
Appeal Decision

Site visit made on 5 December 2017

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 12th January 2018

Appeal Ref: APP/N5660/W/17/3179603
136 Upper Tulse Hill, London SW2 2RR

- 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 Eamon Roberts of Newbourne Homes against the decision of the Council of the London Borough of Lambeth.
 - The application Ref: 17/01182/FUL, dated 6 March 2017, was refused by notice dated 9 June 2017.
 - The development proposed is the demolition of the existing building and the erection of a part two storey, part three storey building to provide 9 flats (4x1 Bed, 4x2 Bed and 1x3 Bed Use Class C3) and associated works including; private and communal amenity spaces, residents refuse storage and cycle storage; and site landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing building and the erection of a part two storey, part three storey building to provide 9 flats (4x1 Bed, 4x2 Bed and 1x3 Bed Use Class C3) and associated works including; private and communal amenity spaces, residents refuse storage and cycle storage; and site landscaping at 136 Upper Tulse Hill, London SW2 2RR in accordance with the terms of the application, Ref: 17/01182/FUL, dated 6 March 2017, subject to the conditions in the attached schedule.

Procedural matter

2. I saw when I visited the site that works had been commenced with the previous building having been demolished. Foundations and a number of blockwork walls to a height of approximately 2 metres had been constructed. I note from the Council planning officer's report and appellant's statement that planning permission has been granted on the site for a scheme comprising eight flats, and that the ground and first floor plans and elevations of this scheme are essentially the same as those of the appeal proposal. The principal difference between this previous permission and the appeal scheme is at roof level, where the previous planning permission proposed a pitched roof over the two lower floors.
3. I understand that it is this previous planning permission which has been implemented and I have determined the appeal on the basis that, were I to allow the appeal, the appellant would complete the development in accordance with the plans submitted with the appeal proposal.

Main Issue

4. The main issue in this appeal is the effect of the development on the character and appearance of the area.

Reasons

5. The appeal site is located near the eastern end of Upper Tulse Hill. The street and surrounding area have a diverse architectural character incorporating buildings in a wide range of ages, architectural style and built form.
6. The proposal would result in the creation of an additional flat at second floor level of the building, replacing the previously approved pitched roofs with a flat roofed structure. The Council's principal objection is that the proposal would alter the appearance of the building from being read as a short terrace of individual houses to one more akin to a single block which the Council consider would be out of keeping with the smaller terraced housing immediately adjoining and opposite the appeal site. Whilst this may be the case, I saw when I visited the site that, in addition to the two storey housing, to the east of the appeal site there is a six storey block of flats with a general dealers shop at ground floor level. The top storey of the six storey block is a recessed flat roofed structure, finished in cladding, and asymmetrically located on the building. Beyond this is a further four storey slab block with commercial units at ground floor level and flats and maisonettes above, with a three storey block beyond. To the west of the appeal site a Territorial Army Centre presents a long, flat roofed, façade to the street and adjacent to this, two storey terraced housing with monopitch roofs is juxtaposed with a four storey block.
7. To the south of the appeal site on High Trees, beyond the two storey houses, are five and six storey blocks of flats and a short distance to the north west and north east are four and three storey blocks of flats on Atwater Close and Tulse Hill. All of these buildings have long elevations facing the highway. Within this context, and the overall mixed character of the street, the proposed development would not be inconsistent with its surroundings as there is no one prevailing built form.
8. The appeal site is located on a bend in the road and also at a point where the road crests a hill. As a result of this the proposed building on the appeal site would form a focal point when approached from either direction. The increased height of the building would assist in making this a strong focus when approached from either direction. At present, when approached from Tulse Hill, the more utilitarian structure of the Territorial Army Centre forms the visual focus. In addition, the increased height of the building would also assist in the visual transition between the six storey block to the east and the two storey façade of the Territorial Army Centre to the west.
9. In terms of the detailed appearance of the building, whilst I note the Council's point in respect of the potential contrast between the proposed metal cladding and brickwork elements of the scheme, I am also mindful that the application does not specify a colour for the metal cladding. I also consider that this particular matter, if taken in isolation, does not go to the heart of the proposal. Whilst zinc is specified as the cladding material, zinc cladding is available in a number of colours and I am satisfied that an appropriate combination of brick colour and cladding colour could be achieved by way of a condition.

