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# Appeal Decision

Site visit made on 31 March 2022

**by A M Nilsson BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 May 2022**

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**Appeal Ref: APP/N5660/W/21/3270930**  
**15A Welmar Mews, London SW4 7DD**

- 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 Sutherland Walk Developments against the decision of London Borough of Lambeth.
  - The application Ref 19/03852/FUL, dated 15 October 2019, was refused by notice dated 16 September 2020.
  - The development proposed is a rooftop extension to provide an additional 2 no. apartments.
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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 decision notice 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. The Council have commented that as Policy H2 'affordable housing' of the Lambeth Local Plan (2021) no longer requires a contribution from proposals under 10 units, no contribution will be sought. 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

6. The main issues are therefore 1) the effect of the proposed development on the character and appearance of the host building and the surrounding area, 2)

whether or not the proposed development would provide acceptable living conditions for future occupants, 3) whether the proposed development would preserve or enhance the character and appearance of the Clapham Park and Northbourne Road Conservation Area (CP&NRCA) having regard to trees, and 4) the effect of the proposed development on highway safety and sustainable travel choices with regard to parking.

## **Reasons**

### *Character and appearance*

7. The appeal property is located in Welmar Mews that is primarily formed round a central courtyard by two parallel buildings comprising residential properties, one being two storeys in height, and the other three storeys in height. The latter building has a two storey off-shoot on top of which an additional storey comprising one residential unit is proposed. Another residential unit is proposed to be created in the roof space of the three-storey section of the building that sits perpendicular to the off-shoot.
8. The wider Mews does not have one dominant design, with variations across all main sections, including a mansard roof to the building that fronts Clapham Park Road.
9. Notwithstanding the proposed roof terrace, the Council have raised no objection in relation to the scale, massing and appearance of the proposed extensions. In light of the context of the appeal site, I have no reason to form a different view. The Council's concerns in relation to the effect of the proposed development on the character and appearance of the host building and the surrounding area relate to the proposed roof terrace. This would be located on the west elevation of the existing three-storey building and would involve the cutting out of a small section of the roof to create the terrace area and would include the installation of a glass balustrade. The section of the building onto which the roof terrace is proposed is not readily visible from any public vantage points. It would overlook an area of mixed-use employment and residential.
10. The appellant has referred me to several examples of similar roof terraces within the Mews, including two examples that were granted planning permission in 2016<sup>1</sup>. Although each application must be determined on its own merits, I acknowledge the presence of such similar features in close proximity to the proposed roof terrace.
11. Although the proposed roof terrace would create an incursion into the roof space, it would be on part of the roof that is not prominent or clearly visible from any public vantage points. It is also, due to similar installations, not a wholly unbroken roofscape and the proposed roof terrace would therefore not be out of character. Although the balustrade would be visible, due to its relatively limited height, expanse and visibility, I do not consider that this would cause unreasonable harm.
12. The proposed development also includes the provision of a balcony and balustrade to the proposed unit that would be sited on top of the two storey off-shoot. This would overlook the central courtyard area. It would broadly align with the siting and appearance of the existing balcony to the first-floor unit on the off-shoot, with the submitted CGI image demonstrating this

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<sup>1</sup> Planning Application Ref – 16/00573/FUL

approach. Due to the consistent approach in both design and siting, I do not consider that the proposed balustrade to the balcony, which would overlook the central courtyard, would appear dominant or cause harm visually.

13. 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 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.
14. The proposed development would also comply with the Building Alterations and Extensions Supplementary Planning Document (SPD) (2015) which seeks to resist roof terraces and roof balconies on building types where they would be uncharacteristic or on street facing roofs.

*Living conditions – future occupants*

15. The proposed development would provide two 2no. bedroom apartments. These are referred to as apartments 9 and 10.
16. Policy H5 of the Lambeth Local Plan (2021) relates to housing standards. For new residential development, the policy requires, amongst other things, that new dwellings will be expected to provide dual-aspect accommodation, unless exceptional circumstances are demonstrated, and meet the minimum private internal space standards set out in London Plan Policy D6. The policy also requires that at least 10m<sup>2</sup> of private outdoor amenity space should be provided per flat either as a balcony/terrace/private garden or consolidated with communal amenity space for new flatted developments.
17. Policy D6 of The London Plan (2021) outlines that dwellings must provide at least the gross internal floor area and built-in storage area set out in the table titled 'minimum internal space standards for new dwellings'. It also sets out that housing development should maximise the provision of dual aspect dwellings and normally avoid the provision of single aspect dwellings. A single aspect dwelling should only be provided where it is considered a more appropriate design solution to meet the requirements of Part B in Policy D3 Optimising site capacity through the design-led approach than a dual aspect dwelling, and it can be demonstrated that it will have adequate passive ventilation, daylight and privacy, and avoid overheating.
18. In terms of apartment 9, this is a two-bedroom unit of 63.2m<sup>2</sup>. The Council state that as two double bedrooms were shown on the plans, it was considered to constitute a 4-bed space/person unit. The appellant however considers the proposal to be a 3-bed space/person unit. The supporting text of Policy D6 of the London Plan outlines that applicants should state the number of bedspaces/occupiers a home is designed to accommodate rather than simply the number of bedrooms. Therefore, despite the indicative plans showing double bedrooms, I accept the appellants proposal that the unit is for 3 persons.
19. Policy D6 of The London Plan requires that a 2 bed, 3-person unit over 1 storey, has a minimum internal floor area of 61m<sup>2</sup>. There is also a requirement that 2m<sup>2</sup> of built-in storage is provided. Although the submitted plans do not explicitly show built in storage, it would be possible to provide the required

