



Appeal Decision

Site visit made on 2 March 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th March 2022

Appeal Ref: APP/N5660/W/21/3283246

Land adjacent to 2 Penford Street, London SE5 9JA

- 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 Mrs Kate Robertson against the decision of London Borough of Lambeth.
 - The application Ref 21/02133/FUL, dated 28 May 2021, was refused by notice dated 23 July 2021.
 - The development proposed is described as 'construction of a new one bedroom dwelling comprising part basement, lower ground and ground floor levels (resubmission of 20/02278/FUL and 21/00141/FUL)'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was refused on the basis of the Lambeth Local Plan 2015 (LLP 2015), with due consideration given to emerging policies in the Draft Lambeth Local Plan 2020 (DLLP 2020). On 22 September 2021 the Lambeth Local Plan 2021 (LLP 2021) was adopted. The courts have confirmed that Inspectors need to make their decisions on the basis of the development plan in place at the time of their decision, which in this case is the LLP 2021. Since the adoption of the LLP 2021, the Council submitted an appeal statement, to which the appellant responded. Amendments to relevant policies between the DLLP 2020 and the LLP 2021 have no significant implications with regard to the main issues on which this appeal is determined.

Main Issues

3. The main issues are the effect of the proposed development on:
 - The character and appearance of the surrounding area, with particular regard to the extent to which it would preserve or enhance the character or appearance of the Minet Estate Conservation Area; and
 - Parking and highway safety.

Reasons

Character and appearance

4. The site is located to the side of 2 Penford Street and to the rear of the corner property at 111 Knatchbull Road. It was originally part of the garden for No 111 and contained a garage which has since been removed. The area is

predominantly residential and is within the Minet Estate Conservation Area (the Conservation Area).

5. This part of the Conservation Area is characterised by large traditional buildings, which have predominantly retained their original architectural detailing. 2 Penford Street is a substantial, 4 storey (including semi-basement) traditional semi-detached dwelling, constructed in brick, with stone detailing, bay windows to lower floors and a walk up entrance. It is typical of the rest of Penford Street, which has retained a high level of consistency in terms of character and appearance. At the junction of Penford Street and Knatchbull Road, the two corner properties at No 111 and 113 Knatchbull Road are both substantial traditional detached dwellings, in brick with stone detailing.
6. Most of the dwellings in the area are set within good sized mature gardens. There are gaps between and around the dwellings giving the area a green and spacious character which enhances the appreciation of the grandeur of the dwellings. This is particularly the case towards the junction, where the deep returns of No 111 and No 113 allow for views from Penford Street across the rear gardens of Knatchbull Road. This allows for a distinct feel of openness in the immediate vicinity of the site.
7. The site is located at a point in the road, common to both sides of Penford Street, where these characteristic gaps exist. As such, the site currently makes a positive contribution to the spacious and open character of this part of the Conservation Area, despite the unattractive gates and boarding which currently secure the site boundary.
8. The proposal would add a three storey dwelling to the site, with one and a half storeys below ground, and rising to approximately 4.8 metres above ground level. It would have a flat front elevation, constructed in brick, with stone detailing above the windows. To some extent, it would reflect the design of the rear projection of No 111, and the use of brick and the inclusion of a stucco string course is reflective of the surrounding dwellings. Despite this, its overall appearance would be very different to the frontage development along Penford Street in terms of scale, proportions and architectural detailing. The proposal would be around the height of the porch entrance of No 2, but would be too large to appear as a subordinate development, yet too small to read as an appropriately sized separate dwelling in an area characterised by substantial buildings. The proposed front boundary would continue the brick wall from the return frontage of No 111, but this would not be characteristic of the dwellings which front onto Penford Road, which feature low rendered walls. Accordingly, the proposed dwelling would not reflect positive aspects of the local context and would comprise an incongruous feature, out of keeping with the appearance of its surroundings.
9. The proposal would fill a substantial proportion of the gap between No 111 and No 2 and due to its height and massing, within what is currently a significant break in built form, would appear prominent in Penford Street. The proposal would also largely fill its plot, presenting a cramped appearance relative to surrounding dwellings which sit within generously sized gardens. The combined impact of this would be a reduction in the existing qualities of space and openness, which are a significant positive component of the character of the area.