10. The proposed privacy screens at roof level would be glazed, lightweight, structures. These may be partly visible from street level, although they would be largely screened by the parapet wall. Due to the nature of their construction, and the overall scale of the building, I do not consider that these would be significantly visually intrusive. No details of the proposed solar panels or their location have been provided. I have however, noted the appellant's point that these could be located on the flat roof where they would be screened by the parapet wall. Again, I am satisfied that this point could be addressed through a planning condition.
11. I note that the Council have not raised any concerns in respect of the proposed landscaping and boundary treatments, the effect of the development on the sitting of a nearby Listed Building, the number and mix of units, or on the living conditions of occupiers of nearby residential properties. I also note that there were no objections to the proposal on highways grounds. From what I have read and from what I saw when I visited the site, I have no reason to reach a different conclusion.
12. I therefore conclude that the proposed development would not cause harm to the character and appearance of the area. It would comply with the relevant requirements of Policies 7.4 and 7.6 of the London Plan 2016, and Policies Q5, Q6 and Q7 of the Lambeth Local Plan 2016, which expect that new development to be of a high standard of design, that has regard to its context and reinforces local distinctiveness, and which makes the most effective use of the site in the context of the proposed use.

Conditions

13. I have had regard to the list of conditions suggested by the Council. As building work has already started, albeit under the auspices of a different planning permission, I do not consider that it is necessary to impose the standard time limit for commencement of the development. A number of the suggested conditions are also pre-commencement, or triggered by works above ground level. The development has passed both of these points and so, where appropriate, I have altered the wording accordingly.
14. In order to provide certainty in respect of what has been granted planning permission I have imposed a condition specifying the approved drawings. As full details of materials have not been provided it is also necessary in order to ensure that the development is in keeping with the area, to impose a condition requiring details of the materials to be approved. For the same reason it is also necessary to require details of landscaping and cycle and refuse bin storage to be submitted.
15. The Council have suggested a condition requiring submission of an extensive range of details is necessary to secure a high standard of design. The Planning Practice Guidance requires that conditions be necessary and reasonable. As the appeal site is not within a conservation area, nor would it affect the setting of a Listed Building, the level of detail sought by some of the points within this condition appears to me to be disproportionate and that the condition as drafted is neither necessary, nor reasonable. I have therefore omitted those points that seek approval of an unnecessary level of detail, or which duplicate matters covered by other conditions such as landscaping and the details of the proposed green roof.

16. A pre-commencement condition requiring a site investigation and other matters in respect of potential contamination has been suggested. As the development has commenced and much of the groundworks have been carried out, it is too late to require this in connection with the appeal proposal. I have no information as to whether a site investigation was carried out in respect of the permission that is currently being implemented. I cannot reasonably impose the condition as suggested as it could not be complied with. Although there is no evidence before me in respect of potential contamination of the site it is, nonetheless, reasonable to attach precautionary condition in respect of unexpected contamination being discovered.
17. Policy 5.2 of the London Plan seeks to ensure that new development contributes towards reducing carbon dioxide emissions and it is therefore necessary to impose a condition requiring how these measures will be implemented as part of the development.
18. In order to facilitate the movement of large wheeled bins to the highway for emptying into the collection vehicle, it is also necessary to attach a condition requiring the provision of a dropped kerb.
19. The Council have also suggested a pre-commencement condition in respect of a construction method statement. This condition as drafted could not be complied with as the development has commenced. I have no information regarding whether a similar condition was imposed on the planning permission that has been commenced. As the appeal site is a constrained area in proximity to other residential properties, in order to ensure that any disturbance to these existing residents is minimised, it is necessary to regulate the operation of the site in the manner suggested by the condition. I have therefore amended the wording to require that such a method statement is submitted within 21 days of this decision in order that it can be implemented at an early date. In the event that a construction method statement has already been submitted in respect of the planning permission that is being implemented, this is a matter for the parties to resolve between themselves.

Conclusion

20. For the above reasons, and having regard to all other relevant matters raised, I conclude the appeal should be allowed.

