



Appeal Decision

Site visit made on 18 February 2020

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 May 2020

Appeal Ref: APP/E5330/W/19/3239290

**Land rear of 111 - 113 Victoria Way (fronting Wellington Gardens),
Charlton, London SE7 7NX**

- 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 Henry Browne against the decision of Royal Borough of Greenwich Council.
 - The application Ref 19/0755/F, dated 19 February 2019, was refused by notice dated 17 July 2019.
 - The development proposed is described as: 'Repair boundary retaining wall. Construct one detached 4no. bedroom house with one lock up garage and two 3no. bedroom semi-detached houses all with private gardens, and two 2no. bedroom flats over 3no. lock up garages and a cycle store. Pave frontage of 111 Victoria Way Mews, providing two parking spaces. Prune Holm Oak (TP0472,2014) to balance crown. Remove diseased Sycamores (TPO1972) and plant replacement trees'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity and precision, I have inserted 'Land rear of 111 - 113 Victoria Way (fronting Wellington Gardens)' into the address in the banner heading above as it is listed on the appeal form and Council's decision notice. Additionally, I have inserted 'London' as it makes the address more accurate.
3. A revised drawing¹ has been submitted with the appeal after the decision by the Council was made. I have not taken this into consideration as it has not benefitted from a full consultation exercise undertaken by the Council. In determining this appeal, I have therefore only considered the plans that formed the basis of the Council's refusal of planning permission.

Main Issues

4. The main issues of this appeal are:
 - the effect of the proposed development on the character and appearance of the appeal site and surrounding area, including non-designated heritage assets;
 - the effect of the proposed development on the living conditions of future occupiers, with particular regard to internal habitable accommodation, access and noise;

¹ 2019/P/005A

- the effect of the proposed development on the living conditions of neighbouring occupiers on Elliscombe Road, with particular regard to privacy;
- the effect of the proposed development on protected trees;
- the effect of the proposed development on highway and pedestrian safety, with particular regard to proposed Flats D and E; and,
- the provision of adequate and practical refuse/waste collection from the site.

Reasons

Character and appearance

5. The appeal site forms an irregular parcel of land that used to form part of the rear gardens of No's 111 and 113 before it was subdivided. The site fronts both Wellington Mews and Wellington Gardens, where a notable brick retaining wall is located that is stepped in appearance to address the changes in topography and the lower land levels along Wellington Gardens away from Victoria Way. The site is currently undeveloped and overgrown with a number of mature trees present on its boundaries and within the site, some of which are afforded protection through a Tree Preservation Order² (TPO).
6. No's 111 and 113 form part of a row of buildings (111–125 odd) that are locally listed³ (the listing). This means for the purposes of the National Planning Policy Framework (the Framework), they represent non-designated heritage assets. This concurs with my view, as the age and architectural merit of the buildings are a good example of buildings of their era and they have prominence in the street.
7. The listing describes the buildings as a mid-late Victorian group comprising 6no. detached three-storey houses with basement, built in yellow stock bricks with projecting porches, all of which are similar in design. Located centrally within the group, with 3no. detached dwellings either side, is a pair of semi-detached dwellings. Whilst, constructed out of similar materials with comparable fenestration details to the detached dwellings, there is a notable difference in roof design on these properties with the presence of a front facing gable.
8. There is dispute between the main parties regarding the listing and its relevance in the context of this appeal. Whilst, the proposed development would be located to the rear of No's 111 and 113, and will have a strong visual relationship with the rear facades of the buildings, views of the site will still be possible from the footpath at the junction of Wellington Gardens and Victoria Way, where views of the front elevations to No's 111 and 113 would also be possible.
9. Although, the rear garden to No's 111 and 113 has been subdivided, the site, along with the other rear gardens serving No's 115 to 125 (odd) to form an important characteristic of the surrounding area. Due to the generous plot

² Victoria Way SE7 TPO October 1972 (1984 TPO); Wellington Mews TPO 58 May 1984 (1984 TPO) and Land to the rear of 111-113 Victoria Way TPO 472 March 2014 (2014 TPO)

³ Royal Greenwich Local Heritage List, Buildings of Local Architectural & Historic Interest, Originated 1977 and updated March 2020

sizes, where mature trees and vegetation are present, No's 111 to 125 have a spacious and wooded setting to the rear, and this is an expressive feature of the immediate area surrounding the site. Some development has occurred to the rear of 111 to 125 Victoria Way, accessed off Wellington Mews, but this is significantly smaller in size and scale with much reduced site areas, when compared to the appeal scheme. Consequently, I consider the site to positively contribute to the significance of the non-designated heritage assets.

