



Appeal Decision

Hearing Held on 10 April 2018

Site visit made on 10 April 2018

by Grahame Gould BA MPhil MRTPI

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

Decision date: 10th May 2018

Appeal Ref: APP/N5660/W/17/3181210 41 Stockwell Park Road, London SW9 0DD

- 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 Lambeth and Southwark Housing Association against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 17/00383/FUL, dated 27 January 2017, was refused by notice dated 13 April 2017.
 - The development proposed is described as 'The redevelopment of a garage site, accessed from Groveway, London, to provide 4 No. affordable housing units. The site is located to the rear of a property at 41 Stockwell Park Road, which is also in the ownership of Lambeth and Southwark Housing Association'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the hearing the Council confirmed it had signed the Statement of Comment Ground (SoCG) and I was provided with a copy of it (Document 2). In relation to the Council's fourth reason for refusal, the development's effect on a Lime tree (tree T2), which is subject to a tree preservation order (TPO), the SoCG appeared to suggest that the parties had agreed that this was an issue that could be addressed through the imposition of a condition in the event of the appeal being allowed. However, at the hearing the Council advised that it still had concerns about the development's effect on tree T2's root protection area (RPA) and in that regard its arboricultural officer was present at the hearing.
3. The appellant, however, believing that the concern with respect to tree T2 had been resolved was not represented by its arboricultural advisor at the hearing. In the interests of fairness I sought the appellant's views on: firstly adjourning the aspect of the hearing relating to the fourth reason for refusal to enable its arboricultural advisor to be present on another day; or secondly giving the appellant's arboricultural advisor the opportunity to make written submissions after the hearing. The appellant, however, confirmed that it was content to proceed without its arboricultural advisor's further input.
4. As part of its appeal case the appellant submitted an unexecuted Unilateral Undertaking (UU), pursuant to Section 106 of the Act, with the purpose of making the development 'car free'. The UU was executed on 1 May 2018 and

a certified copy of it has been submitted (Document 1). I shall make further reference to the UU in my reasoning below, together with some amendments to it promoted by the Council (hearing Document 3).

5. To assist my understanding of the layout of the flats within 41 Stockwell Park Road (No 41), which is relevant to the consideration of the second main issue I have identified, the appellant has submitted floor plans for No 41 (Document 6).
6. At the hearing reference was made to a redevelopment scheme concerning 50 Groveway, which is directly opposite the appeal site. At my request the Council has provided a copy of the block plan (Document 4) for a scheme of seven houses that is subject to planning application 17/05863/FUL. That application is not due to be determined before 12 May 2018 and given the current status of that proposal I consider I need not have regard to it for the purposes of the determination of this appeal, given that the two developments would be quite different in nature.

Main Issues

7. The main issues are:
 - the effect of the development on the character and appearance of the area, including the Stockwell Park Conservation Area (the CA), the setting of the grade II listed buildings at No 41 and 45 and 47 Groveway (Nos 45 and 47) and the trees with the site that are protected by the TPO;
 - the effect of the development on the living conditions of the occupiers of No 41, with particular regard to outdoor space, outlook/enclosure and privacy;
 - the effect of the development on on-street parking in the area; and
 - whether there would be a risk of the development and adjoining properties being flooded.

Reasons

Character and Appearance

8. The development would involve the demolition of a block of three garages, sited between the rear of No 41 and the flank wall of No 47, and the construction of a four storey block of four flats. Nos 41 and 47 date from the early to mid-nineteenth centuries and their designs are typical of their era. A four storey side extension was added to No 41 in the 1950s¹ and the garage block is of a similar age. The parties are agreed that neither No 41's extension nor the garage block possess any particular architectural merit, with the latter having been identified as making a negative contribution in the CA². The CA is predominantly residential in character.
9. For the most part the buildings in Stockwell Park Road and Groveway date from the nineteenth century and those buildings have: pitched roofs; balanced and essentially flat fronted facades, although there are some

¹ Paragraph 49 of the appellant's Heritage Statement

² The Council's CA appraisal

porticos and recessed doorways; and a fenestration pattern that follows the normal hierarchy of openings getting smaller with height. The flat block by contrast would have a flat roof; a shallow, full width, forward projection at lower and upper ground floor levels; an unbalanced front façade; and first and second floor window openings of equal sizes.

