



Appeal Decision

Site visit made on 2 July 2019

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2019

Appeal Ref: APP/N5660/W/19/3224827

Land to the rear of 20-22 Beardell Street, London SE19 1TP

- 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 Matthew Shute of Hillroad Developments Ltd against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 18/04409/FUL, dated 8 October 2018, was refused by notice dated 11 December 2018.
 - The development proposed is erection of 3 (2x 4-bed semi-detached, 1x 4-bed detached) houses along with the provision of on-site car parking, refuse and recycling store together with hard and soft landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development provided on the planning application form has been replaced by a fuller version on the decision notice and in subsequent appeal documents. I consider that subsequent description to be usefully more comprehensive and I have therefore used it within this decision.
3. As part of the appeal documents, the appellant has submitted an amended site plan¹ which includes a reduction from 2 parking spaces to 1 space, front gardens to the proposed dwellings, and increased landscaping. I consider that these amendments are of a minor nature and I am also mindful that interested parties have had the opportunity to comment on the amendments as part of the appeal process. On that basis, and mindful of the *Wheatcroft*² principles, I consider that the parties would not be prejudiced by my consideration of this appeal on the basis of the amended details.
4. The amended details have been put forward by the appellant to address some of the concerns of the Council. The Council has confirmed that this addresses its concerns in relation to landscaping, means of enclosure, defensible space, parking provision and some aspects of highway safety. Subject to the amendments, the Council has withdrawn the second, third and fifth reasons for refusal. I have proceeded to determine this appeal on that basis.

¹ Drawing No: 235-18-05 Revision F

² *Bernard Wheatcroft Ltd v SSE* (1982) which is further explained in the Procedural Guide: Planning Appeals - England 2019: Annexe M - Can a proposed scheme be amended?

5. The residents of 16 Beardell Street requested that I view the appeal site from their property, and I was able to do so on my site visit.

Main Issues

6. The main issues in this appeal are:
 - The effect of the proposed development on the living conditions of nearby residents with regards to outlook and privacy;
 - Whether the proposed development would make an appropriate contribution towards the provision of affordable housing; and
 - Highway safety.

Reasons

Living Conditions

7. The appeal site is of a constrained nature and the proposed building on plots 1 and 2 would be located in close proximity with the boundaries of neighbouring residential properties to the east of the site. The site and surrounding area have a pronounced sloping topography which increases the sensitivity of the relationship between the proposal and neighbouring properties.
8. Due to the scale of the flank wall of the proposed building and its proximity to the site boundary, I saw that the development would have an enclosing, overbearing and unneighbourly relationship with the rear garden and windows in the rear elevation of 18 Beardell Street. The dentil detailing on the brickwork, the use of a hipped roof and landscaping along the access road would do little to mitigate this harm.
9. I also saw that the proposal would have an overdominant and intrusive relationship with the rear garden and windows of 16 Beardell Street. I acknowledge that the separation distance from No 16 would be greater than that to No 18 and that the building would be offset from the rear elevation of No 16. However, I saw that the sloping topography of the area would exacerbate the impact on No 16, negating any benefit that may arise from the greater degree of separation and relative arrangement.
10. Even allowing for the reduction in the existing site levels, the bulk and massing of the proposal would lead to undue harm to the living conditions of residents at Nos 16 & 18. Whilst both properties would retain an open aspect in some views from the rear, this would not mitigate the harm arising from the unneighbourly relationship between the proposal and Nos 16 & 18.
11. I am mindful of the concerns expressed by the appellant with regard to the visualisations submitted by objectors to the proposal and these images have not been determinative in my consideration of this appeal. Nevertheless, this does not lead me to a different conclusion with regards to the oppressive relationship between the proposal and adjacent dwellings.
12. With regards to privacy, the windows of the proposal would enable elevated views of the rear of neighbouring properties, particularly No 16. The Council's reason for refusal refers to balconies and terraces on the north elevation although the Council now accepts that these are no longer a feature of the proposal. Due to the limited field of view from the windows in respect of

properties to the east, and the separation distance from properties to the north, I do not consider that this would lead to a degree of overlooking that would warrant the refusal of planning permission.

