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## Appeal Decision

Site visit made on 29 March 2019

**by N Smith BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 01 August 2019**

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**Appeal Ref: APP/N5660/W/18/3216953**

**80 Norwood High Street, London, SE27 9NW**

- 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 Sunny Singh against the decision of London Borough of Lambeth.
  - The application Ref 17/02336/FUL, dated 15 May 2017, was refused by notice dated 24 August 2018.
  - The development is retrospective application for the part change of use of ground floor level from Builders Merchant (B8 Use Class) and residential (Class C3) to Builders Merchant (Part Class A1, B1 and B8 Use Class) allowing the retail sale of goods to the public, including the display, sale and storage of building materials, plumbing supplied, plant and tools etc., and part change of use of first floor level from residential to office (Class B1); installation of glazed shop front and shutters; erection of ground floor rear extension; erection of rear roof extension and front rooflights; installation of new windows at first floor level and extension of opening hours to 07:30 to 17:30 (Monday to Friday) and 08:00 to 16:30 on Saturdays.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The description of development set out on the decision notice is different to that shown on the planning application form. Both main parties have adopted the former in their submissions, and it appears as though it formed the basis of consultation with third parties. Accordingly, I have taken it that it is agreed between the parties and proceeded on that basis.
3. I note the appellant's suggestion that the description should be further amended, but the specific concern raised relates to how the proposed Builder's Merchant use is described, which as will be seen from this decision, is not determinative in the outcome of this appeal.
4. The development that is the subject of this appeal has been carried out and I have assessed this appeal accordingly.

### Main Issues

5. The main issues in this case are:
  - Whether the development has resulted in a satisfactory standard of living accommodation, with particular regard to internal space;

- Whether the effect of the development on the safe and free flow of traffic is acceptable; and
- Whether the effect of the development on the character and appearance of the area is acceptable.

## **Reasons**

### *Living accommodation*

6. The appeal site contains a two storey, detached building with a yard to the side and rear. I do not have floor plans to show how the first floor of the building was used prior to the development taking place before me. However, it is clear from both parties' submissions that one component of the appeal scheme was to relocate a commercial office area from the ground floor to the first floor and to provide two-bedrooms in the extended roof space.
7. Policy 3.5 of the London Plan 2016 requires that housing developments are of the highest internal quality. At Table 3.3, it provides minimum space standards for new dwellings. These describe that a two bedroom flat over two storeys should have an internal floor area of at least either 70m<sup>2</sup> or 79m<sup>2</sup>, depending on whether it is designed for three or four people to live in. It sets out that at least 75% of the gross internal area should have a minimum ceiling height of at least 2.3m (and preferably, at 2.5m). In the absence of evidence to show the 'pre-existing' layout, I am satisfied that these standards are appropriate to apply here.
8. The Council considers the flat as being suitable for four people, and describes that it would have a floor area of around 67m<sup>2</sup>, falling short of the required 79m<sup>2</sup>. Additionally, only 34% of the gross internal area would have a headroom exceeding 2.3m, set against the required 75%. The appellant does not dispute these figures, which are clearly notably below the London Plan standards.
9. I had an opportunity to view the flat on my visit. I found that it generally felt small but of particular concern to me was the amount of usable space provided in the front facing bedroom on the second floor. The slope of the roof has the effect of removing very much of the usable space in that room such that beyond a bed, there is very limited space for other furniture or circulation. I do not think that it would be comfortable for either one or two people to occupy. The kitchen/living room is of a modest size which I do not think could compensate for the inadequate size of the bedroom.
10. I do not consider that the flat, overall, can be described as good quality for the reasons that I have described and as such, I find the appeal scheme to be in conflict with Policy H5 of the Lambeth Local Plan 2015 (LLP) and Policy 3.5 of the London Plan 2016, both of which require housing to be of a high standard.
11. The appellant has described that one way of alleviating this problem could be to convert the first-floor office space to part of the flat. Planning appeals should not be used to advance an alternative development proposal and I have assessed the scheme based on that before me.

