



Appeal Decision

Site visit made on 21 January 2022

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 April 2022

Appeal Ref: APP/N5660/W/21/3271098

84 Southwell Road, London, SE5 9PG

- 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 LPV against the decision of London Borough of Lambeth.
 - The application Ref 20/02958/FUL, dated 2 September 2020, was refused by notice dated 4 December 2020.
 - The development proposed is Erection of rear mansard roof extension to the rear and creation of a new residential unit (Class C3), together with the provision of cycle/refuse stores.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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).
3. Since the original decision The London Plan 2021 has been published by the Mayor of London. It comprises the spatial development strategy for London and is now part of the development plan. The policies contained in The London Plan 2021 replace those of The London Plan 2016 referred to in the Council's report and as such those policies are no longer relevant.
4. On 20 July 2021, the Government published its revised National Planning Policy Framework ('the Framework'). It replaces the previous version published in February 2019. The Framework represents the Government's up-to-date planning policies for England and how they should be applied. I have had regard to the Framework in reaching my decision.
5. I am in receipt of amended plans from the plans referred to in the Council's Decision Notice. The amended plans include the provision of a privacy screen to the proposed roof terrace and a reconfiguration of the proposed internal layout whereby a bedroom is now proposed in a space where a shower room was previously proposed.
6. As these are minor amendments, and the Council's concerns on the original set of plans are clear in their evidence, I do not consider that their interests would be prejudiced if I take these amended plans into account. I shall therefore

determine the appeal on the basis of the plans referred to on the decision notice but substituting plans 201, 222 and 224A with plans 201A, 222A and 224B.

7. The Council have commented that Policy H2 'affordable housing' of the Lambeth Local Plan (2021) no longer requires a contribution from proposals under 10 units. The Council have commented that this requirement should be withdrawn from any future agreement and that they no longer wish to defend this reason for refusal. 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

8. The main issues are therefore 1) whether or not the proposed development would provide acceptable living conditions for future occupants, 2) the effect of the proposed roof terrace on the living conditions of the occupants of surrounding residential properties with regard to noise, disturbance, and privacy, 3) the effect of the proposed development on the character and appearance of the host property and surrounding area, and 4) the effect of the proposed development on highway safety and sustainable travel choices with regard to parking.

Reasons

Living conditions – future occupants

9. The proposed development would provide a dwelling for one person at the roof level. It would consist of a single bedroom, a kitchen/living/dining room, a separate shower room and a private roof terrace.
10. There is no dispute between the parties that the proposed unit would deliver at least the minimum internal floor area for a 1 bed 1 person unit.
11. Policy H6 of The London Plan (2021) states that the minimum floor to ceiling height must be 2.5m for at least 75 per cent of the Gross Internal Area (GIA) of each dwelling. In the proposed dwelling, the evidence shows that the total floor area is 44.6sqm. Of this, 10.6sqm is at a height of 1.5m to 2.3m and 34sqm has a height of over 2.3m. This equates to 76% of the floor area being over 2.3m. Although I am not provided with a figure for the percentage of floor space being over 2.5m, as per the policy, given the sloping nature of the ceilings, this is unlikely to be at least 75 per cent of the GIA as required by the policy. Either way, it has not been demonstrated that the proposed development would deliver at least 75 per cent of the GIA at a minimum floor to ceiling height of 2.5m.
12. The appellant has put forward the argument that given the floor area of 44.6sqm exceeds the minimum amount required, of 37sqm that in the context of this figure the amount of floor space above 2.3m, as a percentage of the minimum figure is well in excess of 75 per cent. I understand the argument, however this is not what the policy requires, and the appellant has not demonstrated this in the context of the current policy in any event, which requires 75 per cent at 2.5m as opposed to 2.3m in the previous iteration.
13. The Council expressed concern with the initial proposal that provided access to the roof terrace via a shower room. The appellant has since amended the

layout so that access is now via the bedroom. I do not consider that this arrangement would be unacceptable or equate to unacceptable living conditions for future occupants given the intended occupation by one person.

14. The proposed development would therefore provide unacceptable living conditions for future occupants. It would be contrary to Policy H5 of the Lambeth Local Plan (2021) and Policy H6 of The London Plan (2021). These policies require that in order to provide acceptable living conditions, new dwellings are required to provide minimal internal space standards.

