



Appeal Decision

Site visit made on 20 November 2017

by Beverley Wilders BA (Hons) PgDurp MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2018

Appeal Ref: APP/N5660/W/17/3179287

20 Cavendish Road, London SW12 0DG

- 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 Ms Melanie Schubert (SAM Architects) against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 17/00779/FUL, dated 15 February 2017, was refused by notice dated 10 April 2017.
 - The development proposed is conversion of a single dwelling house to provide three self-contained flats, together with the erection of a ground floor side extension with the formation of a courtyard and alterations to rear fenestration including window at second floor level and installation of rooflights.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of a single dwelling house to provide three self-contained flats, together with the erection of a ground floor side extension with the formation of a courtyard and alterations to rear fenestration including window at second floor level, installation of rooflights and rear roof extension at 20 Cavendish Road, London SW12 0DG in accordance with the terms of the application, Ref 17/00779/FUL, dated 15 February 2017, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 017 A 0000, 160017 A 0001 01, 160017 A 0002 01, 160017 A 0003 04 and 160017 A 0004 05.
 - 3) Prior to the occupation of the flats hereby approved, the cycle parking facilities as shown on the approved plans and as detailed within the planning application supporting information rev A shall be provided and shall thereafter be retained solely for their designated use.
 - 4) Prior to the occupation of the flats hereby approved, full details of waste and recycling storage facilities shall be submitted to and approved by the local planning authority. The approved facilities shall be provided prior to occupation and shall thereafter be retained solely for their designated use.

- 5) The materials to be used in the construction of the external walls of the extensions and in the alterations hereby permitted shall match those used in the existing building.

Procedural Matter

2. The description of development used in the heading above has been taken from the planning application form. However in allowing the appeal I have slightly amended the description to also refer to the roof extension which forms part of the proposal.

Main Issues

3. The main issues are:
 - whether the proposal would result in the loss of a protected single family dwelling and if not, whether it would be practicable to provide a family-sized home at ground-floor level;
 - whether future occupiers of the proposed flats would have satisfactory living conditions having regard to private amenity space.

Reasons

Loss of single dwelling and size of proposed ground floor flat

4. The appeal site comprises a large, 6 bedroomed mid terraced dwelling with modest sized rear garden located on a road comprising similar properties. Cavendish Road is a busy main road.
5. Part (a) of Policy H6 of the Lambeth Local Plan (LLP) seeks to protect family dwellings such as the host building from conversion into flats in parts of the borough under conversion stress and in other parts of the Borough not on the main road network. The Council has stated that the appeal site is not in a part of the Borough under conversion stress and is located on a main road. Consequently the dwelling is not a 'protected dwelling' for the purposes of LLP Policy H6 and its conversion to flats would not be contrary to Policy H6 subject to compliance with part (b) of the policy.
6. Part (b)(ii) of Policy H6 states that where the property is being converted to flats, the proposal should provide a mix of unit sizes including the provision, where practicable, of a family-sized home at ground-floor level with direct access to a rear garden. Paragraph 5.32 of the LLP defines 'dwellings suitable for occupation by families' as those with three or more bedrooms. Part (b)(i) of Policy H6 states that developments should provide a high quality of accommodation and that each new unit should meet the standards for new residential accommodation set out in Policy H5 of the LLP.
7. The Mayor of London's Housing Supplementary Planning Guidance (Housing SPG) sets out minimum space standards for new dwellings and provides guidance on the implementation of Policy 3.5 of the London Plan (LP). The space standards in the Housing SPG and the LP are consistent with the nationally described space standard (NDSS). The NDSS requires a minimum gross internal floor area (GIA) of 74 square metres for a 3 bedroom, single storey dwelling. The GIA of the extended ground floor of the host building would be 67 square metres, below the minimum space standard for a 3 bedroom, single storey dwelling.

8. Therefore having regard to the size and particular layout of the ground floor of the host building, I do not consider that it would be practicable to provide a 3 bedroomed, family-sized home at ground-floor level. The proposal would nevertheless provide a mix of unit sizes and would consequently comply with the requirements of Part (b)(ii) of Policy H6 of the LLP.
9. Taking the above matters into consideration, I conclude that the proposal would not result in the loss of a protected single family dwelling and that it would not be practicable to provide a family-sized home at ground-floor level. The proposal therefore complies with parts (a)(ii) and (b)(ii) of Policy H6 of the LLP which seek to ensure mixed and balanced communities with a choice of family-sized housing.

