



Appeal Decision

Site visit made on 20 July 2021

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2021

Appeal Ref: APP/N5660/W/21/3266721
39 Foxley Road, London SW9 6EX

- 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 Oak Narwana LLP against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 20/01129/FUL, dated 24 March 2020, was refused by notice dated 24 July 2020.
 - The development proposed is demolition of the existing dwellinghouse and construction of a new residential development comprising self-contained flats (Use Class C3) with associated cycle parking, refuse storage and amenity space.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council originally refused to grant planning permission for two reasons, although its appeal statement had indicated that the second of those could be overcome by a suitable planning obligation. A signed Unilateral Undertaking ("UU") dated 1 July 2021 was submitted by the appellant, making provision for the development to be car-free, and for car club membership to be made available to the initial occupier of each residential unit. The Council confirmed by e-mail to the Planning Inspectorate on 5 July that it was satisfied with the submitted UU, and I therefore consider that the second reason for refusal is resolved.
3. The Government published a revised National Planning Policy Framework ("the Framework") on 20 July 2021, replacing the version published in February 2019. Both main parties were also given the opportunity to comment on the revised Framework, although neither chose to do so. Where I have referred in my decision to specific paragraphs of the Framework, the numbering used is that of the July 2021 version.
4. A new Lambeth Local Plan was adopted on 22 September 2021, replacing the 2015 version referred to in the Council's decision notice. I sought comments from both main parties on the relevant policies of the 2021 Lambeth Local Plan, and in my reasons section below have referred to the 2021 policies rather than those of the 2015 plan.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the Vassall Road Conservation Area, and on the setting of nearby Grade II Listed Buildings.

Reasons

6. The appeal site is a semi-detached bungalow on the east side of Foxley Road a short way north of its junction with Vassall Road. The site lies within the Vassall Road Conservation Area ("the VRCA"), which contains numerous statutory Listed Buildings. The site is particularly close to, and falls within the setting of, Grade II Listed Buildings at 21-37 Foxley Road and at 105-123 Vassall Road. I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area, and to have special regard to the desirability of preserving the setting of the Listed Buildings. As heritage assets are irreplaceable, the Framework states that they should be conserved in a manner appropriate to their significance (paragraph 189). It goes on to advise that any harm or loss requires clear and convincing justification (paragraph 200) and that any harm that is less than substantial must be weighed against the public benefit of the proposal (paragraph 202).
7. The 2016 VRCA Character Appraisal describes the area as being characterised by formal terraces and semi-detached villas built after 1816, when the construction of Vauxhall Bridge had opened up the area to London's burgeoning middle class. From the evidence before me and my observations on my site visit, I consider that the significance of the VRCA is derived in part from its many Listed Buildings, including Regency villas and terraces (most of which were comprehensively rehabilitated during the 1970s and 80s) and the Grade I Listed church of St John the Divine on the south side of Vassall Road, the tall spire of which forms the focal point of the area. Together these form an enclave of considerable integrity, within which long vistas along broad leafy streets, and the generally sensitive scale and form of infill development, provide a setting in which the visual quality of the built environment can be appreciated. Significance also comes in part from the way in which the VRCA illustrates the rapid growth of this area of South London in the early to mid-19th century.
8. The Listed Building at 21-37 Foxley Road is a terrace of nine houses of three storeys plus basements. It is built of stock brick, although the ground floors – which are elevated some way above street level – and basements are stuccoed. The centre and two end houses have an additional storey and project slightly forward of the rest of the row. Each house is two bays wide, with an additional side bay on the two end houses. The side bay on No 21, furthest from the appeal site, rises only to the ground storey; that on No 37 extends to the full height of the building. The terrace is otherwise a symmetrical composition, and this symmetry is emphasised by the height and prominence of the centre and end houses. The street frontage has sash windows with glazing bars; each pair of windows at first floor level shares a cast iron balcony, while the height of windows steps down at second and third floor levels. Window and door recesses to the raised ground floor are round-headed, which adds visual interest. The terrace presents a smart and attractive frontage to Foxley Road, from where the symmetry of its frontage emphasises its quality as a single composition. The simple and unadorned brick southern side elevation can be

seen across from the appeal site. The building as a whole provides a neat and orderly example of a late Georgian terrace, which is characteristic of London's growth in the early 19th century.

