



Appeal Decision

Site visit made on 12 January 2021

by M Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st February 2021

Appeal Ref: APP/N5660/W/20/3260017
14 Auckland Hill, London SE27 9PH

- 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 Ken Cheong against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 20/00426/FUL, dated 29 January 2020, was refused by notice dated 26 March 2020.
 - The development proposed is described as 'Conversion of the existing two flats to provide four additional flats making a total of six flats, including conversion of the garage into habitable rooms and erection of rear extension at all floor levels plus side extension at first floor, together with cycle parking and bin storage – Reapplication'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application subject to this appeal was made following the Council's refusal of a similar application at the site¹. The appellant has submitted drawings that are specified on the decision notice for the previous application in support of the appeal. However, it is important that the proposal I consider is essentially that which has been considered by the Council and on which interested parties' views have been sought. To do otherwise would be prejudicial to the positions of the Council and interested parties. I have therefore based my decision on the drawings specified on the decision notice for the application subject to this appeal. Notwithstanding this, there are limited differences between the 2 schemes and I have had regard to the previous application's drawings where relevant to the main issues identified.
3. The appellant has provided additional drawings with the appeal that did not form part of the application. These include an alternate existing first floor plan², bin store location drawings³ and drawings without references that show a revised configuration for the lower ground floor of the building and the removal and reduction of balconies at first and second floor level. I have had regard to these on an illustrative basis.
4. On 19 January 2020 the latest Housing Delivery Test results were published. However, the results do not indicate any consequences for decision making in

¹ Council reference: 18/03147/FUL

² Drawing reference: E-101 Rev 2

³ Drawing references: E-300 Rev 1; P-300 Rev 1

the borough. It has not therefore been necessary to seek the views of the parties on the results.

Main Issues

5. The main issues are:

- whether the proposal would provide a balanced housing mix;
- the effect of the proposal on the character and appearance of the appeal building and the surrounding area, including trees;
- the effect of the proposal on parking in the area;
- the effect of the proposal on the living conditions of the occupiers of Nos 14a and 16 Auckland Hill; and
- whether the proposal would provide a suitable standard of accommodation and access for the future occupiers.

Reasons

Housing mix

6. The site features a detached building which includes 2 flats. The proposal seeks to reconfigure the building and add extensions in order to create 4 x 1-bed and 2 x 3-bed flats. Policy H4 of the Lambeth Local Plan (LP) sets out that a balanced mix of unit sizes, including family sized accommodation comprising 3 or more bedrooms, should be provided. Additionally, its supporting text states that proposals will be expected to demonstrate that the provision of family sized units has been maximised. The SHMA⁴ recommends a market housing mix comprising 1-2 bedroom flats and houses with 2 or more bedrooms.
7. The number of 1-bed flats would be disproportionate to the number of family sized units. Moreover, whilst the Council considers that the 3-bed flat at first floor level would provide suitable accommodation for a family and an additional 3-bed flat is proposed, substantive evidence has not been provided which demonstrates that the number of family sized units has been maximised. Although the supporting text to LP Policy H4 states that rigid application of the policy requirements may not be appropriate in all cases, compelling reasons have not been advanced which indicate that site specific constraints prevent a more balanced mix from being achieved.
8. The appellant contends that the 1-bed flats could accommodate small families as well as couples. However, this would require the proposed open plan living spaces to be used as sleeping accommodation. In any case, the supporting text to LP Policy H4 describes family sized accommodation as consisting of 3 or more bedrooms and thus 1-bed flats would not be family sized accommodation.
9. I recognise that the SHMA applies widely to south-west London and there will be variations in housing markets at a local level. I also note that the SHMA was prepared several years ago. In addition, there are no reasons to doubt that there is a need for 1-bed flats and the proposed units would be more affordable than larger units in the vicinity. Nonetheless, the building would not feature a balanced housing mix.

⁴ South West London Strategic Housing Market Assessment: Final Report

10. The appellant contends that the housing mix should be considered in the context of other schemes and that there is a greater need for family sized accommodation elsewhere in the borough. However, the requirements of LP Policy H4 apply to each new development. In addition, it is suggested that schemes elsewhere are more unbalanced in terms of housing mix. The Council has also referred to appeal decisions⁵ which found that lesser proportions of 1-bed flats would not constitute a balanced housing mix. I do not have full details of the circumstances that applied in the cases to which the main parties refer. However, as the supporting text to LP Policy H4 sets out that individual site circumstances need to be considered, the schemes that the main parties refer to do not lead me to alter my findings in respect of this matter.
11. The proposal would not provide a balanced housing mix. It conflicts with LP Policies H1 and H4, which support development that provides a mix of housing types to meet current and future housing needs. However, I find no conflict with LP Policy D4 in respect of this main issue, as it refers to planning obligations and is not directly relevant to housing mix matters.

