



Appeal Decision

Site visit made on 7 June 2022

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2022

Appeal Ref: APP/N5660/W/21/3281553

81 Lothian Road, London SW9 6TS

- 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 Emerging Generations International Ltd against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 20/04516/FUL, dated 2 December 2020, was refused by notice dated 1 June 2021.
 - The development proposed was originally described as 'demolition of the existing community centre (Use Class D1) and erection of 5 storey building plus basement and roof top to provide 205sqm of community space (Use Class D1) at ground floor and 8 residential units (Use Class C3) at upper floors comprising 2 one-bed, 4 two-bed and 2 three-bed, together with amenity space at roof level and provision of cycle and refuse storages.'
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the planning application form. However, the Council's decision notice describes the proposal as 'demolition of the existing community centre (Use Class E(f)) and erection of 5 storeys building plus basement and roof top to provide 205sqm of community space (Use Class E(f)) at ground floor and 8 residential units (Use Class C3) at upper floors comprising 2 one-bed, 4 two-bed and 2 three-bed, together with amenity space at roof level and provision of cycle and refuse storages. (Re-submission)'. This is also the description entered by the appellant on the appeal form, and because it has been used by both parties, I am satisfied that no injustice would be caused by my basing my assessment on this description.
3. When the Council determined the appeal, it referred to policies of the Lambeth Local Plan 2015, and draft policies of the then emerging Lambeth Local Plan 2020-2035 which was subsequently adopted in September 2021 ('LP21'). The main parties have been able to address the policies of the development plan that they consider relevant to the appeal as part of their submissions. I am therefore satisfied that no prejudice would be caused by my determination of the appeal giving full weight to the policies of LP21, and I make no further reference to the previous iteration.
4. The Council's appeal statement confirms that the scheme would no longer be required to contribute to affordable housing following adoption of LP21, and

that its first reason for refusal would fall away. I have considered the appeal on this basis.

5. Finally, there was a delay in the Council making all documentation originally submitted by the appellant with the appeal available for public inspection. As a consequence, the period for interested parties to submit representations on the appeal was extended and I have taken all comments received into account.

Main Issues

6. The main issues are:

- i) the effect of the proposal on the character and appearance of the area and the Minet Estate Conservation Area, including with regard to the effect of the proposal on trees;
- ii) whether or not living conditions for future occupiers of the development would be acceptable with particular regard to light and outlook; and
- iii) the effect of the proposal on the safe and efficient operation of the highway network in the vicinity of the appeal site with particular regard to provision for parking.

Reasons

Character and Appearance

7. The appeal site is located at the junction of Lothian Road, Akerman Road and Patmos Road and includes a single-storey building which is in use as a community hall. Other nearby buildings on these streets are of mixed architectural styles, and there is significant variation in their height, form and overall scale. The positioning of the buildings relative to the streets also varies somewhat. However, many of the buildings are set back behind areas of soft landscaping. These areas together with a number of prominent street trees, including a very large Plane tree on Akerman Road close to the front of the site, help to balance and soften the built form and provide for attractive vistas along Lothian Road and Akerman Road. In addition, the boundary of the Minet Estate Conservation Area ('the CA') runs to the rear of the site. Mature trees within and on the boundary of the CA, including a group behind the appeal building, give the CA a pleasant leafy character which adds to its significance.
8. The existing building on the site is unremarkable within the street scene, and I agree with the Council that its demolition would be acceptable. I am also satisfied that the contemporary appearance of the proposed replacement building, including the contrasting external finish to the upper storey, would not be striking or out of place against the mixed character of its surroundings.
9. Nevertheless, the fifth storey would sit largely above the height of the adjacent buildings at 110-132 Akerman Road and Bathgate House, and would be partly topped by a stair core providing access to the roof garden which would further increase the height of the building. The stair core would project along a fairly large proportion of the depth of the building, and given its alignment with the flank elevation closest to Bathgate House and similar external finish to the fifth storey, I consider that it would notably increase the impression of the height and upper bulk and mass of this side of the building. Although the stair core would be set back from the front of the building, the spacing to Bathgate House means that it would be appreciable in views including from Patmos Road and Lothian Road. In these views, I find that the stair core together with the fifth

storey would form a visually prominent feature that would contrast uneasily against Bathgate House, drawing the eye in views towards the site along Patmos Road and Lothian Road.