10. The proposed development would result in the significant reduction in the openness of the site, and through its introduction, the additional built form would result in an overall reduction in the number of mature trees and shrubs. Taking into account the generally spacious arrangement of development set within a sylvan setting, the site adds positively and distinctively to the character and appearance of the area. I note that the appellant intends to plant a number of trees and shrubs as part of the proposed development. However, I do not find that this would provide sufficient mitigation against the loss of the existing mature trees. Collectively the mature trees that are located on the site and the spaces between them form an important feature of the character and appearance of the area. Indeed, any new planting would take quite some time to reach maturity.
11. I consider that the design of the proposed dwellings has been influenced from the variety of property styles in the surrounding area. Subsequently, I find the overall external design/appearance and height of the proposed dwellings would not cause any significant harmful issues to the character and appearance of the street-scene. Nonetheless, I do have concerns regarding the plot sizes of the proposed development in this location, as they would be smaller than most of the other plots in the surrounding area, particularly compared to No's 115 to 125. Nearby dwellings are generally all positioned within generous plots and are sited in an orderly arrangement fronting the road. This gives a distinct sense of spaciousness and ordered pattern of development to the immediate locality.
12. The generous plot sizes contribute to a regular rhythm of development, making a positive contribution to the surrounding area. In the context of the area surrounding the appeal site, the appeal proposal would be distinctly at odds with the character of the area and in relative terms would appear discordant. Whilst the appellant considers that the site is not 'backland' development, it is nevertheless, a form of 'infill' development and consequently Policy H(c) of the Council's Core Strategy with Detailed Policies 2014 (CS) is relevant.
13. For the reasons given above, I conclude that the proposed development would significantly harm the character and appearance of the appeal site and surrounding area and would adversely affect the significance of the non-designated heritage assets. As a consequence, it would not accord with the design, character, appearance and heritage aims of Policies 3.5, 7.4, 7.6, 7.8 of the London Plan 2016 (LonP); CS Policies DH1, DH3, DH(j), H5, H(c); and the requirements of the Framework.
14. CS Policy DH(a) has been referred by the Council in its decision notice. However, this policy appears to relate to residential extensions and therefore I find it is not directly applicable to the case before me.

Living conditions of future occupiers

15. In terms of ceiling heights, the nationally described space standards⁴ (THS) sets a minimum requirement of 2.3m. However, the London Plan strongly recommends that this distance is increased to 2.5 m. It is common ground between the main parties that the proposed heights would not be less than 2.3m. Consequently, given the design and type of dwelling proposed, I find the ceiling heights proposed in Houses B and C would not be harmful to the living conditions of their future occupiers.
16. Houses B and C, and Flats D and E would be sited very close to the existing auto centre that abuts the site. I consider that House B would be afforded some relief from House C, which is closer to the auto centre. Additionally, I note the layout of the rooms at both ground floor and first floor of House C and those which have windows serving them, especially on the facing elevation. With regards to flats D and E, I acknowledge that the facing side elevation of the development would have no windows facing the auto centre. Additionally, I note that the proposed development would have 300mm thick walls and double glazing installed.
17. Nonetheless, given the modest distance between the existing auto centre and House B and Flats D and E, I am not satisfied that the living conditions of future occupiers of the proposed development would be protected, especially in the absence of a noise survey to support the scheme. Consequently, I consider that the proposed fenestration details and wall thicknesses are not sufficient alone to ensure the scheme would comprise a high-quality residential development for future occupiers. Additionally, planning policies and decisions should also ensure that new development is appropriate for its location, which I find in this instance has not been demonstrated.
18. Concerns have also been raised by the Council surrounding the accessibility of the proposed development. On drawings submitted with the application it lists that the gate to House B would also provide a ramped access to the other dwellings⁵ of the proposed development. Additionally, the appellant has provided annotated clarification of the application drawing showing the ramped routes to the proposed dwellings from the gate to House B. I consider that further details would be required to ensure acceptable gradients to all the dwellings listed from the gate to House B, due to the changing land levels and an overall compliance with Building Regulation requirement M4 (2) 'accessible and adaptable dwellings'. With regard to accessibility, I have considered whether a suitably worded condition could be imposed to ensure that otherwise unacceptable development could be made acceptable, which I find would be possible in this instance, thus complying with LonP Policy 3.8.
19. For the reasons given above, I conclude that the proposed development would significantly harm the living conditions of future occupiers through potential noise and disturbance from the neighbouring auto centre. As a consequence, it would not accord with the living conditions aims of LonP Policy 3.5, CS Policy H5, the LonP Housing Supplementary Planning Guidance 2016 and the requirements of the Framework.