Living conditions

10. The proposed flats at first and second floor level would not have access to any private amenity space. Part (b)(ii) of Policy H5 of the LLP states that for new flatted developments communal amenity space of at least 50m² per scheme should be provided plus a further 10m² per flat either as a balcony/terrace/private garden or consolidated with the communal amenity space. This is in excess of Standard 26 of the Housing SPG which states that a minimum of 5sqm of private outdoor space should be provided for 1-2 person dwellings with an addition 1sqm for each additional occupant. Paragraph 5.24 of the LLP states that the amenity space standards apply to all new housing in Lambeth including conversions and change of use schemes where new dwellings are created.
11. Paragraph 5.26 of the LLP states that in exceptional circumstances, having regard to London Plan guidance, where it is demonstrated that site constraints make it impossible to provide private open space for all dwellings in flatted developments in line with the standards, the provision of additional internal living space equivalent to the amenity space requirement within a proportion of dwellings may be accepted.
12. The proposed one bedroom, two person second floor flat has a GIA area of 66sqm, 16sqm in excess of the minimum space standard and in excess of the amount of private amenity space required by Policy H5 of the LLP and by the Housing SPG. The two bedroomed, 3 person first floor flat has a GIA of 62 sqm, 1sqm in excess of the minimum space standard but not enough to be equivalent to the amenity space requirement for the flat.
13. The appellant states that private amenity space cannot be provided for the upper flats due to the site restrictions and this has not been disputed by the Council. Having regard to this and to the size of the flats proposed, I consider that whilst both upper flats would fail to comply with the requirements of part (b)(ii) of Policy H5 of the LLP, only the first floor flat would fail to comply with the underlying aims of Policy H5.
14. My attention has been drawn by the appellant to the proximity of the appeal site to Clapham Common, an extensive public amenity space and at my site visit I noted that the Common provides an extensive range of outdoor amenity facilities and is a very short walk away from the appeal site. I also note that the Council has recently granted planning permission for flats with no private amenity space at other sites on Cavendish Road at Nos 62 and 90 and I have been provided with relevant documentation in relation to these sites including

the Council's Officer Reports (I also note that permission was granted for flats at 94 Cavendish Road though I am not fully aware of the details in relation to that case). The reports relating to Nos 62 and 90 cite proximity to the Common as being a mitigating factor against the fact that some flats would have no private amenity space. As these sites and proposals appear to be directly comparable to the proposal before me, in reaching my decision I attach them significant weight.

15. Taking the above matters into consideration, despite the fact that the first floor flat would not have any private amenity space or have the equivalent internal living accommodation, I am satisfied that future occupiers of the flats would have satisfactory living conditions. Though the proposal would be contrary to part (b)(ii) of Policy H5 and to parts of Policy H6 of the LLP and to some aspects of the Housing SPG, this conflict with the development plan would be outweighed by other material considerations namely the proximity of the appeal site to Clapham Common and previous decisions of the Council in relation to comparable proposals. The proposal complies with policies Q1 and Q2 of the LLP which seek to secure new development which is compliant with current best practice and which provides adequate outdoor amenity space.

Other Matters

16. The appeal site is located in an area with good access to public transport and is within a controlled parking zone. Consequently whilst no off street parking is proposed as part of the proposal, no objections have been raised by the Highway Authority subject to a planning obligation to ensure that the proposal is a car free development.
17. The Council raised no objections to any other aspects of the proposal including the proposed extensions and I have no reason to disagree with its findings on the other issues relating to the proposal.

Planning Obligation

18. A Planning Obligation was submitted with the appeal and subsequently amended during the appeal process with the Council having been given the opportunity to comment on it. I have considered the Planning Obligation in light of the Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 204 of the National Planning Policy Framework (the Framework).
19. Policy T6 of the LLP states that planning applications will be supported where they do not have unacceptable transport impacts, including cumulative impacts on on-street parking. Policy T7 of the LLP states that development should be car-free, including permit-free, particularly in areas where alternative modes of transport are available and where public transport accessibility is high.
20. As stated, the appeal site is located in an area with good access to public transport (PTAL score of 4) and is within a controlled parking zone and the appellant accepts that the proposal should be car free. Three of the obligations (1, 2 and 4) within the submitted Planning Obligation seek to ensure that occupancy of the proposed flats would not be by holders of a residents parking permit or other parking permit in perpetuity unless they are a holder of a disabled persons badge. A fourth obligation seeks to recover the Council's fees for monitoring the Planning Obligation.

21. Having regard to the appeal site location and to the submitted evidence, I am satisfied that the proposal should be a car-free development and that the absence of a suitable mechanism to ensure that it is a car-free development would be likely to have an adverse impact on highway safety and the operation of the local transport network due to increased pressure on parking on the surrounding streets. I am therefore satisfied that the obligations 1, 2 and 4 of the Planning Obligation are fairly and reasonably related to the development proposed and that they meet the tests set out in CIL Regulation 122 and as such I have taken them into account in determining the appeal.
22. However I have seen no evidence to justify the Council's monitoring fee or to justify an additional obligation requiring the appellant to undertake to pay the Council's legal fees. In the absence of this and having regard to Regulation 122 of CIL and paragraph 204 of the Framework I do not consider that such obligations are fairly and reasonably related to the development proposed and as such I have not taken them into account in determining the appeal. The monitoring fee and legal costs are instead a matter for the Council and the appellant.

Conditions

23. I have had regard to the conditions suggested by the Council. I have imposed a condition specifying the relevant plans as this provides certainty. I have also imposed a condition requiring the extensions and alterations to be constructed from materials to match the host building. This is having regard to the scale and nature of the proposal and to protect the character and appearance of the host building and the surrounding area. In addition I have imposed a condition requiring details and the implementation of waste and recycling storage facilities to be provided prior to occupation of the flats. Whilst some details of such facilities were submitted with the application, it does not appear that they meet the Council's requirements and therefore further details are required. However I am satisfied that sufficient details were submitted regarding cycle parking though the implementation of such details requires the imposition of a condition. These conditions are necessary to ensure suitable facilities are provided on site.
24. A condition is not necessary for the submission of a Planning Obligation as one was submitted with the appeal and in any event it is unlikely that such a condition would have met the tests for conditions.

Conclusion

25. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed.

Beverley Wilders

INSPECTOR