10. Irrespective of the use of sympathetic materials, I find as a result that the development would be somewhat dominant against its surroundings and that despite the variation in height of buildings nearby, it would integrate poorly in the street scene. The appellant indicates that they would be willing to engage with the Council to address the prominence of the fifth floor, but I have not been presented with any detailed alternative proposals which would mitigate my concerns above.
11. In addition, I saw at my visit that the canopies of trees on adjoining land to the front and rear of the site partly overhang the existing building. The appellant's Arboricultural Implications Assessment dated 12 November 2020 ('the AIA') and Consultee Response Statement dated 1 March 2021 confirm that pruning of the Plane tree close to the front of the site (ref NT1) and trees to the rear (refs NT2-NT5) would be necessary to facilitate the development.
12. I acknowledge that cyclical pruning is not an uncommon tree management practice, and I do not dispute that such works carried out to a high standard would be unlikely to result in the wholesale loss of trees. The appellant also comments that tree NT1 is not protected, and that it would be within the right of the site owner to cut it back to the boundary. However, the canopy of NT1 sits largely above the existing building, and in the absence of compelling evidence to demonstrate that such works would be necessary or that the tree is causing damage to surrounding buildings, it is not clear that this outcome would be probable in the absence of the appeal proposal.
13. Although not within the CA, NT1 is apparent in views into and out of the area, and I find that it makes a positive contribution to the CA's setting, as well as to the character and appearance of the surrounding area. In my judgement, the substantial degree of reduction to the crown of this tree indicated on the appellant's Tree Protection Plan would seriously diminish its presence in the street with considerable detriment to the character and appearance of the street scene and area, and harm to the setting of the CA.
14. Overhanging growth of trees NT2-NT5 which are within the CA would also be cut back to the boundary at the rear of the site. I agree with the appellant's Heritage Statement that these trees along with others in the CA are central to the area's leafy character and a key component of the CA. The indicated works would affect large proportions of the canopies to only one side of the trees. In my view, this would significantly unbalance the trees, giving them a lopsided and unsightly appearance and undermining the overall contribution that they make to the character and appearance of the area.
15. The appellant concedes that the required pruning of trees would not be in strict accordance with the recommendations of British Standard 3998 'Tree Work – Recommendations'. They suggest that NT1 would regrow, and that the pruning of trees NT2-NT5 to the rear would result in some short-term loss of amenity but that the building design would allow for regrowth ensuring that the overall group value would not be lost. However, separation between the trees and windows and amenity spaces within the development would be very limited, and I consider that they would be likely to result in shading that would adversely affect the living conditions of future occupiers. In my view, this would

result in significant pressure for continued works to reduce the trees away from the building that would be difficult to resist. As such, I cannot agree with comments in the AIA that the type of development proposed would not be affected by shade cast by trees, and I am not persuaded that significant regrowth of the trees so as to mitigate the effects of development in the longer-term would be realistic.

16. For these reasons, I conclude on this main issue that the proposal has failed to take appropriate account of trees, and that it would cause unacceptable harm to the character and the appearance of the area. It would accordingly conflict with Policies Q2, Q5, Q7 and Q8 of LP21. Collectively and amongst other things, these policies broadly require quality design and development that is visually attractive, that responds to local character and that sustains and reinforces local distinctiveness. It would also be contrary to Policy Q10 which includes requirements that development demonstrates that trees of significant amenity, historic or ecological value would be retained, and that retained trees are positively integrated with development on a sustainable basis.
17. In addition, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the Minet Estate CA in accordance with s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The development would adversely affect trees which contribute to the setting of the CA and which add to its leafy quality, harming its character, appearance and thus its significance. The proposal would therefore be contrary to Policies Q5 and Q22 of LP21 insofar as they seek development that responds to positive aspects of historic character and that preserves or enhances the character or appearance of conservation areas. Given the nature of the effect and that the impact would be relatively localised, I find that harm to the CA would be less than substantial in the terms of the National Planning Policy Framework ('the Framework') which goes on to advise that this harm should be weighed against the public benefits of development. I return to this matter as part of my overall planning balance below.

Living Conditions

18. The appellant indicates that windows to the side of the building would be obscure glazed, and I agree that this would be necessary to avoid unacceptable overlooking of neighbouring sites. As a result, many of the dwellings would rely on outlook only to either the front or rear of the building, and I have not been provided with compelling evidence of exceptional circumstances that would justify not providing dual aspect accommodation as is generally sought by Policy H5 of LP21.
19. Moreover, the trees to the rear of the site are of substantial height, and at the time of my visit, their foliage provided a relatively dense screen along the boundary. Even if pruned away from the building as the appellant proposes, separation to windows and balcony amenity spaces at the rear of the development would be very limited. In my judgement, the proximity of these trees would be likely to significantly obstruct light reaching the rear of the building, and would give rise to a considerable degree of shading as well as a pronounced impression of enclosure that would be oppressive, whether or not the balconies were to be enclosed as glazed winter gardens as the appellant has suggested. Similarly, the large Plane tree to the front of the site would be in very close proximity to windows to the front of bedrooms to dwellings 1.01,

