



Appeal Decision

Site visit made on 29 October 2019

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd December 2019

Appeal Ref: APP/N5660/W/19/3234329

56 Madeira Road, London SW16 2DE

- 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 M and Mrs J Jamilia Chaudary against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 19/01882/FUL, dated 22 May 2019, was refused by notice dated 19 July 2019.
 - The development proposed is described as 'alteration of basement to increase floor to ceiling height, increase windows and lightwells to basement, provide railings, change ground floor flat B to a two bedroom flat from a studio by using basement and divide flat C 115 m2 flat to create an additional one bedroom flat'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In the banner heading above I have taken the appellants name from the appeal form, for the sake of completeness.
3. At the time of my site visit, the works relating to the basement, including the provision of windows and lightwells to the front and rear and alterations to the ceiling height, had already been largely completed. Other proposed internal and external works, including the provision of external railings, had not been carried out. I am satisfied that the submitted plans accurately reflect what I saw on my site visit, and I have assessed the appeal scheme based on them.

Main Issues

4. The main issues are:
 - Whether the development would make an appropriate contribution towards the provision of affordable housing;
 - Whether the development would provide a balanced and appropriate housing mix;
 - The effect of the development on living conditions of the existing and future occupiers of Flat 'B', with particular regard to outlook and light; and,
 - The effect of the development on the character and appearance of the area.

Reasons

Affordable housing

5. Policy H2 of the Lambeth Local Plan 2015 (the Local Plan) sets out that the Council will seek affordable housing on sites providing fewer than 10 residential units by way of a financial contribution towards off-site provision. The Council has submitted evidence to justify the policy approach of the Local Plan with regards to affordable housing, along with several recent appeal decisions which have concluded that affordable housing was required on a range of different sites providing less than 10 dwellings.
6. The submitted evidence identifies an acute shortage of affordable housing across London, and it details that the demand for affordable housing in Lambeth will remain high as indicated by Lambeth's Strategic Housing Market Assessment 2017. Furthermore, it is evidenced that small sites make a significant contribution to Lambeth's housing supply, in terms of both the number of schemes approved, and those completed. I find the evidence submitted is robust and clearly justifies the Local Plan policy position.
7. Therefore, although paragraph 63 of the National Planning Policy Framework (the Framework) states that affordable housing should not be sought for residential developments that are not major developments other than in designated rural areas, and it is a material consideration in the determination of this appeal which attracts great weight, it is not sufficient, in this instance, to outweigh the development plan policy supported by significant evidence.
8. I am aware that the Council did not seek an affordable housing contribution in relation to the residential units associated with the previous planning permission¹, but the reasons for this are not clear. Be that as it may, the current proposal would provide an additional dwelling over and above the previous planning permission, and as it would involve additional residential development, an affordable housing contribution would be required. The evidence shows me that sites such as this have been crucial in contributing to the significant affordable housing needs across the borough.
9. Policy H2 of the Local Plan also states that the Council will take into account development viability and the specific circumstances of individual sites when assessing the requirement for affordable housing. In this instance, no viability appraisal has been submitted, and whilst the appellants state that the flats would provide economic rentals and are used by Council tenants, no detailed evidence has been provided to support this assertion in relation to the proposal. Therefore, the specific circumstances of this case, including viability, are not sufficient to outweigh the requirement to provide the necessary affordable housing contribution.
10. The appeal is not accompanied by a S106 planning obligation relating to the provision of affordable housing, nor do I consider that this matter could be 'conditioned'. The Planning Practice Guidance² advises that only in exceptional circumstances should a negatively worded condition requiring a planning obligation or other agreement be entered into before certain development can commence in more complex and strategically important development. I am not satisfied that the level of development proposed could be considered

¹ Council of the London Borough of Lambeth planning reference - 18/02762/FUL

² Planning Practice Guidance Reference ID: 21a-010-20190723

complex or strategically important, and therefore the required contribution would need to be delivered by a legally sound planning obligation.

11. As a result of the foregoing, I conclude that the development would not make appropriate provision for affordable housing. It would therefore be contrary to Policy H2 of the Local Plan which seeks, amongst other matters, a contribution towards affordable housing on sites providing fewer than 10 dwellings, having regard to the specific circumstances of the site. It would also be contrary to Policy 3.12 of the London Plan 2016 which seeks, amongst other things, to ensure the maximum reasonable amount of affordable housing is sought on individual private residential schemes.

Housing mix

12. Policy H4 of the Local Plan seeks to ensure mixed and balanced communities and the provision of a range of dwelling sizes, including family sized housing. Family sized housing is defined in the Policy as accommodation with three or more bedrooms.
13. The appeal site has a long planning history, but the most relevant consideration in respect of this issue relates to the previous planning permission which sought, in part, to regularise a range of unauthorised works. The previous planning permission consented a total of 3 no. residential units, comprising a single 4 bedroom flat located over the first and second floor, along with two studio flats at ground floor, with the basement to be utilised as storage. The appeal proposal would provide a total of 4 no. flats, including a 2 bedroom flat utilising the basement and part of the ground floor, a studio flat within part of the ground floor, and a 2 bedroom flat and a single bedroom flat at first and second floor respectively.
14. Policy H6 of the Local Plan details that in parts of the borough under conversion stress, all dwellings suitable for occupation by families should be protected from conversion into flats. The subtext to this Policy goes on to state that dwellings suitable for occupation by families means houses, purpose-built maisonettes and duplex dwellings with ground-floor access to a rear garden, with three or more bedrooms.
15. There is no dispute between the main parties that Madeira Road is deemed to be a street under conversion stress. The Council's officer report clarifies that, prior to the previous planning permission, the Council considered that the likely lawful use of the appeal building was for two flats, a view clarified by a recent appeal decision on the appeal site³, although I do not know whether either of these flats would have been suitable for occupation by families under the terms of Policy H6, nor whether they would have constituted family sized dwellings.
16. In any event, the previous planning permission consented a family sized residential unit across the first and second floor of the appeal building. However, as this involved a dwelling above ground floor level, it would not comprise a dwelling suitable for occupation by families. To my mind, the previously approved layout would likely reduce the functionality of the family sized dwelling, which would be likely to make it more difficult for children to access the garden area and for residents when carrying items such as push chairs up and down flights of stairs.