⁴ Technical Housing Standards – nationally described space standard 2015

⁵ A, C, D and E

Living conditions of existing occupiers

20. The elevation of Flats D and E facing Wellington Mews would contain 3no. garages at ground floor, a window to the living/dining/kitchen and a balcony at both first and second floor. On the opposite side of Wellington Mews to the proposed development are a row of 4no. 'lock up' garages and rear gardens to dwellings on Elliscombe Road. Many of the properties on Elliscombe Road have buildings, such as garages at the rear of their gardens. However, in the case of No 4 Elliscombe Road, no such building is present.
21. Whilst No 4 has a tall rear boundary fence, I consider given the overall modest width of Wellington Mews and the surrounding topography, with the site being located on an elevated land level, the proposed development would have the ability to overlook the rear gardens of properties on Elliscombe Road, particularly No 4. This significant adverse effect would be highly likely from the second-floor window and balcony. However, due to the limited details submitted regarding this matter, I am not certain that no such adverse effect would not occur from the window and balcony proposed at first floor either.
22. For the reasons given above, I conclude that the proposed development would significantly harm the living conditions of existing occupiers, through overlooking and a resultant loss of privacy. As a consequence, it would not accord with the living condition aims of LonP Policy 7.6, CS Policy DH(b) and the requirements of the Framework.

Effect on protected trees

23. The appellant provided a tree report⁶ to support his application, where the Council have raised concerns regarding its age. The tree report is located within Appendix A of the Design and access statement. However, I note that it is not complete, as its own appendices⁷ are missing. I acknowledge the comments received from the Council's Tree Officer, identifying that some trees on the site are not covered by any of the TPO's and are unlikely to be worthy of a TPO due to their poor quality. However, I too have found difficulties in ascertaining which of the sycamore trees are TPO'd.
24. Additionally, as the tree report is not specific to the scheme, I am not confident that the proposed development through the close relationship of the side elevations of Houses A and B, facing the protected Holm Oak, even following the reduction in crown spread, would not inevitably lead to pressure to continue to prune the trees should it grow, or even to remove it in the future to improve the light and outlook for facing habitable rooms of the dwellings.
25. The evidence before me indicates that a number of category 'C' trees were generally in reasonable physiological condition and satisfactory structural condition with an expected 20 years life expectancy. I note the replacement specimens proposed as part of the landscaping proposals. However, I have my doubts as to whether any such planting could suitably mitigate as any such planting would likely take a considerable amount of time to reach relative maturity.
26. I find the omissions in the tree report to be a significant material consideration in the determination of this appeal. Additionally, I find a lack of specific detail

⁶ BS 5837:2012 Tree Survey undertaken by Gristwood and Toms dated 20 December 2016

⁷ 1. Possible Replacement Planting and 2. Tree Constraints Plan

in relation to the effect of the proposed development on the protected trees. The appellant refers to a number of diseased trees within the site. However, in this instance there are misgivings within the tree report and a lack of certainty surrounding the effect on protected trees from the scheme. Thus, given the overall sensitivity of the site and its contribution to the surrounding area, I am not convinced that significant harm would not occur to protected trees from the proposed development.

27. For the reasons given above, I conclude that the proposed development would significantly harm protected trees. As a consequence, it would not accord with the character, appearance and environmental aims of LonP Policy 7.21, CS Policy OS(f) and the requirements of the Framework.

