



Appeal Decision

Site visit made on 10 September 2019

by M Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2019

Appeal Ref: APP/N5660/W/19/3222333

8A Rozel Road, London SW4 0EP

- 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 Steve Vernon against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 18/02070/FUL, dated 10 May 2018, was refused by notice dated 4 October 2018.
 - The development proposed is demolition of the existing single storey building and the erection of a single storey building with basement including the formation of 2 rooflights with walk on glass to provide for a 1 x 2 bed residential dwelling house (Class C3).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues raised in this case are whether or not:
 - The scheme should make a contribution towards the provision of affordable housing, and
 - The future occupiers would experience acceptable living conditions in respect of external space provision and outlook.

Reasons

Affordable housing

3. Policy H2 of the Lambeth Local Plan (2015) (the Local Plan) sets out that the Council will seek a contribution towards affordable housing in respect of all residential and mixed-use schemes. This level of contribution is based on current and future housing requirements within the borough. The policy also outlines that in respect of securing any affordable housing provision, financial viability will be a consideration.
4. However, paragraph 63 of the National Planning Policy Framework (the Framework) outlines that the provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas. Notwithstanding this, the Council highlight 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 in a Strategic Housing Market Assessment (2017). It further highlights that sites of fewer than 10 units make a significant contribution towards the 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. The appellant has not disputed these matters.

5. Having regard to this information therefore, I consider that the specific circumstances within this borough together with the policy of the development plan are sufficient, in this case, to outweigh the guidance of the Framework. Accordingly, subject to financial viability matters, a contribution should be sought.
6. The appellant has submitted financial viability information which contends that the scheme is not sufficiently viable to support the provision of a contribution towards affordable housing. The Council comment that the stated build costs are higher than that which would normally be expected for a house. The appellant explains that this is due to the scheme requiring a significant amount of basement construction, which would include a reinforced concrete floor slab and steel piled party walls, together with possible underpinning of neighbouring properties. Given the circumstances of the site, I consider this to be reasonable.
7. The main dispute appears to be over the value that is attached as the existing use value (EUV) and the sale price of the completed development.
8. The appellant contends that £307,000 is the appropriate figure for the EUV, which appears to be derived from the purchase price of the site. This is on the basis that when the site was purchased it benefitted from an extant planning permission (which has since lapsed). Given the previous presence of planning permission on the site, it is stated that this demonstrates the suitability of the site for residential development and consequently a residential value for the site was appropriate. The Council contend that the purchase price paid is unrelated to the EUV.
9. The Council's Supplementary Planning Document – Development Viability (2017) (the SPD) states that "the land value should reflect development plan policies, planning obligations and CIL payment". I appreciate that when the appellant purchased the site, it was on the basis that there was an extant planning permission without any requirement for affordable housing provision. However, that permission has now lapsed. The Council highlight that the previous planning permissions on the site were granted under a different policy framework. In determining the EUV of the site, the relevant current requirements in respect of contributions towards affordable housing must be taken into account.
10. As such, whilst the price originally paid reflected the extant planning permission and there being no affordable housing contribution required, neither of these circumstances remain at this present time. This must inevitably temper the current value of the site, compared to that which it previously commanded. As such, I consider that a reduction of the appellants figure would be appropriate.
11. The sales value stated by the Council is above that which the appellant contends is appropriate. I note that there is reference to the Council utilising a guidance note to calculate the predicted sales value, however no further information is provided in this respect. By contrast, the appellant provides an

assessment of likely comparable sales, accepting that there are no direct comparables, which indicates that a lower sales value is appropriate. I agree with the information provided by the appellant.