Living conditions – surrounding occupants

15. I observed on my site visit that the outdoor areas to the rear of the properties are used as private amenity space. The rear elevation of the terrace also contains a number of windows.
16. There is no evidence to suggest that the roof terrace would not be used in a manner otherwise akin to the amenity space of surrounding properties. Although some noise may be noticeable from the occupants sitting out on the terrace, it would be of a nature not uncommon in a residential area such as this, despite that it would emanate from an elevated position.
17. No evidence is submitted to demonstrate that there would be unacceptable harm caused in terms of noise and disturbance. In terms of the proposed roof terrace, due to its relatively small area and the fact that it is solely for domestic purposes for the enjoyment of the proposed property, I do not consider that it would result in unacceptable levels of noise and disturbance. The installation of the proposed screen would also serve to partially alleviate noise breakout and would overcome the privacy concerns in terms of preventing overlooking.
18. Therefore, the development would not have an unacceptable impact on the living conditions of occupants of neighbouring dwellings with regard to noise, disturbance and privacy. It would comply with Policy Q2 of the Lambeth Local Plan (2021) which requires that developments provide acceptable standards of privacy and reduces the impact of noise.

Character and appearance

19. The mansard roof would be located to the rear of the property, that forms part of a terrace. It would not be visible from any notable public vantage points. It would sit below the ridge of the main roof of the terrace. The use of materials to match those of the existing and retained roof could be imposed were the appeal to be allowed.
20. The Council have commented that the rear face of the proposed mansard would terminate approximately 2.7m above the floor level, which is 300mm higher than the guidance permits. They do however have no objection in principle to the installation of a mansard roof at the property, having regard to planning permission having already been granted for a mansard roof in October 2019.
21. Although the proposed mansard would marginally exceed the limit contained in the Building Alterations and Extensions Supplementary Planning Document (SPD) (2015) I do not consider that this would result in an unacceptable impact on the character and appearance of the property, having regard to its overall design, size, siting and limited views from public vantage points.

22. I therefore conclude that due to its siting and design, the proposed development would not have an unacceptable impact on the character and appearance of the host property and the surrounding area. It would comply with Policies Q5, Q8 and Q11 of the Lambeth Local Plan (2021). Collectively, these policies seek to ensure that developments are visually attractive, be of a design which positively responds to the original architecture, including roof form, of the host building.

Highway safety and sustainable travel choices

23. The Council refused planning permission for, amongst other things, the absence of a legal agreement to secure measures to ensure the development was 'car-free', and a contribution towards car club membership for future occupants.
24. The appellant has submitted a Unilateral Undertaking (UU) that includes a commitment that the development shall constitute car-free development and car club membership for future occupants for a period of 3 years. The Council have not commented on the UU.
25. It is necessary that I consider this obligation against the three tests set out in the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. I am satisfied that the commitment that the development constitutes a car free development and car club membership be provided would be necessary to make the development acceptable in planning terms. Furthermore, it would be directly related, and fairly and reasonably related in scale and kind, to the development proposed. The obligation therefore meets the relevant tests. I have therefore attached weight to it in reaching my decision.
26. In reference to the Council's fifth reason for refusal, I consider that the UU would therefore secure the requirement that the development is 'Car Parking Permit Free' and would make the necessary contribution towards Car Club membership for future occupants. The UU is however undated and unsigned and therefore can not be considered as a completed agreement.
27. In the absence of a completed UU, the proposed development would therefore be detrimental to highway safety and would not promote sustainable travel choices with regard to parking. It would be contrary to Policies T6 and H6 of the Lambeth Local Plan (2021) that, amongst other things, require development to provide sustainable travel choices through controlling parking and provide for car club membership.

Planning Balance and Conclusion

28. The Government's objective as set out in the Framework is to support housing growth. Although the proposed development would result in only a slight increase in the Council's overall housing number, this is nevertheless a factor of significant weight in favour of the proposed development.
29. However, the proposed development fails to provide acceptable living conditions for future occupants, and in the absence of a completed UU fails to secure the necessary sustainable travel choices. These factors attract significant weight that outweighs the benefits associated with the proposed development.

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

A M Nilsson

INSPECTOR