10. I appreciate that the design of the flat block has sought to avoid a pastiche of the nineteenth century properties in the area, while reflecting elements of the architectural detailing that characterises the CA. However, I consider the block's appearance would not be respectful of its immediate context, with it neither replicating the detailing of the period properties in the area nor representing a definite contrast with those buildings. I consider the resulting design would be somewhat betwixt and between and because of that, given its quite heavy appearance, that would mean that the flat block would have a jarring presence within the streetscene. That uncharacteristic appearance would be accentuated by the fact that this block would be readily apparent at the junction between Groveway and Stockwell Park Road, particularly at times when the nearby trees were not in leaf.
11. The new block would occupy much of the gap between Nos 41 and 47 and given its height and siting I consider it would be much more prominent than the garage block. While the garage block has an undistinguished appearance, I consider it nevertheless has a discrete presence, being set behind No 41's side elevation and garden wall, while aligning with No 47's principal front elevation. The properties within Stockwell Park Road, Groveway and the nearby Stockwell Park Crescent are quite tightly spaced, and the site provides some relief in the otherwise near totally built up streetscene in Groveway, with there being views of back garden trees above the garage block.
12. Having regard to the closure of the space between Nos 41 and 47 and the scale and design of the flat block, I consider that this development would fail to preserve the setting of both of those listed buildings. I am also of the opinion that the development would neither preserve nor enhance the appearance of the CA. However, in land use terms I consider the provision of a flat block would preserve the CA's character because the CA is residential in character.
13. The rear and side elevations of No 41's extension possess no particular architectural merit. The siting of the new block would provide some screening for that addition's poor appearance. However, I am not persuaded that that benefit of the development would be of such significance as to warrant permission being granted for a building that I have found would detract from Groveway's streetscene, while failing to preserve the setting of Nos 41 and 47.
14. The Council contends that the enclosure of the site's front boundary with a combination of brick walling and railings would not be in keeping with the frontage treatments in Groveway. The boundary enclosures in Groveway comprise a mixture of railings, timber picket fencing, low walls and hedging. Given that mixed context I consider there would be nothing objectionable about a frontage enclosure of walling and railings. That enclosure would provide screening for the proposed bicycle and refuse storage facilities. I therefore consider that the intended bicycle and refuse storage facilities would not have a harmful appearance, with the precise detailing for those facilities

being capable of being addressed through the imposition of planning conditions.