12. Based on the appraisal undertaken by the appellant, utilising the lower of the sales values referred to above, and including no affordable housing contribution, a profit of below 7% of the Gross Development Value (GDV) would be achieved. However, this is on the basis of the higher EUV and not a reduced EUV which takes into account the current requirement for an affordable housing contribution. If one of the lower values suggested by the Council for the EUV was utilised, the profit realised from the development would be greater than that indicated in the appellants appraisals. The appellants viability assessment sets a benchmark profit value of 18% of GDV. Based on the evidence that is before me, I am unable to conclude that the scheme cannot deliver this profit as well as a partial contribution towards affordable housing.
13. Thus, I am unable to find that the scheme would comply with Policy H2 of the Local Plan, which seeks to secure the maximum reasonable amount of affordable housing, taking into account the development viability of individual sites.

Living conditions

14. Policy H5 of the Local Plan requires that for new houses, external amenity space of 30 square metres (sqm) should be provided for each unit.
15. The scheme includes provision for external amenity space to the rear and to the front of the proposed dwelling. To the rear, based on the Councils figures, 21.81 sqm of space would be provided. This would include the area covered by two walk-on skylights serving an en-suite bathroom and dressing area of the basement below. Whilst the Council have excluded the area covered by the skylights from their calculation of useable garden space, I see no reason why these areas should be so excluded. The areas of the basement which they serve below do not comprise primary living accommodation and whilst this approach to garden space provision is innovative, there is no substantive evidence before me to demonstrate that it would be harmful.
16. The scheme also includes a garden space to the front of the dwelling, which the Council contend should not be included as part of the consideration of external space, as it was not considered that this space was private. However, the space would be enclosed along the footway by a high wall which would prevent views into the space from passers-by. Whilst there may be some views from neighbouring properties, this would not be unusual in such urban environments and would not result in the space being insufficiently private. The Council states that this space would extend to 10.05 sqm, but further comment that the footpath leading to the front door would reduce this figure. I consider that it would not be unusual for garden spaces to contain access routes and see no reason why this would be excluded from the calculation of the size of the garden, particularly given that the access will not be in use at all times and serves only the appeal property.
17. I note there is also reference to paragraph 10.59 of the Local Plan which it is contended resists the use of front gardens as amenity space. However, it is clear that it is the use of front gardens as the only private amenity space that

- is to be resisted. Given the provision of external space to the rear of the property, the front garden would not be the only private space provided.
18. There is reference to the irregular shape of the external space, however the layout of the spaces is not so contrived so as to reduce their usability. Furthermore, despite the presence of some high boundaries, given the variety in the positioning of the external spaces, in my view, there would be areas that would receive sufficient daylight throughout the course of the day. Thus, the quality of the spaces would be acceptable. Similarly, despite the confined nature of the site, there would be adequate outlook from the rear external space so as not to result in an unacceptable sense of enclosure.
19. The bedrooms, which are located to the basement level, would each be served by a lightwell. In my view, this would ensure that sufficient light reaches the bedrooms and, whilst not being extensive, would provide an area of outlook beyond the confines of the rooms themselves. Given the use of the rooms as bedrooms, and not as main living space, this would provide a sufficient outlook. I am conscious of an appeal at a different site that the Council have cited in their appeal statement, which concludes that the outlook from that scheme's habitable space would be restricted and enclosed. However, that scheme proposed the main outlook from the living/dining/kitchen space onto an enclosed area. Clearly, this is different from the circumstances of the appeal scheme before me.
20. Accordingly, I find that future occupiers would experience acceptable living conditions in respect of external space provision and outlook. Thus, the scheme would accord with Policies H5 and Q2 of the Local Plan. Together, and amongst other things, these policies seek to ensure that adequate external amenity space is provided within new residential units and that adequate outlook is provided within development.
21. The Council also refer to Policy H6, however this policy refers to residential conversions. As the scheme proposes the demolition of an existing building and the construction of a new property, I do not consider this policy is relevant.

Other Matters

22. Concern has been expressed by interested parties in respect of the excavation required to accommodate the below ground accommodation. Subject to appropriate planning condition requiring details in this respect, there is no evidence that this would result in any harm. Furthermore, there is no substantive evidence before me to show that the standard of the construction will not be acceptable.

Conclusion

23. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Martin Allen

INSPECTOR