

Appeal Decisions

Site visit made on 25 November 2019

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 2nd February 2020

Appeal Ref: APP/E5330/C/19/3225934 (Appeal A)

Land to the rear of 5 and 6 Vicarage Park, Plumstead, London SE18 7SX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Nabil Yousfi (Marwan Motors) against an enforcement notice issued by Royal Borough of Greenwich Council.
 - The enforcement notice was issued on 15 March 2019.
 - The breach of planning control as alleged in the notice is without planning permission:
 - (i) the unauthorised demolition of existing buildings within the last four (4) years;
 - (ii) the unauthorised construction of a single storey structure with a double hipped roof within the last four (4) years;
 - (iii) the unauthorised construction of a single storey structure with a flat roof within the last four (4) years; and
 - (iv) the unauthorised installation of a septic tank within the last four (4) years;
 - The requirements of the notice are:
 - (i) to permanently remove the unauthorised buildings and septic tank from the Property; and
 - (ii) to permanently remove from the Property all debris and spoil generated as a result of the requirement (i) above.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended. Since the development is exempt from the payment of fees, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Appeal Ref: APP/E5330/W/19/3225201 (Appeal B)

Land on the back of 5 and 6 Vicarage Park, Plumstead SE18 7SX

- 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 Nabil Yousfi (Marwan Motors) against the decision of Royal Borough of Greenwich Council.
 - The application Ref 17/2772/F, dated 29 August 2017, was refused by notice dated 7 January 2019.
 - The development proposed is demolition and [sic] rebuild of a mechanic workshop.
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Decisions

1. Appeal A is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.
2. Appeal B is dismissed.

Appeal A on ground (a) and the deemed planning application; Appeal B

Main Issues

3. The main issue in Appeal A is the effect of the development on the character and appearance of the streetscene and Plumstead Common Conservation Area (CA).
4. The main issues in Appeal B are:
 - the effect of the development on the character and appearance of the streetscene and Plumstead Common Conservation Area (CA);
 - the effect of the development on the living conditions of neighbouring occupiers as regards noise, light, vibrations, odour, fumes, dust and water; and
 - recycling and refuse space.

Reasons

Character and appearance

5. The appeal site lies within the CA. I have applied the statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paid special attention to the desirability of preserving or enhancing the character or appearance of the CA by attaching considerable importance and weight to that desirability.
6. The CA's significance is derived from ancient common land in a setting of Victorian houses and other buildings on its rim. The appeal property and neighbouring properties form part of this rim and are situated reasonably close to Plumstead Common. While the appeal development faces onto a modern and predominantly 2-storey residential estate along Vicarage Road, from where it is accessed, it is experienced in the foreground of a tall row of Victorian terraced houses to its rear in Vicarage Park which contribute positively to the significance of the CA as a heritage asset. The visual impact of built-form on the appeal site within this context is increased by reason of the east side of Vicarage Road consisting largely of the rear gardens of the residential properties located on Vicarage Park, albeit with some sub-division of the land having occurred over time and the existence of a relatively small number of modest outbuildings and sheds.
7. Before the appeal development, the site was principally occupied by two pitched-roofed single storey structures constructed adjacent to one another and staggered on the site, with the larger of the two being stepped forward. The site also featured a mature lime tree which was subject to a tree preservation order.
8. Notwithstanding that the appeal development provides a modest increase in overall building footprint, the new double pitched-roofed structure is significantly taller than the pre-existing structures and particularly so in the case of the structure which had occupied the rear of no 6 Vicarage Park. Further, the stepping forward of heightened built-form on the northern part of the site towards the boundary adds to the dominance of the consolidated building when seen from Vicarage Road in comparison to the pre-existing arrangement. The total effect of these changes is a development that is overly

dominant in height, scale and bulk and considerably more dominant than other outbuildings and structures in the streetscene on the eastern side of Vicarage Road.