Highway and pedestrian safety

28. Pedestrian access to the proposed development would be taken from both Wellington Gardens and Wellington Mews. Vehicular access to a detached garage serving House A would be taken from Wellington Gardens and 3no. garages under Flats D and E would be accessed from Wellington Mews. Concern has been raised in respect of the 2no. parking spaces proposed on Wellington Mews and to the manoeuvrability of vehicles accessing and egressing the garages under Flats D and E.
29. During my visit, I observed vehicles parked where the proposed 2no. parking spaces would be located and a gate that was in a poor state of repair. I found Wellington Mews to have a modest width and in the absence of substantive evidence to the contrary I find that there is insufficient detail to demonstrate the safe movement and path of vehicles when they would undertake a turning manoeuvre. Thus, I am not convinced that the proposed development would not create any associated potential likelihood of vehicular/pedestrian conflict.
30. For the reasons given above, I conclude that the proposed development would significantly harm pedestrian and highway safety. As a consequence, it would not accord with the highway safety aims of LonP Policies 3.5 and the requirements of the Framework.
31. CS Policies IMI, IM(b) and LonP Policy 6.10 have been referred by the Council in its decision notice. However, these policies appear to relate to Infrastructure, Walking and Cycling and therefore I find these are not directly applicable to the case before me.

Refuse and waste collection

32. I note the comments made by the Council's Fleet and Waste Strategy Officer about the carrying/drag distances to the refuse pick-up/drop off. It is common ground between the main parties that the maximum distance required is 15m. The appellant has confirmed a possible distance of 11m from the collection point to a likely position of the vehicle to be achievable. This is not disputed by the Council. Whilst, the Council acknowledge that the bin stores are sufficient in size to store the required number of bins for the dwellings, the stopping point of the refuse vehicle was not identified on the submitted drawings. However, I consider that such a detail could be satisfactorily secured through the imposition of a suitably worded condition.
33. For the reasons given above, I conclude that the proposed development would provide practical storage and collection of refuse/waste for the proposed

development. This would accord with the design aims of CS Policy DH1 and the Framework.

Other Matters

34. I note the sub-division of the gardens to No's 111 and 113 occurred following the site being purchased from the Council in 2004, and that it was advertised 'for development'. Additionally, I acknowledge reference to the physical condition of the retaining boundary wall and to the re-location of the bus stop. However, on the evidence before me these are not reasons to grant permission in the face of the harm identified. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.
35. Reference is made to various emerging Policies within the Draft London Plan (eLonP), in particular emerging Policy H2 of the eLonP which relates to small sites. This policy states that it should be recognised that local character evolves over time and will need to change in appropriate locations to accommodate additional housing on small sites. However, in this case, I consider that the development would represent a significant departure from the established character of the area, adversely affecting the significance of non-designated heritage assets, with additional significant harm to protected trees, the living conditions of future occupiers of the development and existing neighbouring occupiers and to pedestrian and highway safety.
36. Transport and Highways have advised that the Traffic Order controlling the Controlled Parking Zone should be altered at the developer's expense to prevent all future users of the proposed development from being eligible to apply for permits. Whilst a condition has been suggested by the Council, this is not a reliable mechanism to ensure that occupiers of the development do not hold parking permits. However, as I am dismissing the appeal in any event, I have not needed to consider this matter further.
37. I note representations from Charlton Central Resident's Association and neighbouring occupiers, who have also expressed a range of concerns on the application including, but not limited to the following: light pollution, on-street parking, noise and disturbance during construction, the site being classed as 'greenfield', right of access/ to park on Wellington Mews, inaccuracies regarding the location of the bus stop, no engineering report for the retaining wall, living conditions of Sanctuary Housing residents and ecology, amongst other things. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above. Whilst I can understand these concerns, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.

Planning Balance and Conclusion

38. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
39. As set out above, the development would significantly harm the character and appearance of the area, including the significance of non-designated heritage assets, the living conditions of future/neighbouring occupiers, protected trees,

highway and pedestrian safety. The proposal would not lead to the creation of poor waste/refuse storage and collection issues and the site is situated in an area that has good access to public transport having a Public Transport Accessibility Level (PTAL) of 4 on a scale of 1 to 6 where 6 is considered excellent, but these are matters of neutral consequence in the overall planning balance.

40. The proposal would lead to some social and economic benefits and would involve the creation of a mixed residential development, comprising 5no. units on the site, as encouraged in the eLonP. However, on balance, and taking all matters into consideration, I conclude that the harm caused by the development would outweigh its benefits. Accordingly, the material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.
41. Taking all matters into consideration, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR