



Appeal Decision

Site Visit made on 5 November 2021

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2021

Appeal Ref: APP/N5660/W/21/3276382

Garages South of Babington Court, Babington Road, London SW16 6AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr C Moseley against the decision of London Borough of Lambeth.
 - The application Ref 21/00746/OUT, dated 23 February 2021, was refused by notice dated 20 April 2021.
 - The development proposed is demolition of existing block of 6 Garages and construction of 4 no flats, 2 one bedroom and 2 two bedroom with associated amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was in outline with all matters reserved. The appeal has been determined on this basis.
3. The Planning Practice Guidance (PPG) is clear that "...where details have been submitted as part of an outline application, they must be treated by the LPA as forming part of the development for which the application is being made. Conditions cannot be used to reserve these details for subsequent approval. The exception is where the applicant has made it clear that the details have been submitted for illustration purposes only".
4. Although the plans submitted with the application are not labelled as 'indicative' or 'illustrative' they show details of matters which are clearly reserved for future consideration. This is further clarified in the appellant's statement. I am therefore considering these plans on the basis that they have been submitted for illustrative or indicative purposes despite not being explicitly labelled as such.
5. Since the original decision the Council have adopted the Lambeth Local Plan (2021). This replaces the Lambeth Local Plan (2015) and the Draft Revised Lambeth Local Plan (2020) such that the policies of those plans cited on the decision notice are no longer part of the development plan and have no weight. I have therefore considered the relevant policies within the Lambeth Local Plan (2021).
6. The Council's first reason for refusal concerns the failure to make provision for a financial contribution towards the delivery of off-site affordable housing. Since the original decision and the lodging of the appeal, following the adoption of the Lambeth Local Plan (2021), the Council have commented that the

development accords with the new Local Plan in relation to affordable housing. I have no reason to form a different view and accordingly will determine the appeal on the basis of the remaining reasons for refusal.

Main Issues

7. The main issues are 1) whether or not the proposed development would provide acceptable living conditions for future occupants with regard to size, private amenity space, and privacy 2) the effect of the proposed development on the character and appearance of the area 3) the effect of the proposed development on the living conditions of occupants of surrounding residential properties with regard to privacy, outlook, daylight and sunlight, and 4) whether or not the development would contribute to sustainable transport.

Reasons

Living conditions – future occupants

8. Policy H5 of the Lambeth Local Plan (2021) sets out the housing standard to be achieved in new residential development. It outlines, amongst other things, that schemes should meet the minimum private internal space standards set out in London Plan policy D6, and that for external amenity space, at least 10m² per flat either as a balcony/terrace/private garden or consolidated with communal amenity space should be provided.
9. Policy D6 of the London Plan (2021) sets out that housing developments should be of high-quality design and provide adequately sized rooms as set out in Table 3.1 of the Policy.
10. For the proposed development, all units shown on the indicative plans would fail to accord with both the requirements of Policy H5 of the Lambeth Local Plan (2021) and Policy D6 of the London Plan (2021) in relation to meeting the minimum space standards. This would in turn lead to unacceptable living conditions for future occupants.
11. In terms of the amount of private amenity space, although the indicative plan shows that flats 1 and 2 may have access to amenity space, this is located at the front, where due to traffic and overlooking would lack the privacy required to serve residents need for leisure, play or relaxation. They therefore would not count towards private or communal amenity space provision. The fencing of this space, as suggested by the appellant, would not overcome this concern, and would in any event have implications of providing an active street frontage for the development.
12. The indicative plan also shows that flats 3 and 4 could be provided with a roof terrace of 12sqm. This would accord with the requirement in Policy D6 of the London Plan. The Council are concerned that the amenity space as shown on the indicative plans would be unacceptable due to impacts on privacy. For the purposes of the outline application however, I consider that in this regard, the appellant has successfully demonstrated that these flats can be provided with a level of private amenity space to comply with the relevant policy. It would not be unreasonable to consider any necessary screening at the reserved matters stage.
13. The Council have commented that the ceiling height of 2.4m throughout the development also fails to meet the requirement set out in Policy D6 of the

London Plan that ceiling height should be 2.5m for at least 75% of the Gross Internal Area for each dwelling. On this matter, given that scale is a reserved matter, and that to comply with the Policy the indicative scheme would only need to be 0.3m higher than that indicated, aside from my consideration of the overall impact on character and appearance, I do not consider that the appeal, for outline planning permission with scale reserved, should fail on this basis.

14. In relation to the matters of room size and amenity space provision, these are not as easily addressed through such minor alterations and are fundamental matters in relation to the provision of suitable living conditions for future occupants. Although the plans before me are indicative, I cannot be certain that a scheme that would provide the necessary rooms sizes and amenity space can be successfully delivered at the site in principle, for which 4 flats comprising 2 one-bedroom and 2 two-bedroom have been proposed.
15. Although not set out in their reasons for refusal, the Council have referred to the unacceptable impact from noise of vehicles and pedestrians coming and going. I observed on my visit that the area experiences a moderate amount of pedestrian and vehicle activity at present. There is no substantive evidence before me that the proposed residential units would be exposed to unacceptable levels of noise above that which is currently experienced by existing residents in the area.
16. The appellant has commented that the intention in the proposed development would be to have lower levels of occupation. Regardless, the indicative layout shows the dwellings falling below the minimum requirements.
17. The proposed development would therefore fail to provide acceptable living conditions for future occupants with regard to their size and private amenity space. It would be contrary to Policies Q2 and H5 of the Lambeth Local Plan (2021) and Policy D6 of the London Plan (2021) which seek, amongst other things, that housing should be of a good design with minimum internal space standards and appropriate private amenity space.

