



Appeal Decision

Site visit made on 1 October 2019

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 29 October 2019

Appeal Ref: APP/N5660/W/19/3227991 49 Abercairn Road London SW16 5AE

- 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 Chibueze Obi against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 18/04056/FUL, dated 20 September 2018, was refused by notice dated 24 January 2019.
 - The development proposed is described as 'creating two flats in the existing house and adding a second floor bedroom in the roof space.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council altered the description of proposed works to 'conversion of the house into 2 flats together with the erection of front and rear single storey ground floor extensions and a rear dormer roof extension with the installation of 3 rooflights to the front elevation.' This is also the description used by the appellant on the planning appeal form. I consider this to be a more accurate description of the proposed development. I have therefore considered the appeal on that basis.
3. A revised version of the National Planning Policy Framework (the Framework) was published on 19 February 2019 after the Council made its decision. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication. The parties have had an opportunity to comment upon the Framework as part of the appeal and I have therefore determined the appeal on that basis.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the supply of family housing, having regard to provisions in the development plan;
 - Whether the proposed development would provide satisfactory living conditions for future occupiers of the upper flat, with particular regard to internal space;

- Whether the proposed development should make a contribution to the provision of off-site affordable housing and if so, whether a method of securing any contribution has been provided;
- The effect of the proposed single storey rear extension on the living conditions of the occupiers of No 47 Abercairn Road, with particular regard to light; and
- The effect of the proposed dormer to the rear and the proposed porch to the front on the character and appearance of the host building and the surrounding area.

Reasons

5. The appeal property is a two storey, mid-terrace dwelling located on the south-eastern side of Abercairn Road within an established residential area. It has a rendered exterior and tiled roof. The building is typical of the development in the surrounding area, the streetscene of which is generally characterised by two storey, terraced houses which are set back from the street with boundary treatment to the front and an enclosed private space to the rear. The regularity of the form of the dwellings and consistent building line of the terraces combined with the broad streets give a strong rhythm and open feel to the area.

Supply of family housing

6. The proposed development would comprise the conversion of a single, three bedroom house into two self-contained flats, a one bedroom, two person flat on the ground floor and a two bedroom, four person flat on the first floor and roof level. Policy H6 of the Lambeth Local Plan (LLP) (September 2015) seeks to ensure mixed and balanced communities with a choice of family-sized housing and states where the Council will protect dwellings suitable for occupation by families from conversion into flats or houses in multiple occupation.
7. In areas within the borough under conversion stress, Policy H6(a)(i) protects all dwellings suitable for occupation by families from conversion. Outside of these areas, Policy H6(a)(ii) protects dwellings suitable for occupation by families from conversion where they are not on the main road network and are of less than 150 metres square (msq) as originally constructed. The appeal property falls within the Council's definition of a dwelling suitable for occupation by families, it is not situated on the main road network and, as originally constructed, it is approximately 81msq. Therefore, it is protected from conversion by the policy.
8. The appellant contends that the policy seeks a balance between the provision of additional housing and maintaining family housing. However, supporting text to the policy clearly states that conversions should not be at the expense of maintaining the existing stock of family accommodation. The appellant also states that very few planning applications have been sought to convert existing family homes into non family uses in the surrounding area and that a significant supply of similar dwellings to the appeal property exists. However, no substantive evidence has been submitted to verify this and, in any event, it would not justify the loss of a dwelling suitable for occupation by families.
9. Accordingly, having regard to the provisions of the development plan, I conclude that the proposed development would result in the loss of a dwelling

suitable for occupation by families. As such, it would conflict with Policy H6(a)(ii) of the LLP which, amongst other things, seeks to ensure mixed and balanced communities with a choice of family-sized housing and to manage the cumulative effects of residential conversions on environmental quality and local amenity.

Satisfactory living conditions for future occupiers of the upper flat

10. The minimum space standards as stated within the Technical housing standards – nationally described space standard (Technical housing standards) (2015) are reflected in Policy 3.5 of the London Plan (LP) (2016). Table 3.3 of the Policy illustrates these standards and requires a minimum gross internal area of 79msq for a two bedroom, four person, two storey unit and an additional 2msq of built in storage. In addition, the provision of a minimum floor to ceiling height of 2.5m for at least 75% of the dwelling area is strongly encouraged.
11. The upper flat (stated as flat 2 by the Council and flat B by the appellant) would only provide a gross internal area of 77msq and have no built in storage. No information has been provided regarding the floor to ceiling heights. I acknowledge that the proposed development is a conversion (rather than new build) with consequent physical constraints, and that the internal space provided would be just below the required space standards. However, the standards are a minimum which developers are encouraged to exceed. The upper flat would fall short of the requirement and result in cramped accommodation which would not be of a high quality and would not provide satisfactory living conditions for future occupiers.
12. Therefore, I conclude that the proposal would not provide satisfactory living conditions for future occupiers of the upper flat, with particular regard to internal space. As such it would fail to comply with Policy H5 of the LLP, the Technical housing standards and the London Plan Housing Supplementary Planning Guidance (2016) which, amongst other things, require that new residential development should accord with the principles of good design and meet prescribed space standards. Although not cited in the reason for refusal, it would also conflict with Policy 3.5 of the LP which requires that boroughs should seek to ensure that new development reflects its minimum space standards. The Council also cites Policy H6 of the LLP in its reason for refusal. However, as the proposal has already been concluded as being contrary to Policy H6(a)(ii), I do not consider it relevant to this main issue.

Affordable housing

13. The proposed development would create one new residential unit. Policy H2(a)(ii) of the LLP requires housing development sites providing fewer than 10 units to make a financial contribution in line with the Council's preferred methodology towards the delivery of off-site affordable housing. In addition, Policy 3.12 of the LP requires boroughs to maximise the delivery of affordable housing.
14. In contrast, Paragraph 63 of the Framework states that the provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas.

