



Appeal Decision

Site visit made on 20 July 2021

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 August 2021

Appeal Ref: APP/N5660/W/21/3268372
29 Benton's Lane, London SE27 9UD

- 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 Eawor Ali against the decision of the London Borough of Lambeth.
 - The application Ref 20/03360/FUL, dated 24 September 2020, was refused by notice dated 23 December 2020.
 - The development proposed is Change of use of basement to provide two 2no. Studio Flats (Use Class C3).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the time the appeal was submitted, a new London Plan has been published in March 2021 and replaces The London Plan 2016. In addition, since the Council determined the proposal, the revised National Planning Policy Framework (the Framework) has been published in July 2021. Both parties have been given the opportunity to comment. My decision is made in the context of the revised Framework.

Main Issues

3. The main issues of the proposal are:
 - The effect of the development on the living conditions of the future and existing occupiers of the site with particular regard to outlook, and outdoor space; and
 - Whether or not a financial contribution towards affordable housing is required.

Reasons

Living conditions

4. The proposal forms part of a modern development of five apartments. The basement is accessed via its own independent access from the communal main hall of the building. The space would be converted into two self-contained studio apartments, each running the full length of the building from the front to the back.

5. There are currently lightwells to the basement space which would be enlarged as part of the proposal. The existing windows look directly onto the external high walls of the lightwells. They offer no sense of context of the external surrounding environment from inside this part of the building.
6. These lightwells would be increased in size although this would be marginal to the front, and even with a new window to replace the old, there would be little noticeable change to the current outlook from this space.
7. The lightwells to the rear of the building would be increased in size to extend towards the rear perimeter boundary with new doors inserted from the basement. Although this space would be increased to allow external access for future occupants into the lightwell space, the high surrounding walls at approximately 3.2m would remain.
8. Even if the new units may be acceptably sized internally, given these high, lightwell walls, this would create a poor outlook, with no context of the surrounding environment for future occupiers of the studios. Overall, the proposal would not amount to what could reasonably be described as good design as it would not provide acceptable living conditions for future occupiers.
9. The external space that surrounds the building is hard landscaped. It supports the occupiers of the five existing flats and there is evidence of general use from them as there is external furniture present. The rear space is not clearly overlooked by other residential properties and enjoys a sense of seclusion.
10. This area is further important as the front of the site is exposed within the street scene. Also, off-street parking can occur within the front of the site and to the side of the building and has been identified on images submitted with the appeal. Therefore, the rear space is the only functionable and private space to remain at the site.
11. The majority of this rear space would be lost to the proposed enlarged lightwells, and the remaining external space to the rear would not be regarded as either functionable or practical. The occupants of the building would therefore be obliged to rely on the remaining external space for recreational purposes. This space would not be private and could be otherwise occupied by parked vehicles, rendering its use significantly limited.
12. Turning to the benefits of the proposal, whilst additional residential units would be provided as part of the proposal, this would be a very limited contribution to housing stock. The proposal may make use of an underused basement space. However, none of these factors would lead me to a favourable view.
13. There may be other permissions granted for residential basement conversions. Although, taking these into consideration, for reasons pertaining to differing layouts compared to the scheme before me, other developments were approved under a different development plan or planning process, overall, none of the examples cited share precisely the same circumstances as the proposal before me. They are accordingly afforded limited weight.
14. Therefore, to conclude on this main issue, the proposal would lead to unacceptable living conditions to future and existing occupiers as a result of the poor outlook that would be created, and the loss of outdoor space that provides private external space to the existing occupants. The proposal would thus be in conflict with the Lambeth Local Plan 2015 policies Q2 and H5 in their aims for

development to provide adequate outdoor amenity space, and adequate outlook. It would also conflict with the broad aims of the Framework and the Planning Practice Guidance to achieve well-designed places.

Financial Contribution

15. The Council explains that to mitigate the effects of the proposal, there is a requirement for this residential development to provide a financial contribution towards off-site affordable housing. Local Plan Policy H2 is specific in this requirement. Even if a financial contribution towards off-site affordable housing had been previously secured when the original development was granted permission, this is a new residential development and there is nothing before me to contradict the Council's requirements. No such contribution has been secured as part of the scheme.
16. There is no evidence presented by the appellant to demonstrate why they cannot afford to contribute towards delivering affordable housing and the appellant has provided no evidence to demonstrate that the units would be affordable.
17. Although I have not found in favour of the proposal for another main issue, nevertheless, I am of the view that a financial contribution would be necessary to make the development acceptable, were it to be allowed. As no mechanism has been presented to secure this contribution, the proposal must therefore fail.
18. To conclude on this main issue, the proposal has failed to meet the requirements of the Lambeth LP policies D4 and H2 in their combined aims to secure and deliver affordable housing.

Other Matters

19. Any complaints regarding the Council's service should be directed to them in the first instance and is not within my remit to comment.

Conclusion

20. The proposal would result in harm arising to the living conditions of existing and future residents with no financial contribution secured to mitigate the effects of the proposal. It would thus lead to conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Alison Scott

INSPECTOR