amount and that the resulting floor area remain within the minimum amount required. Were the appeal to be allowed, the provision of built-in storage could be secured by an appropriately worded planning condition.

20. Apartment 9 would have full length windows/doors to the main living area that lead onto two proposed balconies, overlooking the courtyard area. There would also be a window to the side elevation that would be obscure glazed to eye level and a rooflight. Each of the bedrooms would also have a window with obscure glazing to eye level and a roof light. Taking into account the windows to the proposed bedrooms, the obscure glazing here would not result in true dual aspect dwelling and as a result would conflict with policy. However, taking into account the rooflights and the fact that this arrangement would be to bedrooms as opposed to the main living space, I do not consider that there would be unacceptable living conditions in relation to light and outlook as a result.
21. In terms of apartment 10, this is also shown on the submitted plans as having two double bedrooms. This unit is however slightly larger than apartment 9, at 69.7m<sup>2</sup>, falling very marginally short of the policy requirement for a 2-bedroom 4 person unit of 70m<sup>2</sup>, but well within the minimum requirement for a 2 bedroom 3 person unit of 61m<sup>2</sup>. Like unit 9, the submitted plans do not show built in storage, although it would be possible to provide the required amount and that the resulting floor area remain within the minimum amount required, and this could be secured by condition.
22. Outlook and light to apartment 10 would be from new dormer windows and rooflights. Although the dormer windows would be installed only on one elevation, they would serve the main living room and a bedroom. Through the combination of rooflights to the other elevation and other rooms, I do not consider that this would result in unacceptable levels of outlook and light to the dwelling overall, even though it would arguably not be true dual aspect.
23. The private outdoor amenity space for apartment 9 would be through the provision of two balconies totalling 8m<sup>2</sup>, and for apartment 10 would be through the provision of a roof terrace of 7m<sup>2</sup>. Both units would fall short of the requirement in Policy H5 of the Local Plan and there does not appear to be any communal amenity space.
24. Therefore, in terms of the floor space that would be provided for both units, this would comply with the relevant section of the policy and not result in unacceptable living conditions for future occupants. I also find that acceptable levels of outlook and light would be provided for both units.
25. In terms of the outdoor amenity space, this would fall short of the amount required by the relevant policy. I accept that this is by a small amount, 2m<sup>2</sup> and 3m<sup>2</sup> for apartments 9 and 10 respectively, however as a proportion of the amount that is required, it is a significant amount. In addition, the policy requires 'at least' 10m<sup>2</sup> of external amenity space to be provided for a scheme such as this. In exceptional circumstances, where it is demonstrated that site constraints make it impossible to provide private open space for all dwellings in flatted developments in line with the standards, the policy does allow for additional internal living space equivalent to the amenity space requirement within a proportion of dwellings. However, exceptional circumstances have not been demonstrated in this case.

26. The appellant has referred to the proximity of the site to Clapham Common, however this is some distance from the appeal site and would not provide the same nature of use as private amenity space. In any event the policy requiring private amenity space does not refer to such examples as justification for failing to provide the requisite amount of private amenity space.
27. I therefore conclude that due to the deficiency in the provision of private amenity space, the proposed development would not provide acceptable living conditions for future occupants. It would be contrary to the requirements of Policies H5 of the Lambeth Local Plan (2021) and Policy D6 of The London Plan (2021) as outlined above, and the requirement in Policy Q2 of the local plan that developments provide adequate outdoor amenity space.