Character and appearance

12. The area is characterised by residential properties which vary in scale, age and design. 14 Auckland Hill is located between Nos 14a and 16. It is an attractive period property that benefits from uniformly positioned fenestration and a balanced and symmetrical appearance when viewed from the street. Although it features an attached 2 storey garage which extends up to the boundary with No 16, the garage is subordinate to the main part of the building and a gap above it provides a sense of separation between the properties. Nos 14, 16 and 18 have group value as a result of commonality in their designs and contribute positively to the character and appearance of the area.
13. LP Policy Q11 states that subordination is a key consideration for extensions. It also says that side extensions should retain sufficient side space above ground floor level to maintain gaps between buildings and prevent terracing effects and be set back from the corners of the building and with lower roofs than the main roof. Similar guidance is provided within the Council's Building Alterations and Extensions Supplementary Planning Document (SPD).
14. The side extension would continue the ridge and eaves levels of the existing building and be flush with its front wall. It would also project up to the boundary with No 16. Consequently, it would not appear as a subordinate addition and the sense of separation between the buildings would be eroded. Furthermore, the extension and the position of the proposed windows would disrupt the balanced and symmetrical appearance of the property. The character and appearance of No 16 and the surrounding area would be harmed.
15. The rear extension would be a substantial addition; however, it would not be readily visible from the public realm. Although the extension would have a modern appearance, having regard to its visibility, it would not be so discordant that it would be inappropriate. Similarly, although there would be a significant amount of boundary fencing to the rear of the building, it would not be unacceptable as it would not be visible from the public realm.

⁵ Appeal references: APP/N5660/W/19/3224817; APP/N5660/W/19/3224818

16. The Council has also raised concerns regarding the effect on a black locust tree that is proposed to be retained close to the rear elevation. Whilst the tree is not protected by means of a preservation order, it would be poorly juxtaposed next to the building and require regular pruning in order to keep the crown clear of the balcony to the 3-bed flat at first floor level. The tree has thus not been successfully integrated into the scheme. Further planting would not address this issue.
17. The appellant contends that various extensions including additional storeys can be added to buildings under national permitted development rights. However, the existing building includes flats and thus it does not benefit from the same rights as dwellinghouses. In addition, compelling evidence has not been advanced which demonstrates that a similar scheme to the one proposed can be achieved by means of permitted development rights.
18. The proposal would harm the character and appearance of the appeal building and the surrounding area, including trees. It conflicts with LP Policies Q5 and Q11 and the SPD, which seek to protect local distinctiveness and promote specific design criteria for building alterations and extensions. It is also contrary to LP Policy Q10, which states that retained trees should be positively integrated into site layouts.

Parking

19. The site is located within a Public Transport Accessibility Level 4 area and thus benefits from a good level of accessibility to public transport. LP Policy T7 indicates that the development should be car-free and car club memberships should be provided for the residents. Its supporting text advises that where there are no on-street parking controls, it should be demonstrated that development would not lead to an unacceptable increase in the level of on-street parking. The supporting text also seeks the provision of, or contributions towards, measures that prevent unacceptable increases in on-street parking and promote sustainable travel.
20. No off-street parking spaces are shown on the drawings. However, the appellant has indicated that the existing off-street parking space would be retained. Justification for the parking space has not been provided and thus the proposal would conflict with LP Policy T7 if it was retained.
21. A parking survey has not been provided to demonstrate there is current on-street parking capacity. The appellant has relied on a survey which supported a nearby proposal in 2017⁶. However, that survey has not been submitted and thus I cannot be certain that its findings accurately reflect current on-street parking capacity. Moreover, the Council has stated that it identified concerns with that survey and refused the proposal. In addition, the Council contends that a survey from a more recent scheme⁷ indicates there are high levels of parking stress in the area. Although I note that the appellant has previously received correspondence indicating that a parking survey was unnecessary, Transport Lambeth has nevertheless objected due to parking stress concerns.
22. The appellant has provided photographic evidence which indicates that at some point there was capacity to park on-street near to the site. Whilst I recognise

⁶ Council reference: 17/05139/FUL

⁷ Council reference: 18/02253/FUL

that my site visit only represents a snapshot in time, I saw that there were few on-street parking spaces available in the area.