15. The development would involve the removal of the Lime tree identified by the appellant as T1. Tree T1 has been categorised as having limited amenity value (category C³) by the appellant's arboriculturalist because of its lean and proximity with No 47, which has implications for its future wellbeing. It is intended that tree T1 would be replaced by planting a Lime tree between the Pear trees (trees T3 and T4) in No 41's rear garden. While the replacement tree would have limited amenity value, because it would be largely screened from view, I consider tree T1's removal to be unobjectionable.
16. There is disagreement as to the development's effect on tree T2, a tree which has recently been subject to quite heavy pollarding. Tree T2 occupies a prominent position close to the back edge of the pavement in Groveway and I consider that it makes a positive streetscene contribution, given the presence of the other street and front garden trees further along Groveway. The Council has estimated that the excavations associated with the development would involve an incursion of between 50 and 66 per cent into tree T2's RPA. In that regard the radius of tree T2's RPA was measured by representatives of the appellant and the Council during the course of my site visit. Having regard to the extent of the excavations that would be required and their proximity to tree T2, I consider it likely that the block's construction would have a significant effect on tree T2's RPA. I therefore consider it likely that tree T2 would be adversely affected by the construction of the block and that could result in the loss of this tree. If tree T2 was to be lost I consider that would be detrimental to the streetscene.
17. Even if I am incorrect in finding that tree T2 would be adversely affected by the construction works, I consider that there would be a tension between its longer term retention and the provision of an adequate level of natural lighting and outlook for the occupiers of the flats. That is because this tree would be located in close proximity to some of the windows in the front elevation of the flat block, with the tree protection plan (appendix 5 of the arboricultural report) showing tree T2's crown spread extending as far as the block's front elevation at the lower and upper ground floor levels. I consider it likely that at the very least tree T2 would require regular pollarding and that would diminish its positive contribution to the streetscene.
18. For the reasons given above I conclude that the development would cause unacceptable harm to the character and appearance of the area, with it failing to preserve or enhance the CA's appearance and preserve the setting of the listed buildings. I therefore consider that the development would be contrary to Policies 7.4, 7.6 and 7.8 of the London Plan 2011 (including its various revisions) and Policies Q5, Q20 and Q22 of the Lambeth Local Plan of 2015 (the Local Plan). That is because the new building's design would not make a positive contribution to the character of the area, with its scale and composition being insufficiently informed by the surrounding historic environment and thus failing to preserve the appearance of the CA and the setting of the neighbouring listed buildings. Additionally because the development would partially occupy No 41's rear garden and given its relative

³ Based on the categorisation scheme referred to in BS5837:2012 Trees in relation to design, demolition and construction

scale I consider there would be conflict with Policy Q14 of the Local Plan because this development would not be subordinate in scale.

19. Given the harm to tree T2 that I have identified I consider there would also be conflict with Policy 7.21 of the London Plan and Policies Q6, Q9 and Q10 of the Local Plan. That is because the development would involve the likely loss of a tree of significant visual amenity value in the streetscene.
20. For the purposes of paragraphs 131 to 134 of the National Planning Policy Framework, I consider that the harm to the listed buildings and CA that I have identified would be less than substantial. However, the public benefits associated with providing four dwellings would be quite modest and I consider that those benefits would be outweighed by the harm to the heritage assets that I have identified.

Living Conditions

21. The flat the block would occupy part of No 41's communal rear garden. That external space for the most part is laid to grass and it would appear in part to be used as a clothes drying area. The rear garden is quite secluded, being enclosed by the garage block and the wall along the site's boundary with Groveway.
22. The retained rear garden area would be 'L' shaped and both its north/south and east/west limbs would be quite narrow, given the proximity of No 41, the flat block and the boundaries of the immediately neighbouring properties. I consider that the shape and dimensions of the retained rear garden would mean that this would be a confined external space. Post development the retained rear garden would be very enclosed, given the proximity and height of both No 41 and the flat block, and that would offer its users a very limited outlook, accentuating its confined nature. Given those characteristics I am of the opinion that the retained rear garden would be of limited utility for the occupiers of No 41's seven flats, with there being limited scope for example to kick a football about or hang washing out. I consider the planting of a replacement Lime tree as mitigation for tree T1's removal would be likely to cause some further reduction in the utility of the retained garden. I recognise that No 41 has a quite extensive front garden area, but given this property's position at the junction of three roads and the front garden's boundary treatment, I consider this space affords its users limited privacy and could not be expected to be used in the same way as the rear garden.
23. With respect to the effect of new development on rear gardens Policy Q14 of the Local Plan requires that at least 70 per cent of an existing garden should be retained for the use of the occupiers of the host building. However, the appellant and the Council are not agreed as to what the ratio would be between the retained and existing garden space. In this instance, given the shape of and the limited outlook from the retained rear garden, I consider the mathematics of the ratio between the retained and existing garden to be of little consequence. In my opinion the issue is whether the retained space would adequately serve the needs of the occupiers of seven flats and, as I have set out above, I consider the retained space would be insufficient.
24. Notwithstanding my concern about the users of the retained garden having a poor outlook, I also consider that those users would be likely to experience a loss of privacy at times when the rear balconies of the upper ground, first and

second floor flats in the new block were being actively used. That is because those balconies would be in close proximity to and elevated above the east/west limb of the retained garden. I recognise that it is quite common for communal space in flat developments to be overlooked by accommodation in such developments. However, in this instance the communal space would be of a very limited extent and there would be a cheek by jowl relationship between it and the balconies of the new flats.