15. The Council asserts that the level of need for affordable housing within the borough is very significant and that this is evidenced by a Local Housing Needs Assessment (2012) and the Lambeth Strategic Housing Market Assessment (2017). Furthermore, the Council states that sites of fewer than 10 units make a significant contribution to the overall supply of housing in the borough and an analysis of viability has demonstrated that contributions on sites of fewer than 10 units are viable. These matters weigh significantly in favour of seeking a contribution towards affordable housing.
16. Planning law¹ requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Having regard to the information provided by the Council, I consider that the specific circumstances within this borough sufficiently justify that the appeal should be determined in accordance with the development plan, namely Policy H2 of the LLP and Policy 3.12 of the LP. Although the Framework is a material consideration, in this instance, it would not outweigh the development plan.
17. The appellant acknowledges the requirement to make a financial contribution to ensure the delivery of affordable housing, but states that given the Council's objections to the proposal, the incurrence of additional costs relating to the preparation of a draft agreement was not justified. On this basis, the information submitted with the appeal does not include any formal commitment towards a financial contribution for the delivery of off-site affordable housing or a method of securing it.
18. Accordingly, I conclude that the proposed development should make a contribution to the provision of off-site affordable housing and no method of securing any contribution has been provided. As such it would conflict with Policies H2 and D4 of the LLP and Policy 3.12 of the LP which, together, seek to provide affordable housing to meet the identified need within the borough.

Living conditions of the occupiers of No 47 Abercairn Road

19. Policy Q2 of the LLP states that development will be supported if it would not have an unacceptable impact on levels of daylight and sunlight on the host building and adjoining property.
20. The proposed flat roofed single storey extension to the rear would measure 3m in depth, 5.3m in width and 3m in height. It is apparent when applying the 45 degree approach that, by virtue of its depth, height and close proximity to the shared boundary with No 47 Abercairn Road, it would potentially reduce the amount of light received in the ground floor kitchen window of No 47 Abercairn Road.
21. Although the appellant acknowledges the need to protect the amenities of the occupiers of No 47 Abercairn Road, a Building Research Establishment (BRE) compliant daylight and sunlight assessment was not submitted as part of the application and no additional information has been submitted as part of the appeal. In the absence of any information regarding this issue, I cannot be fully satisfied that the proposed single storey rear extension would not be harmful to the living conditions of the occupiers of No 47 Abercairn Road.

¹ S38(6) of the Planning and Compulsory Purchase Act 2004

22. Therefore, with no evidence to the contrary, it cannot be confirmed that the proposed single storey rear extension would not be harmful to the living conditions of the occupiers of No 47 Abercairn Road, with particular regard to light. As such, it would conflict with Policy Q2 of the LLP which, amongst other things, seeks to protect the amenity of neighbours.

Character and appearance

23. Policy Q5 of the LLP aims to sustain and reinforce the local distinctiveness of Lambeth and Policy Q11 of the LLP provides guidance on any proposals for the alteration or extension of dwellings.
24. The proposed rear dormer addition would have a flat roof, would extend over practically the full width and depth of the rear pitch of the roof and would be constructed of materials to match the existing house. The appellant acknowledges the importance of achieving a high quality of design. However, notwithstanding that it would not be visible from public routes, I consider that, by virtue of its form, size and scale, the proposed dormer would be a top-heavy, unduly dominant and incongruous addition to the rear pitch of the roof and would be wholly out of keeping with the character and appearance of the host building.
25. At present the appeal property possesses a modest canopy over the front door which appears to be original to the building and is replicated on other properties along the street. The proposed porch would extend beyond the building line of the adjacent bay window, would have a mono-pitch roof and would be rendered to match the host building. The appellant acknowledges the requirement to achieve a high standard of design. However, I consider that, by virtue of its form, height and depth, the proposed porch would be an overly prominent and discordant addition to the front of the property that would detract from the character and appearance of the host building and would fail to respond to the positive aspects of the local context.
26. To conclude on this issue, I consider that the proposed dormer to the rear and the proposed porch to the front would have a harmful effect on the character and appearance of the host building and the surrounding area. As such they would conflict with Policies Q5 and Q11 of the LLP which, amongst other things, seek to sustain and reinforce local distinctiveness and ensure the design of building alterations and extensions responds positively to the original architecture, roof form, detailing, fenestration of the host building and other locally distinct forms.

Other Matters

27. I am aware that in June 2018 the Council granted a Lawful Development Certificate² for works to 49 Abercairn Road that constitute permitted development, comprising a rear roof extension, three rooflights within the front roofslope and two windows in the rear, front porch and rear extension. The appellant has confirmed that, regardless of the outcome of this appeal, these works will proceed as approved. Be that as it may, in my view, this fallback position does not outweigh the totality of the harm I have found with regard to the proposed development as a whole and its failure to comply with the relevant policies of the adopted development plan.

² 18/01670/LDCP

28. The appellant highlights the Framework's presumption in favour of sustainable development and that the proposal would result in additional much needed housing, as identified in the current development plan provisions. I accept that the proposed development in an accessible location and an established residential urban area such as this would contribute to the housing need within the borough. However, any benefits arising from the net gain of a single dwelling in terms of meeting the borough's housing needs would be limited and would not outweigh the totality of the adverse effects of the proposed development and its conflict with the development plan.
29. I note that no technical objections were received from Veolia Environmental Services or Transport Lambeth and that no comments were received from Streatham Society or Streatham Action. However, these are neutral considerations in the balance and do not outweigh the harm I have identified.

Conclusion

30. For the reasons given above, I conclude that the appeal should be dismissed.

F Cullen

INSPECTOR