23. It has not been demonstrated that additional vehicles arising from the development would not result in unacceptable impacts on parking in the area. In this context, measures to provide car club memberships for the future occupiers are necessary. The appellant has indicated that there are already car club spaces in the vicinity and that a contribution towards car clubs could be secured by condition. However, LP Policy T7 requires memberships to be provided to all the future occupiers.
24. The appellant puts forward that current trends, implications of Britain's exit from the European Union and measures arising in response to the COVID-19 pandemic, such as road closures and widened pavements, are likely to result in a decrease in future levels of car ownership. However, firm evidence has not been provided to support that stance.
25. The Council considers that obligations are needed to secure a contribution towards an on-street disabled parking bay and exclude the future occupiers from permit parking schemes. However, disabled bays are in the vicinity and compelling evidence has not been provided which indicates that a contribution is necessary. In addition, as the area is not in a Controlled Parking Zone and the Council has not demonstrated that one may be introduced in the future, I am not satisfied that it would be necessary to prevent the occupiers from obtaining parking permits. These obligations would not satisfy the tests set out in the CIL Regulations⁸ and paragraph 56 of the National Planning Policy Framework (the Framework).
26. Nevertheless, it has not been demonstrated that the proposal would not have harmful effects on parking in the area. It conflicts with LP Policies T1, T6 and T7, which seek to promote sustainable travel and manage the availability of parking in the borough. It also conflicts with LP Policy D4, which states that planning obligations will be sought to mitigate the impacts of development.

Living conditions of neighbours

27. The extensions and the first floor balconies would be located near to the boundaries with Nos 14a and 16. The second floor balcony would extend across a significant proportion of the rear of No 14. There are several windows in the side elevations of the adjacent buildings facing towards the site. The height and position of the extensions would result in adverse effects on outlook from the windows of both neighbouring properties and part of the garden to the immediate rear of the building at No 16. Consequently, the neighbouring properties would feel enclosed and the development would be overbearing.
28. A daylight and sunlight assessment was submitted in support of the application. It does not clearly reference the locations of the neighbouring properties' windows. It indicates that the development would adversely affect one window each at Nos 14a and 16 in terms of daylight; however, the vertical sky component is not specified within the assessment for these windows. It also indicates that 3 windows at No 16 would receive notably less sunlight; however, this is not clearly conveyed within the assessment. The proposal has

⁸ Regulation 122 of The Community Infrastructure Levy Regulations 2010

not therefore demonstrated that it would not have an unacceptable harmful effect on the neighbouring properties in respect of daylight and sunlight.

29. Shrub planting is proposed on the sides of the balconies to provide screening. I am not convinced that shrubs could be planted at heights and densities that would be sufficient to prevent overlooking of the neighbouring properties. Moreover, no mechanism has been put forward to maintain and replace the planting over time to safeguard privacy in perpetuity. Although alternative means of screening such as obscure glazed panels could be used, these would increase the apparent height of the development from the neighbouring properties and thus contribute to the sense of enclosure and overbearing. In any case, screening is not proposed around the entirety of the balconies and views of large proportions of the neighbours' gardens would be gained from them. In addition, the external staircase serving the 3-bed flat's balcony at first floor level would provide for views towards No 16. The proposal would thus result in loss of privacy to the neighbouring properties.
30. The removal of the first floor balcony to the 3-bed flat would reduce the level of overlooking of No 16; however, the external staircase and a window serving the open plan living space to the 3-bed flat would nonetheless provide for unacceptable views towards the windows and rear garden of the neighbouring property. A reduction in the width of the second floor balcony is also proposed as a potential alteration to the scheme; however, it would nonetheless enable views over a significant proportion of both adjacent rear gardens.
31. Whilst the balconies would be in close proximity to the neighbouring properties' habitable rooms, compelling evidence has not been provided which suggests that the use of the balconies would generate significantly greater levels of noise and disturbance than would reasonably be expected from typical day-to-day residential use of external amenity spaces. The living conditions of the neighbouring properties would thus not be harmed in these respects.
32. I conclude that the proposal would have harmful effects on the living conditions of Nos 14a and 16 in respect of loss of outlook and privacy. In addition, it has not been demonstrated that the proposal would have acceptable effects in respect of daylight and sunlight. Therefore, the proposal conflicts with LP Policy Q2, which seeks to ensure that development is acceptable in terms of amenity.

Standard of accommodation for future occupiers

33. The Council has raised concerns that a lower ground floor flat would be smaller than the minimum size requirements set out by London Plan Policy 3.5. The illustrative lower ground floor reconfiguration drawing has been submitted in order to show that appropriately sized flats are achievable. There is sufficient space for the flats to reach the required sizes with a very slight alteration to the layout. A condition could address this matter.
34. London Plan Policy 3.5 also states that ceiling heights should be no lower than 2.3m for 75 percent of the gross internal area; however, heights above 2.5m for the same proportion of space are strongly encouraged. The appellant contends that ceiling heights of 2.41m can be achieved throughout the entirety of the lower ground flats and the heights for the other units would exceed 2.5m. I have no compelling reasons before me which suggest that this is not the case. The proposal is acceptable in this respect.

