on Rymer Street, together with its position up tight to the pavement, would exacerbate its visual incongruity.
6. Whilst a sky gap would remain between the rear of the three storey element and the flank wall of the adjacent terraced property, this would not negate the harm that I have found above.
7. I therefore conclude that the proposal would have a materially harmful impact on the character and appearance of the area thus conflicting with Policies Q5 and Q11 of the Lambeth Local Plan (2015) which seek to ensure, amongst other things, that proposals should be of a high quality and respond to positive aspects of the local context in terms of built form. New rear returns will be supported where they are characteristic of the building type and locality and subordination is key. The proposal also conflicts with guidance in the 'Building Alterations and Extensions' Supplementary Planning Document (SPD) (2015) which states that new rear returns will be supported where they follow the established local pattern.

*Living conditions- neighbouring residents*

8. In seeking to address the Council's second reason for refusal, a 'Daylight and Sunlight Assessment' dated April 2017 (DSA) was submitted with the appeal in relation to the impact of the proposal on the rear windows of 119 Dulwich Road and the ground floor bay window of 1 Rymer Street.
9. Having regard to the DSA, I note that in terms of daylight, it is demonstrated that with the development in place daylight reaching the rear window at No 119 and the bay window at No 1 would meet the requirements of the BRE test in terms of the vertical sky component. The DSA also shows that the bay window at No 1 currently gains high levels of annual sunlight that is well above the BRE target level. Even with the development in place, the annual levels of sunlight would remain above this target. The Council has not disputed the findings of the DSA and I have no reason to conclude otherwise. I am therefore satisfied that the proposal would not have an unduly harmful impact on levels of light received by neighbouring properties.
10. However, irrespective of the above, I share the Council's concerns with regard to the impact on outlook from the rear windows of No 119. The first floor window (annotated as window C in the DSA), would be tunnelled between the existing two storey rear return of 121 Dulwich Road and the proposed rear projection which would measure some 9 metres in depth. As a result, the room would be left with an unacceptably limited aspect and bleak outlook with a distinct sense of enclosure.
11. For the above reasons, I conclude that the proposed development would materially harm the living conditions of the occupiers of 119 Dulwich Road. Consequently the proposal conflicts with Policy Q2 of the LP which seeks to

safeguard the amenity of adjoining users including in terms of outlook and sense of enclosure.

*Living conditions – future occupiers*

12. Policy H5 of the LP requires that 50m<sup>2</sup> of shared amenity space is provided for flatted development plus a further 10m<sup>2</sup> per flat. The proposed development would not include any amenity space and thus conflicts with the requirements of the policy.
13. However, the property is currently occupied by flats and it does not appear from the information before me that the current occupants have access to amenity space. The Council acknowledges that the current flatted development offers poor quality of accommodation which does not meet current standards in terms of size. On the other hand, the substandard flats would be replaced with three flats that would comply with the minimum space standards set out in table 3.3 of the London Plan (2016) under Policy 3.5. The flats would also benefit from dual aspect which is a requirement of Policy H5.
14. Furthermore, the property is located directly opposite Brockwell Park, a public park of some 51ha and the residents would therefore have easy access to public outside amenity space. Taking the above into account, I do not consider that the lack of private amenity space would warrant dismissal of the appeal and a departure from the requirements of Policy H5 would be justified in this particular instance.
15. I therefore find that the proposal would not result in material harm to the living conditions of future occupiers.

**Other Matters**

16. I acknowledge that there would be a number of benefits of the proposed development in particular that it would provide additional residential floorspace which exceeds space standards in a location well served by public transport and facilities. The proposal would redevelop substandard flatted accommodation providing three higher quality residential units to meet housing needs in the Borough and locality. The appellant has also drawn my attention to the consultation on upward extensions in London and the Housing white paper which support the delivery of more homes and the effective use of brownfield land. I have also had regard to the proposed introduction of a new housing delivery test to ensure the supply of new homes and acknowledge that the National Planning Framework encourages the efficient use of land.
17. Whilst these matters weigh considerably in favour of the proposal, I consider that the benefits associated with three dwellings would be insufficient to outweigh the harm that I have found to the character and appearance of the area and the living conditions of neighbouring residents. I have found conflict with the development plan and consequently the development cannot benefit from the presumption in favour of sustainable development. In reaching this conclusion I have borne in mind paragraphs 47 to 49 of the Framework, as well as its guidance that planning should always seek to secure a high quality of design and a good standard of amenity for all existing and future occupants of land and buildings (paragraph 17); that good design is a key aspect of sustainable development (paragraph 56) and should respond to local character

(paragraph 58); and that it is proper to seek to promote or reinforce local distinctiveness (paragraph 60).

### **Conclusion**

18. Although I have found that the proposal would not result in harm to the living conditions of future occupiers this does not outweigh the harm that I have found to the character and appearance of the area or the living conditions of neighbouring residents.
19. For the reasons given above and taking into account all other matters raised, including the absence of objections from neighbours, I conclude that the appeal should be dismissed.

*Caroline Jones*

INSPECTOR