9. The Listed Building at 105-123 Vassall Road in fact consists of two separate terraces of five houses. The closer block to the appeal site, Nos 105-113, has three storeys over basements. Each house is again two bays wide – with an extra single storey side bay on each end house – and built of stock brick with stuccoed basement and raised ground floor. While the principal elevation faces Vassall Road, and thus away from the appeal site, much of the relatively plain rear elevation and the simple repetition of its fenestration can be seen and appreciated from Foxley Road across the appeal site.
10. The proposed development is the demolition of the existing bungalow on the appeal site, and its replacement with a three-storey building. This would provide four self-contained flats; a 2-bedroom unit on the ground floor, a 3-bedroom unit at first floor level, and two 1-bedroom units on the second floor. The building would be lower in height than the three storey houses in the Listed block to the north, but rather taller than the existing bungalow on the site and its "twin" at No 41. No 41 is not within the appellant's ownership and would remain as at present.
11. The proposed Foxley Road elevation would visually be in two halves, divided by a shallow recess accommodating a downpipe from the roof gutter. While the northern part of the frontage would be on the same building line as the side bay of No 37 to the north, the southern part would be stepped back slightly. Windows on the southern part would be tall and narrow, and on the top two floors would be full floor to ceiling height with metal balustrades in front. The northern part of the frontage would have wide and full height sliding glazed doors, although these would be set behind private amenity space – a patio terrace at ground level, balconies on the upper floors. At the centre of the balcony recesses at first and second floor would be a "hit and miss" brick panel, with open space on either side.
12. I note the appellant's comment that the proposed building would not pastiche the Listed Buildings in the surrounding area, but is intended to be "a subtly modern design which remains respectful to local character". However, while the proposal would undoubtedly be modern in appearance, the changing approach to fenestration horizontally across the street frontage would mean that there would be none of the symmetry or repeating forms and patterns which characterise the majority of the buildings within the VRCA generally, and the neighbouring Listed Buildings in particular. Conversely, as a result of the very limited changes vertically from one floor to the next – for example in window heights, materials or detailing – the front of the proposed block would have little of the visual interest of its older neighbours. The wide and relatively deep voids created by the terrace and balcony recesses would also, from what I saw, be an unusual and alien feature within the VRCA. Taken together, these features would give the proposed building an incongruous appearance, especially when seen alongside the neighbouring Georgian Listed Building at 21-37 Foxley Road.
13. Turning to the other adjoining Listed Building at 105-123 Vassall Road, and more specifically 105-113, I acknowledge that, as the appellant has pointed out, the rear elevation of that building was not designed for public view; it is

simpler, less detailed, and of cheaper materials than the frontage. I also saw on my site visit that, while the rear elevation has had some non-original features such as soil stacks, cables, and boiler flues added over the years, there are no prominent or intrusive modern extensions interrupting the view from Foxley Road. I note that the VRCA Character Appraisal indicates that the view of the rear elevation of 105-113 Vassall Road from Foxley Road makes an important contribution to the historic character of the area. Close views are already somewhat restricted by mature vegetation and trees in the garden of No 41 Foxley Road. The siting and bulk of the proposed apartment block would further constrict views from Foxley Road, and so would reduce opportunities to appreciate the simple quality of rear elevation of the 105-113 Vassall Road.