13. Notwithstanding my conclusions with regards to privacy, I conclude that the proposal would lead to undue harm to the living conditions of nearby residents due to a detrimental effect on outlook. The proposal would therefore be contrary to Policy Q2 of the Lambeth Local Plan 2015 (LP) with respect to visual amenity from adjoining sites. The proposal would also conflict with the National Planning Policy Framework (the Framework) which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

Affordable Housing

14. Policy H2 of the LP sets out that the Council will seek affordable housing on sites providing fewer than 10 units by way of a financial contribution towards off-site provision. However, the appellant contends that this is at odds with the Framework which states that affordable housing should not be sought for residential developments that are not major developments, as is the case in the appeal proposal.
15. However, whilst the appeal proposal would not be a major development, the Council has submitted robust evidence to justify the policy approach of the LP with regards to affordable housing. This identifies an acute shortage of affordable housing across London and that the demand for affordable housing in Lambeth will remain high as indicated by Lambeth's Strategic Housing Market Assessment 2017. This also identifies that small sites make a significant contribution to Lambeth's housing supply, in both the number of schemes approved and completed. I have also been referred to a number of relatively recent appeal decisions which have supported this policy position.
16. Within this context, whilst the provisions of the Framework with regard to affordable housing and non-major developments should be given substantial weight, it is not sufficient to outweigh the development plan policy supported by robust evidence. Reference is made to the Councils approach in an emerging Local Plan, but the evidence suggests that this is not at a sufficiently advanced stage to outweigh the adopted development plan. I therefore give Policy H2 of the LP substantial weight in my consideration of this appeal.
17. However, Policy H2 sets out that matters of viability will be taken into account when assessing the circumstances of individual sites. The appellant has submitted an Economic Viability Appraisal Report (EVAR) which concludes that the proposal cannot support a contribution towards affordable housing in addition to other costs associated with the development. The Council has questioned the EVAR and makes particular reference to the identified build cost which it considers exceeds that indicated by the Build Costs Information Service. However, the appellant refers to extra costs arising from the sloping topography and constrained nature of the site as well as basement construction. I consider that these factors could lead to an increase in identified build costs.
18. Whilst the Council states that in other circumstances it would have subjected the EVAR to an independent assessment, this has not been undertaken. The

Council has therefore not provided robust evidence to contradict the EVAR with regard to its identified concerns in relation to build costs and other criteria.

19. Based on the evidence before me, I therefore conclude that the proposal would not be capable of making an appropriate financial contribution towards affordable housing. The proposal would therefore not conflict with Policy H2 of the LP which states that in considering the nature of the affordable housing sought, the Council will take into account the specific circumstances of individual sites including development viability.

Highway Safety

20. The Council express concern that the amended access shows a flush surface for the footway and driveway and state that a kerb to demarcate these should be provided. However, the use of a flush/shared surface is not unusual in such situations and the Council has not stated which design or other technical guidance this requirement is based on. In any event, this is a minor matter which could be addressed by an appropriate condition and does not therefore represent a reason to withhold planning permission.
21. With regards to delivery vehicles, the appellant has provided a swept analysis which shows a delivery van can turn within the site. Although this shows that the turning area is constrained and the vehicle would project over private defensible space, due to the limited number of traffic movements I consider that suitable provision for smaller delivery vehicles can be provided. There is space available at the entrance to the site for larger delivery vehicles to be parked, and I note that refuse will be stored in a location so that it can be collected from the highway.
22. With regards to visibility at the site entrance, I saw that vehicles were parked in the visibility splays along Beardell Street. However, traffic speeds would be low and within the context of the one-way flow of traffic in the vicinity of the site adequate visibility would be available along the footway. I also note that the Council accept that the provision of a convex traffic mirror would increase road safety enabling a view of vehicular traffic approaching from the south. Mindful of the low traffic speeds in this area and the very limited number of traffic movements to/from the site that would result from the proposal, I conclude that there would be suitable visibility provided at the access to the site.
23. I conclude that the proposal would not lead to an unacceptable impact on highway safety. The proposal would therefore not conflict with Policies T1, T2 and T7 of the LP or the Framework in respect of highway safety with due regard to pedestrian access and parking.

Other Matters

24. I am mindful of the benefits of the proposal. The development would add to the supply and mix of housing in the area, albeit to a modest degree. It would be located on a vacant site which is not greenfield or part of rear gardens. I also saw that the site was overgrown, albeit not unduly unsightly, and the proposal would bring this land into a productive use. Whilst I give these benefits moderate weight in favour of the proposal, they would not outweigh the substantial harm to the living conditions of nearby residents.

Conclusion

25. Notwithstanding my conclusions in respect of affordable housing and highway safety, I conclude that the proposal would lead to unacceptable harm to the living conditions of nearby residents. The proposal would therefore conflict with the development plan and the Framework as a whole with regards to visual amenity and achieving well-designed places.
26. For the reasons given above, and taking account of all material planning considerations, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR