

Appeal Decision

Site visit made on 23 August 2021

by Joanna Gilbert MA(Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2021

Appeal Ref: APP/N5660/W/21/3268609

232 Gipsy Road, London SE27 9RB.

- 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 Nasar Ali against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 20/03368/FUL, dated 24 September 2020, was refused by notice dated 27 November 2020.
 - The development proposed is change of use to the rear of the takeaway (Use Class A5) to 1 x 2-bedroom self-contained flat (Use Class C3).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Lambeth Local Plan 2015 was in place when the planning application was determined by the Council. The Lambeth Local Plan 2020 -2035 (LLP) was adopted on 22 September 2021. The main parties have had the opportunity to comment on relevant LLP policies and I have taken account of any comments received in reaching my decision.
3. The London Plan 2021 has been adopted since the application was determined. Additionally, the National Planning Policy Framework (the Framework) was revised on 20 July 2021. The main parties have had the opportunity to comment on both documents and I have considered any responses provided.

Main Issues

4. The main issues in this appeal are:
 - a) whether the proposed development should make provision for affordable housing; and
 - b) the effect of the proposed development on the living conditions of its future occupiers, with particular regard to outlook and privacy, external and internal space.

Reasons

Affordable housing

5. Policy H2 of the Lambeth Local Plan 2015 sought, amongst other things, a financial contribution towards the delivery of off-site affordable housing on sites

providing fewer than 10 units. This policy has been replaced by LLP Policy H2 on affordable housing, which was subject to modification by the examining Inspector to remove criterion a) iv) of the policy which required a financial contribution towards the delivery of off-site affordable housing for sites of fewer than 10 units (gross). This resulted from the Inspector's concerns about viability for small sites.

6. The proposed development would not make provision for affordable housing. No financial viability assessment was provided by the appellant to demonstrate that the proposed development could not make a financial contribution to affordable housing. However, given the aforementioned change in LLP policy requirements, the Council has confirmed that it will no longer be necessary for such a scheme to provide financial contributions towards affordable housing or to show that it would not be possible due to the effect on development viability. As such, the Council has withdrawn this reason for refusal.
7. I therefore conclude that the proposed development should not make provision for affordable housing. This is consistent with LLP Policy H2 set out above.

Living conditions

8. Accessed off Bon Marche Mews off Gipsy Road, the existing yard contains the external staircase to existing flats on the upper floors above the takeaway at 232 Gipsy Road. This hard-landscaped yard also presently provides access to rooms in residential use at ground and lower ground floor levels. It is uncertain whether these units benefit from planning permission.
9. The proposed development would comprise a two-bedroom flat at ground and lower ground floor levels. The proposed development would include a replacement single-storey extension and would be accessed via the yard. It is proposed that much of this existing yard space would continue to provide access to the existing flats as well as the proposed development. Bin and bike stores would be adjacent to the existing external staircase.
10. Policy D6 of the London Plan 2021 has replaced Policy 3.5 of the London Plan 2017. Policy D6 states that, amongst other things, housing development should be of high quality design and provide adequately-sized rooms with comfortable and functional layouts which are fit for purpose. It also refers to privacy and provision of at least 5 square metres of private outdoor space for 1-2 person dwellings, with an extra square metre per additional occupant. Table 3.1 of the London Plan 2021 sets out unit sizes and confirms that two-bedroom single-storey units for three people should have a minimum gross internal floor area of 61 square metres. Table 3.2 outlines that site layout, orientation and design of individual dwellings and, where applicable, common spaces should provide privacy and adequate daylight for residents. LLP Policy H5 sets out minimum requirements in terms of the provision of amenity space and requires accordance with the principles of good design.
11. The proposed development would have three windows respectively serving each bedroom and the kitchen/dining space. All the proposed windows would face the yard and the access to the proposed development and its neighbouring flats. As all the windows would directly adjoin a shared external circulation space, including bin and bike storage, this would be neither private nor represent reasonable outlook.

12. While the proposed development would exceed the minimum required floorspace for a unit of its type, the external amenity space would consist of the access to the proposed development, to the bin and bike store, and to other existing flats. It would be narrow and located on different levels, with other residents using the space. This would not represent usable, high quality external amenity space. Furthermore, the living room would be internal and windowless. The internal space provided would not compensate for the paucity of external amenity space as it would not provide high quality internal space or exceed minimum space standards sufficiently to balance the lack of external space.
13. There is a park less than 10 minutes' walk away. However, this does not satisfactorily allay my concerns about the quality of the proposed accommodation. The appellant has referred me to other developments locally and has provided bills and planning notices in relation to 232 Gipsy Road. I do not have the full circumstances of these developments before me and have dealt with this appeal on its own merits. While it would provide a further dwelling unit on site, it would not optimise the potential of the site as it would not provide acceptable living standards for any future occupiers.
14. Concluding on this main issue, the proposed development would have a detrimental effect on the living conditions of its future occupiers, with particular regard to outlook and privacy, external and internal space. This would contravene Policy D6 of the London Plan 2021 and LLP Policy H5 as set out above. Reference was made to the Nationally Described Space Standards 2015, but this does not appear to be directly relevant in this instance. The appellant has referred to multiple paragraphs of the Framework. Notwithstanding the Framework's importance as a material consideration, it does not alter my findings.

Conclusion

15. Despite my findings on provision of affordable housing, my concerns about living conditions indicate that the appeal should be dismissed.

Joanna Gilbert

INSPECTOR