³ Planning appeal reference - APP/N5660/W/16/3156332

17. Consequently, even though the previous planning permission by virtue of the number of bedrooms proposed in one of the flats, involved a family-sized dwelling, it did not appear to comprise a dwelling which would meet the definition of being suitable for occupation by families. Having regard to this, and the fact that the proposal would provide additional residential units and would contribute to the overall mix of housing types in the area, and the historic use of the appeal property, I am satisfied that in the circumstances of the case, the proposal would provide an appropriate and balanced mix of market unit sizes.
18. In conclusion therefore, I find that the mix of dwellings proposed would be appropriate, and the requirement to provide a family dwelling within the appeal building would not be justifiable in this case. Consequently, I find no conflict with Policies H4 and H6 of the Local Plan which require, amongst other matters, that an appropriate mix of housing is provided, including the protection of existing dwellings suitable for occupation by families.

Living conditions

19. The proposal would utilise the basement rooms as two bedrooms, used in connection with a single residential unit, with the additional living space provided at ground floor level (Flat B). As I saw on my site visit, the ceiling height in the basement had been raised, alterations had been made to the windows sizes and positions, and the size of the lightwells fronting each of the rooms had been increased, in comparison with the details permitted under the previous planning permission.
20. The Council does not dispute that the bedrooms proposed within Flat B would be large enough and have sufficient headroom in order to provide acceptable living conditions for occupiers. Their concerns relate to the suitability of the lightwells and windows in providing adequate levels of outlook and light.
21. The outlook from the windows within each bedroom are partially restricted due to the proximity of the walls which form the edge of the lightwells. However, the walls only obscure part of the windows, and the upper portions of both the front and rear windows have obtainable views beyond the walls of both lightwells. The railings would be permeable and to my mind would not unduly restrict the views obtainable from these windows.
22. Furthermore, with the lights switched off in each room, neither appeared to be particularly dark or gloomy, and each of the openings served their main purpose, to allow the sufficient penetration of light into the habitable space, as well as providing outlook which is not unduly restricted. I am satisfied, on balance, that each of the proposed rooms provides adequate provision in terms of outlook and light.
23. There are no objections from the Council relating to the obtainable outlook or light in any of the other rooms within Flat B, or the living conditions for the occupants of any of the other flats within the appeal building. Based on my site visit and the evidence before me, I have no reason to take a different view.
24. In conclusion, the development would provide adequate provision in terms of outlook and light ensuring acceptable living conditions for existing and future occupiers. It would meet the requirements of Policy Q2 of the Local Plan by ensuring adequate outlook and light is provided for existing and future users.

Character and appearance

25. Madeira Street is characterised by ornate period properties set back slightly from the street, with front facing bay windows. Street facing boundary treatments are diverse, out of step with the more regimented form and appearance of the properties on the street.
26. In granting the previous planning permission, the Council allowed smaller lightwells to the front and rear of the appeal property, with a rooflight at the top of the front facing lightwell, flush with the ground level. The consent included a planning condition requiring landscaping works to be undertaken within the front garden which, at the time of my site visit, had not been carried out.
27. In respect of the appeal proposal, even though the front facing basement window and lightwell that surrounds it is visible from the street, the depth of the hardstanding in front of the appeal property serves to limit its prominence from the street, and the lightwell does not occupy a large proportion of this hardstanding area. The lightwell 'wall' protrudes only slightly above the existing ground level, obscuring a large proportion of the window, and the proposed railings would be similar in type to existing railings at the front of the property, which would assist in assimilating the development when viewed from the street.
28. The basement window is centrally positioned underneath the glazing located within the main bay window and its relative narrowness, and the fact that only the upper part of the window is visible from the street, means that it does not appear out of character with the fenestration pattern or appearance of the appeal building. The provision of additional landscaping, which could be secured by the imposition of a planning condition, would further reduce views of the window and lightwell from the street. With this in mind, the development would not harm the prevailing street scene.
29. I therefore conclude that the development would not harm the character and appearance of the area. Accordingly, there is no conflict with Policies Q2, Q5 and Q11 of the Local Plan. These policies seek to ensure, amongst other matters, that new lightwell excavations are in keeping with the style and design of the host building and area, minimise visual impact through good design, and ensure local distinctiveness is retained. The railing enclosures ensure that the overall development would adhere to the requirements set out in the Building Alterations and Extensions Supplementary Planning Document 2015.

Other Matters

30. The proposal would not provide any additional off-street car parking. The Council raises no objection in principle to this element, but they would require the proposal to be a 'car free' development. No mechanism to secure a car free development, to restrict on-street parking, has been put to me as part of this appeal. However, as this matter was not included in the Council's reasons for refusal, and as I am dismissing the appeal for the reasons given, it has not been necessary for me to pursue this matter further.

31. Whilst the appellants do not consider that the Council have dealt with the planning application in a co-operative manner, this is a matter between the main parties which has had no bearing on the planning merits of the case.

Conclusion

32. I therefore conclude that, for the reasons given, the appeal is dismissed.

Matthew Woodward

INSPECTOR