35. The Council accepts that the habitable rooms would meet relevant BRE⁹ guidelines for daylight. Nonetheless, concerns are raised regarding daylight distribution and a lack of analysis regarding sunlight. However, much residential development below ground level will by its very nature often receive limited amounts of daylight and sunlight. Given that prospective occupiers would have an awareness that daylight and sunlight levels may be limited, the standard of accommodation would not be unacceptable.
36. The Council's reason for refusal in respect of this matter refers to an inadequately sized external amenity space for a lower ground flat. However, the drawings show that the amenity spaces for those flats would exceed the requirements set out by LP Policy H5. The external staircase to the 3-bed flat would be located between the amenity spaces for 2 of the lower ground flats. The Council is concerned that those spaces would feel enclosed and lack adequate light. However, the spaces would be sufficiently large such that the quality of the spaces would be adequate.
37. Access to the communal amenity space would be gained via a passageway to the side of the building. The Council contends that it would be too far from the flats. However, no mobility units are proposed and all flats would have stepped accesses. Moreover, specific standards regarding the proximity of communal amenity spaces to dwellings and the width of passageways have not been identified. Based on the evidence before me, the communal amenity space would be easily accessible to all occupants.
38. The Council considers that the entrance to one of the flats in the side of the building would be concealed and located such that it would not be legible to visitors. However, lighting and signage could address these concerns. In addition, the site is within an established residential area and windows would provide natural surveillance to the front of the building. Also, there are below ground flats in the vicinity that do not benefit from direct access from the street. The side entrance would thus not be an unacceptable arrangement in that context.
39. The proposal would provide an adequate standard of accommodation for future occupiers. In respect of this matter, it accords with LP Policies Q2 and H5, and London Plan Policy 3.5, which seek to ensure adequate amenity levels and set out standards for new residential development. It also accords with LP Policies Q1, Q3 and Q7, and London Plan Policies 7.1 and 7.3, which seek to promote good practice in respect of inclusive environments, community safety and urban design principles. The Council has also referred to LP Policy H4 in respect of this main issue; however, it is not directly relevant as it does not relate to accommodation standards for market housing.

Other Matters

40. The appellant sets out that the Council's decision is not reflective of pre-application advice it gave in 2017. I cannot be certain as to the extent of any changes to the proposal or circumstances in the period between that advice being issued and the decision being made. I also acknowledge that the appellant wanted to engage with the Council during the application process and would be prepared to amend the proposal. However, I am nevertheless

⁹ Building Research Establishment

required to reach a view on the main issues in dispute between the parties at appeal as set out above.

41. The appellant has referred to the Permission in Principle process; however, an application for full planning permission has been made in this case and the Council has not identified any concerns with the principle of residential development in this location.
42. The appellant contends that the Council has a poor record of delivery against its housing need and underperforms in relation to the supply and delivery of small sites. Reference has also been made to the "cities and urban centres uplift" to the standard method for calculating local housing need¹⁰. However, I have already identified that the Housing Delivery Test results do not indicate that there are currently any consequences for decision making. In addition, substantive evidence has not been put forward which suggests that the Council cannot demonstrate a 5 year supply of deliverable housing sites.
43. LP Policy H1 seeks to maximise housing growth and the Framework encourages the effective use of land. In addition, the appellant has referred to the Business and Planning Act 2020, the Planning for the Future White Paper and the forthcoming publication of a new London Plan¹¹, with particular regard to emphasis on increasing housing supply and optimising capacity through development on small sites. I have had regard to these and recognise that the proposal would contribute to housing supply on a small site in an accessible location. I also have no reason to doubt that the building will require repairs over time and the development may facilitate this in a viable way.
44. Whilst I have carefully considered the matters raised by the appellant, overall, the scale and thus the benefits of the development are limited. Conversely, I attach significant weight to the conflict with the development plan policies identified. The adverse impacts significantly and demonstrably outweigh the benefits of the development.

Conclusion

45. The proposal is contrary to the development plan. There are no material considerations which outweigh the conflict with the development plan. Accordingly, the appeal is dismissed.

Mark Philpott

INSPECTOR

¹⁰ Planning Practice Guidance Reference ID: 2a-004-20201216

¹¹ Publication London Plan December 2020