25. There are numerous windows in the rear elevation of No 41 and that fenestration for the most part serves bathrooms or stairwells (as shown on the floor plans – Document 6). However, within No 41's extension there are some centrally located rearward facing kitchen windows and the flat block would appear in some views from those windows at a distance of around 3.5 metres⁴. However, those views would be oblique ones and I therefore consider that the development would not significantly affect the outlook from within No 41's rooms.
26. There would be some scope for the kitchen windows within No 41's rear elevation and the rear gardens of No 47 and 43 Stockwell Park Road to be overlooked when the balconies of the new flats were being actively used. However, any such overlooking would either be at oblique angles or at distances common in built up inner urban areas. I therefore consider that any overlooking arising from this development would not be at levels that would be harmful to the living conditions of the occupiers of the immediately neighbouring properties.
27. Concern has been raised that the development would result in losses of natural light and outlook for the occupiers of the lower ground floor flat at No 47 (Flat 1), with there being two dining area windows in the side elevation of that flat. However, I was advised at the hearing that Flat 1's dining area is also served by a south/rear facing kitchen window. The development would have some effect on the receipt of light to and outlook from the interior of Flat 1, however, on the evidence available to me, I am not persuaded that any adverse effects would be of a scale warranting the withholding of planning permission. I also consider the occasional use of the front external stairs would not cause any unacceptable loss of privacy for the occupiers of No 47.
28. For the reasons given above I conclude that the development would unacceptably harm the living conditions of the occupiers of No 41. The development would therefore not accord with Policy 3.5 of the London Plan and Policies Q2 and Q14 of the Local Plan. That is because the size of the retained rear garden would be inadequate to serve the needs of the occupiers of No 41, with the level of outlook from within that space being poor. There would also be potential for the retained rear garden to be unacceptably overlooked by the users of the balconies forming part of the development.

Parking

29. The development would make no provision for on-site car parking and there would therefore be potential for it to generate some demand for on-street parking in a controlled parking zone (CPZ). The UU that the appellant has submitted is intended to make the development car free by precluding its occupiers from applying for parking permits. There would, however, be two

⁴ Based on the dimension notated on Figure 3 within the Council's appeal statement

provisos to a total preclusion on applying for parking permits. The first proviso would concern occupiers with an entitlement to have disable persons badges. The second proviso would entitle residents already possessing a parking permit for another part of the Council's area to apply for a permit in the CPZ applicable to Stockwell Park Road, so long as the existing permit had been held for a minimum of a year.

30. The Council is not entirely content with the wording of the appellant's planning obligation, hence the alternative wording promoted in Document 3. The ability for occupiers of the development to apply for a permit because they had a permit for another part of the Council's area would be an unusual provision and could not be said to make this development entirely car free. However, in practice the chances of a car owning prospective occupier moving from one part of the Council's area to this particular development might be quite small. No 41 is in a location where the public transport accessibility level rating is scored at six, ie 'excellent' (paragraph 1.5 of the Council's officer report) and car ownership amongst occupiers of the flats would not necessarily be high.
31. Neither the Council nor the appellant have provided any parking survey information for the area. That said I consider it unlikely that the number of permit holding residents transferring to this development from other parts of the Council's area would be so significant as to generate unacceptable levels of parking pressure in this CPZ.
32. Accordingly while one of the provisions of the planning obligation that the appellant has entered into is unusual for what is intended to be a car free development, on balance, and having regard to the circumstances I have outlined above, I consider that the UU would adequately address the fifth reason for refusal.
33. On this issue I therefore conclude that development would not have an adverse effect on on-street parking in the area. With the appellant having entered into a UU I consider that there would be no conflict with Policies D4, T6 and T7 of the Local Plan because the development would essentially be car free and no unacceptable transport impact would arise through the generation of increased on-street parking.