14. In respect of the existing bungalows on the appeal site and at No 41, the appellant argues that they are "out of step with their surroundings" and that the proposed replacement of one would enhance the special architectural and historic character of the VRCA. I recognise that the bungalows are of a size and style which is rare in the context of the surrounding Georgian terraces and villas, and indeed inner London more generally. However, they are simple and unobtrusive buildings which, taken as a pair, have a symmetry and regularity of form and design which is appropriate to their surroundings. The views of trees in the Kendal Close pocket park to their rear which they allow creates a visual connection with street trees on Foxley Road which contributes to the verdant feel of this part of the VRCA. Furthermore, their low form gives the adjacent Listed Buildings the space to be appreciated. While the bungalows would no doubt benefit from some "TLC", none of the evidence before me or my observations on my site visit persuades me that they are detrimental to the area. The VRCA Character Appraisal identifies them as making a neutral contribution to the character and appearance of the Conservation Area, and I do not disagree with that assessment.
15. On the other hand, the very close juxtaposition between the proposed three storey apartment block and the single-storey half-building which would be left at No 41 would be visually jarring to a degree which would be unusual in the extreme. Accordingly, I do not accept the appellant's argument that there would be a "marked improvement in terms of the character, appearance and congruousness of the street". Rather than there being "a well-mannered transition between the Listed Building and the retained bungalow", I consider that the height and massing of the apartment block would result in it dominating the remaining bungalow at No 41. In my view this would be harmful to the area rather than an enhancement.
16. I acknowledge that there are elements of the scheme, notably the use of London stock brick laid in Flemish bond for its external walls, which would be in keeping with the character of the wider area. However, this would not overcome or outweigh the other harm which I have found.
17. Taking these points together, the apartment block proposed would be a discordant and incongruous development. Because of its design and detailing, and fenestration in particular, it would clash visually with the Listed Building at 21-37 Foxley Road, while its massing and siting would reduce opportunities for appreciating the rear elevation of the Listed Building at 105-113 Vassall Road. Furthermore, its design and siting mean that it would dominate the remaining bungalow at 41 Foxley Road.

18. I therefore conclude that the proposed development would not preserve or enhance the character of the VRCA, nor would it preserve the setting of the adjacent Grade II Listed Buildings. In the terms of the Framework, I consider that the harm to the significance of the VRCA and the Listed Buildings as designated heritage assets would be less than substantial.
19. The creation of four new dwellings, a net gain of three, would add to the supply of residential property in a densely populated part of London with a great demand for housing, and jobs would be created locally during construction; these are benefits in favour of the scheme. However, the Council's evidence, which is not disputed, is that it has delivered a surplus of housing against its targets in recent years. Furthermore, the proposed scheme is small in scale and consequently would support relatively few jobs for only a limited period. On this basis, I consider that these benefits carry only modest weight in favour of the proposal.
20. The development would also result in the payment of Community Infrastructure Levy to the Council. By definition this would largely be to mitigate the effects of the proposed development in planning terms, so I consider that it is a neutral factor. Accordingly, I find that the public benefits which have been identified would not outweigh the harm to the heritage assets, to which I must attribute great weight.
21. The proposal conflicts with Policies Q5, Q8, Q20 and Q22 of the 2021 Lambeth Local Plan, which among other things seek to ensure that development is well-designed and detailed, sustains and reinforces local distinctiveness, does not harm the setting of Listed Buildings, and preserves or enhances the character or appearance of Conservation Areas. For the same reasons I find conflict with the provisions of the Framework in respect of good design and protecting the historic environment.

Other Matters

22. As I have described in paragraph 2 above, the appellant submitted a completed UU containing obligations in respect of car-free development and car club membership. The UU is intended to mitigate the effects of the proposed development, and as I am dismissing the appeal for other reasons it has not been necessary for me to consider it in further detail.

Conclusion

23. The proposal would result in some benefits, including the provision of four new housing units. However, it would cause harm to the character and appearance of the area, and to designated heritage assets, and there would be conflict with the development plan taken as a whole. There are no material considerations, including those of the Framework, which indicate that the decision should be made other than in accordance with the development plan.
24. For the reasons given above, the appeal is therefore dismissed.

M Cryan

Inspector