9. The materials used in the development, particularly the white plastic cladding to the large gable ends and the grey cinderblocks visible to the northern elevation accentuate its dominance and further create a sense of disharmony with its surroundings. The new yellow-bricked single storey flat-roofed structure to the front of the site and the adjacent red-bricked boundary wall add further elements of jarring contrast between built-form within the site and against the local setting within the street and CA.
10. Notwithstanding that there was a similar commercial use on the site for some years, the new highly-visible and dominant appeal development asserts a greater commercial impact on the area and detracts from the contribution made by the residential character of properties around the ancient common land. The removal of the mature protected lime tree increases the harmful sense of commercial intensification of the land, and it is unclear how a similar mature specimen could be replanted with the appeal structures in place.
11. Therefore, for all of the above reasons, the appeal development causes significant harm to the character and appearance of the streetscene and the CA. Having regard to paragraph 196 of the National Planning Policy Framework (the Framework), whilst the harm caused to the significance of the CA is less than substantial, it is a matter of considerable weight and importance. The development creates economic benefits through the expansion of a business and employment of persons, providing a vehicle maintenance service in a built-up location near public transport access. However, these public benefits do not outweigh the harm.
12. I conclude the development fails to preserve the character or appearance of the streetscene and the CA, and causes less than substantial harm to the CA's significance as a designated asset. The public benefits do not outweigh this harm and the development is therefore contrary to Policies 7.4, 7.6 and 7.8 of the London Plan (2016)¹ (LONP) and Policies DH1, DH3 and DH(h) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies (2014) (LP) which together seek to ensure that developments are of good design and protect the character and appearance of places, including conservation areas. The development is also contrary to the heritage protection principles in Chapter 16 of the Framework.

Living conditions

13. The site has been in use as a mechanics workshop (Use Class B1(c) light industrial) for some time, with the Council's Enforcement Team confirming that this is now the established use of the site. Notwithstanding this historic lawful use, the new structures on site are larger than pre-existing and the appellant has stated that the development represents an expansion of the business. For these reasons, I am of a view that the development represents an intensification of commercial activity in a predominantly residential area. Further, a car servicing and maintenance business has potential for the emission of noise, light, vibrations, odours, fumes, dust and water beyond its

¹ The London Plan. The Spatial Development Strategy for London Consolidated with Alterations since 2011 (March 2016)

boundaries and I note that residential properties are close in some cases, particularly the George Akass Sheltered House building to the south of the development.

14. The Council's Environmental Health Officer requested details from the appellant of fume ventilation and noise control measures, to ensure no loss of residential amenity to adjoining properties arises from the development. To my knowledge, this information has not been provided and I have not otherwise received such details through the appellant's submissions to satisfy me that the living conditions of neighbours are protected.
15. Accordingly, I find that the development would cause significant harm to living conditions of neighbouring occupiers through unacceptable emissions. As such it is in conflict with Policies 7.14 and 7.15 of the LONP and Policies E(a) and E(c) of the LP which together seek to protect living conditions.

Recycling and refuse space

16. I have seen very limited information associated with the application or the appeals providing any detail of where waste and recyclable materials are stored prior to collection. I also note third party comments concerning waste in the road. Accordingly, I am not satisfied that there is adequate recycling and refuse space as part of the appeal development or that, in the apparent absence of such space for these purposes, a planning condition attached to any permission granted could make the development acceptable.
17. As such, the development is in conflict with Policy DH1 of the LP which seeks to ensure developments demonstrate on-site waste management.

Other Matter

18. The appellant says that the presumption in favour of sustainable development should apply. However, the presumption does not apply in these appeals as the development is not in accordance with development plan policies.

Appeal A on ground (g)

19. The Appellant requires 12 months to re-locate his established existing business and staff. However, I have seen very limited evidence to support a case that this amount of time is necessary and reasonable or to otherwise satisfy me that the notice's compliance period of 6 months falls short of what should be reasonably allowed. I consider that 6 months is a sufficient and reasonable time to make alternative business arrangements and to remove the unauthorised buildings, septic tank, and associated debris and spoil from the site. Therefore, the appeal under ground (g) does not succeed.

Conclusions

20. For the reasons given above I conclude that Appeal A should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.
21. For the reasons given above I conclude that Appeal B should be dismissed.

Andrew Walker

INSPECTOR