



Appeal Decision

Site visit made on 13 October 2021

by Rory MacLeod BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd December 2021

Appeal Ref: APP/C5690/W/21/3272112

53 Baring Road, London, SE12 0JS

- 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 Harish Dhutia against the decision of the London Borough of Lewisham.
 - The application Ref DC/20/115383, dated 10 January 2020, was refused by notice dated 16 October 2020.
 - The development proposed is described as double storey front and side extension along with loft conversion.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's decision notice refers to the 2019 version of the National Planning Policy Framework (the Framework). This was replaced in July 2021 by a new version. I have taken account of changes to policies and paragraph numbers.
3. The decision notice also refers to policies in the London Plan (2016). This has been replaced by the London Plan (2021). I have had regard to updated policies in this Decision.
4. The proposal involves construction of a two storey side extension and dormer extension to the rear roof slope at 53 Baring Road to provide a separate shop unit on the ground floor and a three bedroom self-contained flat above.
5. There is inconsistency in the proposal in that the application form indicates no new vehicular access or parking whereas the submitted drawings show a rear parking space and forecourt parking.
6. There is uncertainty on whether the forecourt to the front of the site constitutes highway land and would need 'stopping up'. This would be a separate process from the obtaining of planning permission.

Main Issues

7. The main issues are,
 - (a) whether a viable retail unit would be formed and the proposal's impact on the existing retail unit's viability,
 - (b) the adequacy of living conditions for occupiers of the proposed flat, and
 - (c) the effect of the proposal on highway safety.

Reasons

Retail unit

8. The appeal relates to land alongside no.53 Baring Road, a ground floor end of parade shop unit with a flat above. The site is triangular in shape with a wide frontage to Baring Road and a narrowing strip of land to the rear adjacent to Harland Road on the return frontage.
9. The proposed shop unit would have a floor area of about 79m², which would be larger than that for the chemist at no.53. Whilst the plans do not clearly show any storage areas or back of house facilities such as WCs, reconfiguration of the internal floor area would enable these to be provided with sufficient floor area remaining for a viable retail unit.
10. But it is unclear how the existing and proposed shop units would be serviced. The chemist shop would have a back door close to its store but access to the highway would be through the amenity space for the proposed flat. There is a rear access drive from Harland Road from which other shop units in the parade could be serviced. The part of this highlighted in the photo in the appeal statement relates to no.55 Baring Road; no.53 does not have an access on to the rear drive. The proposed shop unit would have a rear door to the Harland Road footway, but the appeal submissions also refer to front servicing. The forecourt is cordoned off by posts as if to preclude parking here.
11. Service vehicles are likely to be small for both units, but it remains unclear how they would be serviced following construction of the extension. In that the viability of the unit at no.53 could be compromised there would be conflict with DM Policy 16 of the Development Management Local Plan (2014) (DMLP) that promotes the retention of units in local shopping parades. The proposal has the potential to play a small part in building a strong and competitive economy, in accordance with Chapter 6 of the Framework, but to establish viability it is necessary to confirm provision of satisfactory servicing for both units.

Living conditions

12. The proposed flat would have a floor area of about 97m² which would satisfy the requirements of the Nationally Described Space Standards for a 3 bedroom dwelling. The habitable rooms would all be of satisfactory size with a good outlook. Built in storage would be below standards but this could be remedied by minor adjustments to the internal layout.
13. However, the external amenity space shown adjacent to the stepped rear access to the flat would not be private as it would also serve as the rear access to the shop at no.53. It would also appear to be the area to store bins for both shop units. This would not provide a satisfactory external space and no alternative internal space or balcony is proposed. I acknowledge the proximity of Northbrook Park as an area of public open space, but this would not compensate for the absence of satisfactory private amenity space provision.
14. The proposal would conflict with Policy 32 of the DMLP which requires new built housing to meet the functional requirements of future residents including a readily accessible, secure, private and usable external space. There would also be conflict with the Housing Supplementary Planning Guidance Note for the London Plan for provision of private open amenity space for all new dwellings or failing this sufficient compensatory additional internal living space.

Highway safety

15. Two car parking spaces are shown for the front forecourt, but it is unclear how cars would access and leave these spaces without resulting in conflict with pedestrian movements on the adjacent footways or with traffic negotiating adjacent road junctions. An under-sized parking space with an acute angled access is shown in the apex of the rear yard. Use of this space would be likely to be hazardous to pedestrians in Harland Road. The proposed floor plans 1039/03 show a cycle store for 2 bikes in the same apex; there is not room for both this and the parking space. The block plan 1039/06 shows 4 cycle stands on the forecourt; these would not be covered or secure in relation to provision for new residential accommodation.
16. The proposal would be contrary to Paragraphs 111 and 112 of the Framework which require development to create spaces that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, that allow for the efficient delivery of goods, and access by service vehicles and which avoid unacceptable impacts on highway safety. Similarly, there would be conflict with Policy 14 of the Lewisham Core Strategy (2011) in relation to the safety of pedestrians and provision of safe and secure cycle storage.

Other Matters

17. The proposal would have the benefit of providing one additional dwelling in a sustainable location. This would make a modest contribution towards meeting the Council's raised overall and small sites housing targets in the London Plan (2021). But this benefit would not outweigh the harm I have identified.
18. Paragraph 119 of the Framework promotes an effective use of land in meeting the need for homes and other uses; the appellant refers to changes in planning law to enable upwards extensions as an example of this objective. The proposal would make a fuller use of this corner site but would not safeguard and improve the environment and ensure safe and healthy living conditions, which is also part of Paragraph 119.
19. The appellant has referred to two permissions for similar two storey side extensions as precedents for the proposal¹. The first relates to a change of use resulting in 2 dwellings in 2006 under a previous planning policy regime. The second is a change of use of part of a ground floor shop together with the construction of a rear extension to provide 1 one bedroom flat. From the information available to me there would appear to be substantial differences in the site circumstances at the current appeal site. Each proposal has to be considered on its individual merits having regard to planning policies relevant at the time of the decision. The claimed precedents attract little weight.

Conclusion

20. For the reasons given above I conclude that the appeal should be dismissed.

Rory MacLeod

INSPECTOR

¹ Permissions DC/06/62390, 133 Brookbank Road and DC/18/106089, 356 Brockley Road.