*Character and appearance of the Clapham Park and Northbourne Road Conservation Area (CP&NRCA) - trees*

28. There are two substantial willow trees located close to the boundary with the appeal property. These are located within the rear garden of a residential property on Northbourne Road. They have statutory protection by reason of their location within the CP&NRCA.
29. The trees are highly prominent in the immediate area, including from within the courtyard of Welmar Mews. Due to their size, siting and overall quality, they positively contribute to the character and appearance of the CP&NRCA.
30. The branches of the trees overhang the existing two storey off-shoot, on to which apartment 9 is proposed. From my observations on site, and the evidence before me, it is almost inevitable that the proposed development would impact upon these trees in some form.
31. No arboricultural assessment has been submitted to identify the impact the proposed development would have on these protected trees, or whether, and to what extent, pruning would be necessary and what impact this may have on the health and appearance of the trees. The appellant argues that the proposed development would not adversely impact on the trees' rooting zones. Although this has not been examined in any detail, and I cannot be certain on this matter also. Even if this were to be the case, the impact extends to the whole tree and not just its rooting zone.
32. In the absence of such information, I cannot be certain that the development could be carried out without causing significant harm to these protected trees which positively contribute to the character and appearance of the CP&NRCA. Given the significance of the matter and its impact on the deliverability of the development, it would be inappropriate to deal with this issue by way of a planning condition.
33. The appellant has referred to the fact that no arboricultural information was requested by the Council at validation stage and that the Council did not refer to arboricultural impact in their determination of a previous planning application for a similar form of development. These factors would not however be reasons to allow the appeal and are therefore of limited weight.
34. Therefore, in the absence of an appropriate arboricultural assessment, I am not able to conclude that there would be no harm, and that the development would preserve or enhance the character and appearance of the CP&NRCA. The proposed development would therefore be contrary to Policies Q9 and Q10 of

the Lambeth Local Plan (2021). These policies require, amongst other things, that proposals for new development; retain and enhance existing planting and landscape features of value and protects them during construction, take particular account of existing trees on the site and on adjoining land, and that development will not be permitted that would result in the loss of trees of significant amenity or historic value or give rise to a threat, immediate or long term, to the continued wellbeing of such trees.

35. The proposed development would also be contrary to Policy G7 of The London Plan (2021) which requires, amongst other things, that development proposals should ensure that, wherever possible, existing trees of value are retained.

*Highway safety and sustainable travel choices*

36. 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.
37. Policy D4 of the Local Plan identifies that Section 106 planning obligations will be sought to ensure that development proposals provide or fund local improvements to mitigate the impact of the development and/or additional facilities and requirements made necessary by the development. Depending on the nature of the development, this may include, amongst other things, car clubs and parking restrictions.
38. The appeal site is identified as having a very good to excellent Public Transport Access Level 5/6a (PTAL) rating and is within a Controlled Parking Zone (CPZ). Policy T6 (d)(i) and (iii) of the Local Plan, inclusively state that developments should be permit free where the development has a PTAL of 4-6 and/or where the development falls within an existing or planned controlled parking zone, car-free; and that developments make car club membership available to all residents in new residential development and should promote and provide for car club membership or carpool schemes in place of private parking.
39. The reason for controlling and managing the availability of parking, including on street parking is to promote sustainable travel and decrease car usage. The provision of, or contribution to, car club membership provides access to a more sustainable means of car use.
40. The parking arrangements in the surrounding area did not appear to create any conditions that were detrimental to highway safety, and there is no substantive evidence before me to suggest that were future occupants allowed to obtain permits that this would cause demonstrable harm to highway safety or result in a severe impact.
41. Nevertheless, in view of the very good to excellent Public Transport Access Level, it is necessary, in the interests of sustainable travel, that the development is car-free and that provision towards car club membership is made for future occupants. Failure to make either of these provisions would also run contrary to the development plan.
42. Whilst the securing of car-free housing may in some cases be achieved through the imposition of an appropriately worded planning condition, the measures that would be necessary to create car-free housing have not been set out in this case. I can therefore not be certain that a planning condition, as opposed

to a planning obligation, would be an appropriate means to secure this requirement.

43. In terms of the requirement to provide for car-club membership, the financial contribution that would be necessary would be unlikely to meet with the necessary tests of imposing planning conditions, and as such a planning obligation would be the most appropriate means to secure this provision. Either way, I am not presented with sufficient detail of the measures that would be necessary to achieve this provision that would lead me to conclude that it would be appropriate to deal with this requirement by way of a planning condition.
44. Aside from the appellant's view that such measures could be secured by planning conditions, they have indicated their willingness to enter into an obligation to secure such measures. No such agreement is however before me, and I have determined the appeal based on the submitted evidence. As I am also dismissing the appeal for other reasons, the presence of a completed agreement would not in any event change the outcome of the appeal.
45. Therefore, although I do not consider that the proposed development would lead to conditions that would be harmful to highway safety, in the absence of an appropriate commitment, the proposed development would fail to promote sustainable travel choices. It would therefore be contrary to Policies D4, T1 and T6 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**

46. 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.
47. However, the proposed development fails to provide acceptable living conditions for future occupants, and in the absence of an appropriate mechanism fails to secure the necessary sustainable travel choices. Additionally, due to the impact on trees, having regard to paragraph 202 of the Framework, I find that the harm to the CP&NRCA is relatively localised, and therefore the proposed development would cause less than substantial harm to the significance of the designated heritage asset.
48. I do not, however, find that this harm is outweighed by the provision of two additional residential properties or any other public benefits of the proposed development.
49. The proposed development would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.
50. 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