### *Highways safety*

12. The Council's concerns in respect of the transport effects of the appeal scheme are three-fold. First, they consider that a parking survey should have been undertaken to understand the appropriate quantum of on-site parking and whether the development would result in problematic on-street parking; second, that larger vehicles can only exit the site in reverse; and third, that the proposed delivery arrangements suggest that vehicles might wait on the road for up to two minutes.
13. It is agreed between the parties that planning permission was granted for the use of part of the site as a Builder's Merchant in 2010. With the granting of that planning permission must have been the expectation that vehicles, including larger vehicles would visit and park at the site given the nature of the use.
14. One of the purposes of the appeal scheme is to sell goods both to the general public and to trade rather than just to trade. There is nothing before me to demonstrate why using the site in this way, rather than solely to sell to trade customers, would result in a materially greater impact on parking demand, either on or off-site, than was the case in 2010. Whilst the sales area would be larger as a result of the rear extension and the rearrangement of space around the building, it would not be significantly so.
15. If there was an increase in demand, it would likely be mostly in smaller vehicles (driven by new 'public' visitors'). When I visited the site, the three on-site spaces were available for use and on that occasion, I did not find on-street parking conditions problematic. There was no evidence at that time, that parking associated with the use was causing difficulties and no substantive technical evidence has been provided to me that this is the case.
16. Overall, I am not persuaded that the change in the way that the business at the site is being used has any material impact on parking availability, when compared with the previously approved use.
17. Similarly, there is nothing before me to substantially differentiate between the appeal scheme and the previous use in terms of the effects of large vehicles visiting the site. It is agreed between the parties that larger vehicles cannot leave the site in forward gear.
18. The appellant has described that trained staff members support drivers in reversing out of the site. The Council says that this is not an acceptable way to enter the highway and I agree with them. I witnessed this taking place twice on my visit and despite the diligence of the staff members involved, it was clearly disruptive to the free flow of traffic, in my opinion.
19. However, when the Council granted planning permission in 2010 it did so subject to the condition that vehicles could only enter and leave the site in forward gear. Whether that condition has been complied with or not is a matter for the parties, rather than this appeal.
20. I have reservations as to appropriateness of imposing such a condition, given how challenging it could be to enforce. On balance, however, given that it has previously been imposed and giving weight to consistency in decision making, I would have been minded to impose a similar condition had this appeal been allowed, in the absence of evidence to suggest that this would not be an appropriate way to proceed. On that basis, and based on the evidence

before me, I am satisfied that this concern could be addressed by way of a planning condition.

21. Lastly, the Council describes that a Delivery and Servicing Plan submitted in support of the appeal application describes that vehicles could wait for up to two minutes in the road before entering the site. I do not have that document before me, but I can understand why that would be of concern.
22. I am satisfied that in the event that this appeal was allowed, an appropriately worded planning condition securing a revised Plan could be imposed to overcome this concern.
23. Overall, for the reasons that I have described and with the previous 2010 planning permission in mind and subject to conditions that would have been imposed if this appeal was allowed, I am satisfied that the appeal scheme would be in accordance with Policies T6, T7 and T8 of the Lambeth Local Plan 2015, which seek, in general terms, to ensure that the traffic and parking implications are development are acceptable.

#### *Character and appearance*

24. The Council is concerned that the roller shutter installed at the site is unsympathetic to the street scene. The appellant has proposed that a condition securing a more appropriate design could be imposed in the event of this appeal being allowed. The Council appears to accept that this would be an appropriate way of resolving this matter.
25. On that basis, I am satisfied that in the event that this appeal had been allowed, a condition could have achieved the objectives of Policy Q16 of the LLP 2015, which seeks to ensure that security arrangements are of an appropriate design, amongst other requirements.

#### **Conclusions**

26. For the reasons that I have described, whilst I have found with the appellant on the highways impacts of the appeal scheme, and am satisfied that conditions could secure a satisfactory effect on the character and appearance of the area, I have found with the Council regarding the acceptability of the living accommodation provided at the site.
27. As such, the development conflicts with the development plan as a whole, and so the appeal is dismissed.

*N Smith*

INSPECTOR