John Dowsett

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: GA-0010; GA-0031; GA-0032; GA-0033; RPR-01; RPR-02; RPR-03; RPR-04; RPR-05; RPR-06; RPR-07; RPR-08; RPR-09; RPR-10; and RPR-11.
- 2) Prior to the commencement of works above first floor level of the development hereby permitted, a schedule and samples of the materials to be used in the external elevations shall be submitted to and approved in writing by the local

planning authority. The development hereby permitted shall be thereafter built in accordance with the approved details.

- 3) Prior to the commencement of works above first floor level of the development hereby permitted and notwithstanding the details shown on the approved drawings details of the following items shall be submitted to, and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
 - a) Details of the balustrades and privacy screens.
 - b) Details of the communal entrances.
 - c) Details of the boundary treatments, including gates.
 - d) Details of the refuse and recycling storage facilities.
 - e) Details of the photovoltaic panels including the location, size, number and incline of panels.
- 5) Prior to the first occupation of the flats hereby permitted, full details including plan and elevational drawings of the cycle storage facilities, showing the provision for a minimum of 14 cycle storage spaces, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the cycle storage shall be provided in accordance with the approved details before any of the flats are occupied and kept available for its intended purpose for the lifetime of the development.
- 6) Prior to the occupation of the development hereby permitted, a soft and hard landscaping scheme, showing the treatments of the site not covered by the building, shall be submitted to and approved in writing by the local planning authority. The development hereby permitted shall be thereafter carried out in accordance with the approved details within 6 months of the date of occupation of the development. All tree, shrub and hedge planting included within the above specification shall accord with BS3936:1992, BS4043:1989 and BS4428:1989 (or subsequent superseding equivalent) and current Arboricultural best practice. The submitted details are expected to demonstrate the following:
 - a) The quantity, size, species, position and the proposed time of planting of all trees and shrubs to be planted.
 - b) An indication of how these integrate with the proposal in the long term with regard to their mature size, and anticipated routine maintenance and protection.
 - c) Specification of which shrubs and hedges to be planted that are intended to achieve a significant size and presence in the landscape.
 - d) Materials of hard standing materials (paving of pathways etc.)
- 7) Prior to the commencement of works above first floor level of the development hereby permitted, full details of the Sedum Green roof which shall be compliant with GRO Green Roof Code (2011) shall be submitted to and approved in writing by the Local Planning Authority.

The submission shall include, but not be limited to, the following information:

 - a) Details of the materials used in the design, construction and installation of the green roof based on the Green Roof Code and the use of biodiversity based extensive/semi-intensive soils;

- b) Details of the substrate and plants used in the green roof, based on a commercial brick-based aggregate or equivalent with a varied substrate depth of 80 -150mm planted with 50% locally native herbs/wildflowers in addition to a variety of sedum species;
- c) Details of additional features to the proposed green roof, such as areas of bare shingle, areas of sand for burrowing invertebrates and individual logs or log piles.
- d) An ecological management and maintenance plan and a cross section of the green roof.

The development shall be carried out strictly in accordance with the green roof details approved and shall be maintained as such thereafter.

- 8) Within 21 days of the date of this decision, full details of the proposed construction methodology, in the form of a Method of Construction Statement, is submitted to and approved in writing by the Local Planning Authority. The Method of Construction Statement shall include details of measures to prevent the deposit of mud and debris on the public highway, and other measures including details of the phasing of construction, and details of parking, deliveries and storage to mitigate the impact of construction on the amenity of the area and the safe operation of the public highway. The details of the approved Method of Construction Statement shall be implemented and complied with for the duration of the construction process.
- 9) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 10) Prior to the commencement of works above first floor level of the development hereby permitted, a finalised Energy Strategy, demonstrating how carbon dioxide emissions reduction will be achieved in line with the Mayor's energy hierarchy and demonstrating how overheating and reliance on air conditioning will be reduced, shall be submitted to, and approved in writing by, the Local planning Authority.

Thereafter, the development shall be implemented in accordance with the approved Finalised Energy Strategy.

Prior to first occupation of the building appropriate evidence (e.g. photographs, installation contracts and as-built certificates under the National Calculation Method) should be submitted to the Local Planning Authority and approved in writing to show that the development has been constructed in accordance with approved Energy Strategy.

- 11. Prior to the first occupation of the flats hereby permitted, a dropped kerb shall be installed at the access point from the bin storage area to the highway in accordance with a scheme that shall first have been submitted to, and approved in writing by, the Local Planning Authority.