Character and appearance

18. The appeal site sits in front of Babington Court which is a three and four storey residential block of flats. The site currently contains a single storey block comprising six garages. The surrounding area is predominantly made up of residential properties of various styles and sizes. There is a consistent line of frontage, with the appeal site and Babington Court proving to be one of the exceptions to the established building line on this side of Babington Road. The site sits between a two-storey property with hipped roof and a three-storey block of flats.
19. Matters of scale and appearance have been reserved for future approval. The indicative plans show how four flats could be accommodated on the site in a part two, part three storey building with a central access.
20. Although the plans are indicative, the quantum of development for which permission is sought, would inevitably be over a number of storeys, as per the indicative plans. Whilst a two, or three storey development would not appear out of character in the context of the adjacent properties, it would have noticeable, and potentially harmful, implications for the street-scene as it encompasses Babington Court, which although being set back from the

footpath edge, due to its overall height and design, plays a prominent role in the street-scene.

21. The appellant is of the view that one of the benefits of the development would be the removal of an unpleasant feature, namely the garages, at the front of Babington Court. Although I share the view that the garages are not a hugely positive aspect of the street-scene, they are relatively submissive to the surrounding built development and do not themselves cause harm. I therefore give this benefit limited weight in the appeal.
22. It has therefore not been demonstrated that the amount of development could be successfully accommodated in the street-scene without appearing over dominant and incongruous in relation to Babington Court.
23. Therefore, based on the evidence before me, I am unable to conclude that the proposed development would not have an unacceptable impact on the character and appearance of the area. It would be contrary to Policies Q5, Q7 and Q8 of the Lambeth Local Plan (2021). Collectively, these policies require that proposals; are a creative and innovative contextual response to positive aspects of the locality, preserve or enhance local character, and be visually attractive.

Living conditions – existing occupants

24. The indicative plans show that the proposed development could be sited at a distance of around 11m from the closest habitable room window of a first floor flat in Babington Court, that has a roof terrace that extends towards the existing garage block. The indicative elevations show that there could be high-level windows installed on the rear elevation in order to avoid unacceptable impacts on privacy.
25. The existing roof terrace and the indicative roof terrace would be somewhat closer, at around 8m separation. As I have identified above, the installation of a privacy screen, to be considered at reserved matters, could be used to alleviate any privacy impacts. I am also mindful of the make-up of the surrounding area where amenity spaces sit side by side and are often overlooked by neighbouring flats and houses. In this regard, I do not consider that the proposed development would have an unacceptable impact on the living conditions of occupants of Babington Court with regard to privacy.
26. The indicative plans show that the proposed development, at a point where it could be sited and forming three storeys, at a distance of around 5m from the side elevation of Clive Court. This elevation contains a number of existing habitable room windows.
27. Due to its size, scale and separation, the indicative proposal would have an unacceptable impact on the outlook from the habitable rooms in Clive Court that overlook the appeal site. For these same reasons, and given its orientation, there would also likely be an unacceptable reduction in levels of daylight and sunlight. Although the appellant refers to the lack of an assessment in this regard to make such a conclusion, it is for the appellant to demonstrate otherwise. No such assessment has been submitted.
28. The appellant suggests that the detailing which could be used in the side elevation of the proposed building could reduce the impact. I agree that in some circumstances, such detailing can contribute to alleviate harm, however

in this instance, due to the overall size, scale and separation, it would not make the impact acceptable.

29. Therefore, based on the evidence before me, I can not be certain that the proposed development could be delivered without causing unacceptable harm to the living conditions of the occupants of Clive Court with regard to outlook, daylight and sunlight. It would be contrary to Policy Q2 of the Lambeth Local Plan (2021) which requires, amongst other things, that development should not unacceptably compromise visual amenity, including outlook, or have an unacceptable impact on levels of daylight and sunlight.

Sustainable travel

30. The appeal site currently comprises six garages, although it is not clear from the evidence or my site visit if these are used for parking of vehicles. I did observe that although there are no formally marked spaces, three vehicles were parked to the rear of the garages, adjacent to the footpath with Babington Road and also in front of the Babington Court building itself.
31. The indicative plans show four vehicles parked at the site and that the area currently used as parking to the rear of the garages, adjacent to the footpath would no longer be available.
32. As an outline planning application, it would be appropriate to address the matter of parking spaces in any future layout of the development. A minor alteration to the indicative layout would overcome the Council's concern in relation to an apparent overprovision of parking spaces, although given that the development would remove an existing area that is used for parking, I am presented with limited substantive evidence that the implications of the development would be unacceptable in transportation terms.
33. The Council have highlighted the lack of a Section 106 Agreement to secure a car-permit free development and car club membership in order to promote less private car ownership. The appellant has indicated that they would be happy to explore all options to discourage car ownership, and I have taken this to mean that they would be happy to enter into an agreement to secure the matters the Council deem necessary to make the development acceptable. Nevertheless, there is not a completed agreement before me.
34. However, as I am dismissing the appeal for other reasons the presence of a completed agreement could not, in any event, lead to a different decision. There is therefore no need for me to reach a finding on these matters.

Planning Balance and Conclusion

35. The Government's objective as set out in the Framework is to support housing growth. The proposed development would result in four additional units, which is a factor of significant weight in favour of the proposed development.
36. Although the indicative plans have not been relied upon, they, or indeed any other evidence, have failed to provide the necessary certainty that an acceptable scheme is capable of being devised at the reserved matters stage.
37. I cannot therefore be certain that the proposed development would; provide acceptable living conditions for future occupants, not cause harm to the character and appearance of the area; or not have an unacceptable impact on

the living conditions of occupants of surrounding residential properties with regard to outlook, daylight and sunlight.

38. The proposed development would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.
39. For the reasons given above, and having had regard to all other matters raised, I therefore conclude that the appeal be dismissed.

A M Nilsson

INSPECTOR