10. The incongruous scale and design of the proposed dwelling, combined with the loss of openness, would have a harmful impact on the surrounding area, including the Conservation Area. The statutory duty in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. In finding harm to the Conservation Area, I would quantify the harm as less than substantial. Nonetheless, special attention must be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area, so I must attach considerable importance and weight to the identified harm. The National Planning Policy Framework (the Framework) requires that where less than substantial harm is found, the harm should be weighed against any public benefits. I note that the proposal would provide a dwelling to contribute to local housing supply but find that this would be insufficient public benefit to outweigh the identified harm to the Conservation Area.
11. My attention has been drawn to examples of other infill development. Full details of these are not before me, but I have considered the information provided. I acknowledge that the examples are visible within the streetscene, but the design and location of each is different to the appeal site, meaning they are not read in the same context as the proposal before me. Some are also outside of Lambeth so will have been assessed against different development plans. In any event, each case must be considered on its own merits and impacts and direct parallels are not easily drawn.
12. I conclude that the proposed development would cause significant harm to the character and appearance of the surrounding area and would fail to preserve or enhance the character or appearance of the Minet Estate Conservation Area. Consequently, the development would not comply with Policies Q5, Q7, Q11, Q14, Q15 and Q22 of the LLP 2021. Together, amongst other things, these policies seek to ensure that development is well designed and respects and reinforces positive aspects of local character and distinctiveness, particularly within Conservation Areas, including gardens and boundary treatments.

Parking and highway safety

13. The proposed development would not provide on-site parking and is within a Controlled Parking Zone (CPZ) where signs confirm that permits are required to park between 8.30am and 6.30pm Monday to Friday. At the time of my visit (10.30am on a Wednesday) the parking bays had a reasonable level of occupancy, but it is likely that overnight and at weekends parking demand in the area would be much higher.
14. The appellant states that the proposal would remove an existing vehicular crossover enabling on-street parking to be extended across what is currently the access to the former garage site. It would also remove the potential for vehicles to be parked on the site itself. Notwithstanding this, Policies T1 and T6¹ of the LLP 2021, together with Policy T6 of the London Plan 2021, amongst other things, seek to promote a sustainable pattern of development, reducing dependence on the private car and managing parking demand. Policy T6 of the LLP 2021 specifically states that development should be permit free² where it

¹ Policy T6 from the LLP 2015 was not directly transferred to the DLLP 2020, but compliance with London Plan 2021 Policy T6 was incorporated into Policy T7 of the DLLP 2020. Policy T7 of the DLLP 2020 became Policy T6 of the LLP 2021, with amendments, and strengthened links to London Plan 2021 policies.

² Where no on-site parking is provided and residents will be excluded from the council's residents' parking permit scheme.

falls within a CPZ, and that development should provide for car club membership or car-pool schemes in place of private parking. The Council seeks to implement this policy approach via Policy D4 of the LLP 2021 which sets out that, amongst other things, Section 106 planning obligations may be used with regard to parking restrictions and car clubs.

15. I have considered the acceptability of using a planning obligation in this case. Failure to restrict private car use related to the proposed development would contribute to parking stress in surrounding streets and adversely affect highway safety. A planning obligation ensuring that the development would be permit free and provide for car club membership would, therefore, be necessary to make the proposal acceptable in planning terms and would be directly related to the proposed development and fairly and reasonably related to its scale and nature. A planning obligation in this case would therefore comply with paragraph 57 of the Framework.
16. If the proposal were acceptable in all other respects, a planning obligation could be used to ensure the proposed dwelling would be permit free and provide for car club membership. Whilst the appellant has provided a signed unilateral undertaking, it seeks to restrict future occupants to one parking permit, rather than being permit free, and does not cover car clubs. I have been presented with no substantive evidence which would lead me to conclude that this divergence from Policy T6 of the LLP 2021 can be justified and would not lead to harm.
17. I conclude that in the absence of a suitable mechanism to ensure that the proposed dwelling would be permit free and provide for car club membership, the proposal would have an unacceptable impact on parking and highway safety and would not comply with Policies D4, T1 and T6 of the LLP 2021 and Policy T6 of the London Plan 2021.

Other Matters

18. I acknowledge that the proposal has been reduced in height, along with other changes, when compared to previous refused applications. However, the more appropriate comparison is with previously approved applications. The proposal subject to this appeal is around 1.6 metres higher than the proposal which was granted permission in 2014. That proposal would have resulted in a dwelling with a single storey above ground, so visually much less intrusive.
19. The site has been subject to fly tipping and development of the site would help to rectify this issue. However, this does not justify harmful development. I also note other matters raised by interested parties, but they do not change the considerations set out above.

Conclusion

20. For the reasons given above and taking into account the development plan as a whole and all other matters raised, I conclude that the appeal should be dismissed.

Helen Davies

INSPECTOR