Flood risk and surface drainage

34. The eighth reason for refusal relates to the issue of flood risk. However, in the SoCG the appellant and the Council are agreed that the surface water drainage arrangements for the development could be addressed through the imposition of a planning condition. No 41 is in flood zone 1 and while one of the flats would be at a lower ground floor level, I consider that its occupiers would not be subject to an unacceptable risk of being flooded.
35. On this issue I therefore conclude that the occupiers of the development would not be subject to any unacceptable risk of being flooded and that adequate surface water drainage provision could be made through the imposition of a planning condition. I therefore consider that there would be no conflict with Policies EN5 and EN6 of the Local Plan because the site is an area of the lowest flood risk and there would be no unacceptable risk of flooding for the occupants of the development and effective water management could be incorporated into the scheme's design to ensure that

the development would not place adjoining properties at an unacceptable increased risk of being flooded.

Other Matter

36. The appellant is a housing association with the purpose of providing affordable housing. Notwithstanding the appellant's status the Council is concerned that there would be no mechanism, such as a planning obligation entered into under Section 106 of the Act, to ensure that the development would make a financial contribution towards the provision of affordable housing in accordance with Policy H2 of the Local Plan.
37. Given the appellant's purpose, and assuming that the appellant retained the site following its development, then I consider there would be no doubt that by default this scheme would provide 100 per cent affordable housing and would therefore more than exceed the requirements of Policy H2. Only in the event of the appellant disposing of the site either prior to or post its development would there be a possibility that the flats would not be available as affordable dwellings. Based on what I heard at the hearing, the likelihood of the appellant not retaining the site would appear to be limited. I therefore consider that the absence of a planning obligation in this instance should not be treated as weighing against this development.

Conclusions

38. I have found that the development would not adversely effect on-street parking in the area and that the development's occupiers would not be subjected to an unacceptable risk of being flooded, while surface water arising from the development could be adequately managed. While those matters weigh for the development, as does the provision of some additional affordable housing, I find those matters to be outweighed by the harm I have identified with respect to the development's effect on the character and appearance of the area, including the designated heritage assets and tree T2, and the living conditions of the occupiers of No 41.
39. Accordingly I conclude that the appeal should be dismissed.

Grahame Gould

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mark Jackson	Lambeth and Southwark Housing Association
Danny Friedman	Lambeth and Southwark Housing Association
Anthony Keen	Planning Agent for the Appellant
Matt Thornely	Gibson Thornely Architects Limited
Harry Ogden	Gibson Thornely Architects Limited

FOR THE LOCAL PLANNING AUTHORITY:

Clare Tampin	Senior Planning Officer
Nicola Xuereb	Conservation Officer
Ian Leonard	Tree Officer
Matt Cosson	Planning Officer

INTERESTED PERSONS:

William Tilden	Local Resident
Teresa Tilden	Local Resident
Maurice Cronly	Local Resident and representative for the Stockwell Park Residents Association
David Bateman	Local Resident
Jennifer Starking	Local Resident

DOCUMENTS SUBMITTED AT AND AFTER THE HEARING

- 1) Certified copy of the executed Unilateral Undertaking entered into by the appellant pursuant to Section 106 of the Act
- 2) A copy of the Statement of Common Ground signed by the appellant and the Council
- 3) The Council's comments on the appellant's Unilateral Undertaking
- 4) Email from the Council of 12 April 2018, with attached site plan, providing background information relating to planning application 17/05863/FUL (50 Groveway)
- 5) Copy of Policy H2 (Delivering affordable housing) of the Lambeth Local Plan 2015
- 6) Floor Plans for the flats at 41 Stockwell Park Road