- 2.01, 3.01 and 4.01 even if pruned as suggested, and in my view, it would significantly restrict light to these rooms and dominate outlook for occupiers.
20. The Daylight and Sunlight Assessment dated November 2020 which accompanied the planning application did not refer to the nearby trees, but the appellant's appeal statement includes email correspondence setting out the results of further analysis of daylight levels within the development taking account of the trees. Having regard to guidance within the Building Research Establishment Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice 2011, the Council does not dispute the findings of the appellant's analysis that year round daylight provision to rooms is likely to be adequate.
21. Be that as it may, the updated assessment does not provide an analysis of sunlight to rooms within the development, nor does it consider daylight or sunlight to the amenity spaces. I am accordingly unable to ascertain whether or not the dwellings and their outdoor space would receive acceptable levels of natural light overall so as to provide a suitable quality of life for occupiers.
22. In any event, I remain concerned that the very close proximity of the development to trees means that outlook from windows to a number of habitable rooms and from balconies to the rear of the building would fall far short of what could reasonably be expected by future occupiers, detracting from the usability and attractiveness of these spaces. Even if I were to find that there would be adequate light to the development, I am not therefore satisfied that the proposal would offer a good quality living environment.
23. For these reasons, I conclude on this main issue that the proposal would fail to provide acceptable living conditions for future occupiers of the development with particular regard to light and outlook, and it would conflict with Policies H5 and Q2 of LP21. Amongst other things, these policies together broadly seek housing of good design; and development that provides for adequate outlook, acceptable levels of daylight and sunlight, and outdoor amenity space that is free of oppressive enclosure and overshadowing.

Parking

24. LP21 advises that Lambeth has high levels of on-street parking stress. At Policy T6, it includes requirements that development should avoid reliance on the public highway to meet parking requirements, that development within a controlled parking zone should be permit free, and that car club membership should be made available to all residents in new residential development.
25. The development would be within a controlled parking zone, and does not include proposed on-site parking. The appellant has indicated that they would be willing to prepare a Unilateral Undertaking to restrict future occupiers of the development from applying for residential parking permits and to provide for car club membership. I am satisfied that these measures would be necessary to meet the requirements of Policy T6 and to ensure that additional parking demand associated with the proposal would not exacerbate existing pressure for on-street parking to the detriment of highway safety and efficiency. However, there is no signed and completed legal agreement before me which would secure these outcomes.
26. In the absence of a suitable mechanism as part of the appeal to support reduced private vehicle ownership and to ensure that the development would

not lead to additional demand for on-street parking, I conclude that the proposal would be detrimental to the safe and efficient operation of the highway network. The proposal would conflict with Policy T6 of LP21, as well as with Policies D4 and T1 which seek to promote sustainable patterns of development and reduced dependence on private cars, and which require, amongst other things, that proposals mitigate the impact of development.

Other Matters

27. I have had regard to representations made by interested parties which raise additional concerns including regarding disruption during construction and impacts on neighbouring living conditions, but none of the matters raised alter my conclusions on the main issues.

Planning Balance

28. The proposal would make effective use of a previously developed site to deliver 8 new dwellings alongside a replacement community space, and would align with objectives within LP21 to maximise the supply of additional homes in Lambeth, as well as the Framework which seeks to significantly boost the supply of housing and to provide a choice of homes. I also note emphasis given to the role of small sites such as this in the delivery of housing within both LP21 and the Framework. However, the contribution to the supply of housing would be limited by the small scale of the development, and the weight that I afford to the benefit is further limited given my findings that the dwellings would not offer a suitably high quality living environment for future occupiers.
29. The appellant indicates that the dwellings would support the viability of the replacement community centre, and I have no firm reason to doubt the Council's assessment that the space would be of higher quality and usability than that already on the site. I have also noted interested party comments in support of enhanced community space provision on the site. Nevertheless, in the absence of compelling evidence to demonstrate that the existing community space is unsuitable to meet local needs and given that there would be a slight reduction in its area, I afford moderate weight to the benefit of the replacement facility.
30. There would be direct and indirect economic benefits of the development, both short-term during construction and longer-term on occupation, and I also note that the development would exceed relevant standards for reducing carbon emissions and would include renewable energy sources. However, these benefits are also limited by the small scale of the proposal, and I give them modest weight.
31. Against these benefits, I have found that the proposal would cause less than substantial harm to the significance of the Minet Estate CA through adversely affecting trees both within the CA and within its setting. While there is no statutory protection for the setting of conservation areas, the Framework outlines that great weight should be given to the conservation of designated heritage assets. The harm to the CA is a matter of considerable importance, and I give it great weight. I find in this context that the weight to the public benefits would not be sufficient to outweigh the less than substantial harm to the significance of the Minet Estate CA. The development would therefore conflict with the aims of the Framework as it would fail to sustain the significance of the CA, and public benefits would not outweigh the harm.

32. Moreover, the proposal would cause harm to the character and appearance of the area more generally, would fail to provide acceptable living conditions for future occupiers of the development, and would be detrimental to the safe and efficient operation of the highway network in addition to the harm to the CA. These matters together attract substantial weight, and would not be outweighed by the modest benefits of the development.

Conclusion

33. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR