



Appeal Decision

Site visit made on 9 May 2022

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 August 2022

Appeal Ref: APP/E5330/W/21/3286602

Land at rear of 1 Annesley Road, Blackheath, London SE3 0JX

- 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 and Mrs Ian Ogilvie against the decision of Royal Borough of Greenwich Council.
 - The application Ref 21/2255/F, dated 15 July 2021, was refused by notice dated 24 September 2021.
 - The development proposed is the demolition of existing outbuildings and erection of a single dwellinghouse together with hard and soft landscaping, car and cycle parking and bin storage.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing outbuildings and erection of a single dwellinghouse together with hard and soft landscaping, car and cycle parking and bin storage at Land at rear of 1 Annesley Road, Blackheath, London SE3 0JX in accordance with the terms of the application, Ref 21/2255/F, dated 15 July 2021, subject to the conditions set out in the attached Schedule.

Procedural Matter

2. The appellants put forward two alternative sets of amended plans as part of their appeal submission. These were intended to address the Council's concerns about the outlook from bedrooms 3 and 4, and were presented as Options A and B. "Option A" was described as "reconfiguring bedrooms 3 and 4 [to provide] windows for these bedrooms on the front elevation". "Option B" was described as "retaining the original floor layout but [with] additional windows for bedrooms 3 and 4 on the front elevation".
3. In deciding whether or not to accept the revised plans, I have given consideration to the "Wheatcroft Principles"¹ and whether any prejudice would occur. In this case, as the changes put forward in both alternative sets of drawings are relatively minor and do not change the overall nature of the scheme, I am satisfied that no parties would be prejudiced by my accepting these plans.
4. However, in determining an appeal, it is not for me to judge a "beauty contest" between alternative versions of a scheme put forward by the appellants. I have therefore determined the appeal based on the "Option B" drawings, for the simple reason that they have the highest revision letters and can therefore,

¹ *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

presumably, be taken to represent the most recent expressions of the appellants' intentions. I have not taken the "Option A" drawings into consideration.

Main Issues

5. The main issues are:

- The effect of the proposed development on the character and appearance of the Blackheath Conservation Area; and
- Whether or not the proposed dwelling would provide acceptable living conditions for future occupiers, with particular regard to daylight and outlook.

Reasons

Blackheath Conservation Area

6. The appeal site comprises an approximately rectangular piece of land behind the rear gardens of Nos 1, 3 and 5 Annesley Road, and which is associated with (and connected to) the rear garden of No 1. It has a brick garage building at its north-west corner, and an area of hardstanding with a greenhouse and small shed at its south-western corner. There are a number of trees on the land; with the other mature foliage on the site these provide some screening along much of the site's boundaries. Rosse Mews to the north of the appeal site provides vehicular access to the existing garage.
7. Rosse Mews and the dwellings on it, as well as other dwellings to the north and west, are within the Blackheath Conservation Area. The "red line boundary" of the appeal site includes Rosse Mews, and so straddles the boundary of the Conservation Area. The dwelling and the majority of other works proposed would lie outside the Conservation Area; nevertheless, I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. As heritage assets are irreplaceable, the National Planning Policy Framework ("the Framework") states that they should be conserved in a manner appropriate to their significance (paragraph 189). It goes on to advise that any harm or loss requires clear and convincing justification (paragraph 200) and that any harm that is less than substantial must be weighed against the public benefit of the proposal (paragraph 202).
8. Blackheath Conservation Area is predominantly residential and covers the streets and houses to the east of the Heath itself. The built character of the area is primarily characterised by the spacious, leafy avenues that were laid out in the nineteenth century as part of the growth of suburban London. Rosse Mews is on a smaller scale than much of the rest of the Conservation Area, with former coach houses and other ancillary buildings now converted to independent dwellings. The significance of the Conservation Area is derived primarily from its architectural and townscape quality, much of which dates back to development in the Georgian and Victorian periods, as well as occasional grand "set piece" buildings such as Morden College and The Paragon.
9. The proposed development is the demolition of the outbuildings on the site (although the northern and western walls of the garage building would be

retained as part of the site boundary), and the erection of a new four-bedroom dwelling. This would be irregular in shape, and part single- and part two-storey, with a basement level. There would be a front forecourt at the north-west corner of the site, and a good-sized rear garden at the south-east corner. The property would be accessed from Rosse Mews, with sliding electric gates on the front boundary. The proposed dwelling would be contemporary in design, with a flat living "green roof", and modern materials such as aluminium "wood grain effect" cladding, and face brick.

10. The Council considers that the size of the first-floor level would be larger than those of most other dwellings in the surrounding area, and that the development would therefore have a dominant effect on Rosse Mews. It also considered that the loss of existing vegetation on the appeal site, and the prominence of the timber-look cladding, would further increase the unacceptable visual impact of the dwelling.
11. It is evident the proposed house would be a relatively large building by the standards of Rosse Mews; the submitted drawings suggest that it would have a bigger footprint than any of the other dwellings on the street. However, the western end would be a single storey in height, and from much of Rosse Mews would be screened from view by the retained wall of the existing garage. The submitted drawings show that the first floor would be similar in size to the upper floor of the neighbouring property at No 8 Rosse Mews; it may be that it would be slightly larger (I have not been provided with precise figures to assess this) but, importantly, it would not be disproportionately or intrusively so. The north-eastern wing of the upper floor would partly close off long views along Rosse Mews, but it would not be so close to the street as to be harmfully overbearing or dominant.
12. Neither timber cladding nor the more modern aluminium "timber look" cladding proposed here are part of the dominant palette of the Blackheath Conservation Area as a whole, where brick, stucco and stone are prevalent. However, timber cladding is not an alien material within Rosse Mews, where it is used on both numbers 5 (facing the appeal site) and 8 (next door). I acknowledge that the proposed dwelling on the appeal site would use larger expanses of cladding than the other properties within Rosse Mews. However, the colours and textures proposed would be subtle and appropriate to the character of the wider area; they would tend to make the dwelling blend into its surroundings, rather than making it a more prominent or intrusive feature.
13. While the proposed house would undoubtedly be of an obviously contemporary design and materials, this does not in itself amount to causing harm; the combination would not be discordant when considered in the context of the variety of form, scale, detail, and materials of other dwellings within, and surrounding Rosse Mews. Details such as the green roof and walls would add further visual interest to the building and to the street. While the scheme would necessitate the removal of a number of mature trees (including a large London plane), I note that the Council's tree officer was supportive of that aspect of the proposal; matters in respect of protecting retained trees, replacement tree planting, and other hard and soft landscaping can satisfactorily be addressed by appropriate conditions.
14. Taking all of this together, I find that the scale, height, bulk and massing of the proposed dwelling would be appropriate for its surroundings, and would not

cause unacceptable harm to the character or appearance of Rosse Mews. I therefore conclude that the character and appearance, and indeed the setting and significance, of the Blackheath Conservation Area would be preserved. The proposal would therefore comply with Policies H(c), DH1, DH3, and DH(h) of the 2014 Royal Greenwich Local Plan: Core Strategy with Detailed Policies ("the RGLP"), and with Policies D3 and HC1 of the London Plan 2021. Together, and among other things, these policies seek to ensure that development (including backland and infill development) is well-designed and maintains the character of the area, and that heritage assets including Conservation Areas are protected and enhanced. For the same reasons I consider that the proposal complies with the requirements Chapter 12 of the Framework which seek to achieve well-designed places.

15. The proposal would also comply with the provisions of the Framework which seek to conserve and enhance the historic environment. As I do not find that the proposal would cause harm to or loss of heritage assets, it is not necessary to apply the public benefit test set out in paragraph 202 of the Framework.
16. The decision notice indicated that the development would conflict with Policy DH(j) of the RGLP; that policy addresses matters relating to Locally-Listed Buildings, and there is nothing before me to indicate that the proposal would adversely affect any such buildings. Accordingly, I also find no conflict with that policy.

Living Conditions

17. The Council considered that bedrooms 3 and 4, on the north-west side of the dwelling above the front entrance, would not receive adequate sunlight or daylight. It was also of the view that, because their windows would face each other, they would offer a poor outlook for occupiers.
18. As well as their main window, each of those bedrooms would have a rooflight. As part of the appeal evidence, the appellants submitted an internal daylight analysis report ("the IDA")². The amended drawings which I have accepted ("Option B") also made minor changes to the windows in bedrooms 3 and 4, replacing the original inward-facing single plane windows with larger openings which would also have windows on the front elevation. The IDA indicates that both bedrooms would exceed by a comfortable amount the minimum Average Daylight Factor recommended in the BRE's *Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice* document.
19. The combination of the originally-planned inward-facing windows (which would be around 3m apart) and the additional outward-facing windows on the front elevation would ensure that both bedrooms would have a reasonably open outlook over the front courtyard towards Rosse Mews.
20. Direct sunlight entering the two rooms would inevitably be limited by their north-west facing orientation. However, the more than adequate daylight would ensure that neither would be unacceptably dark or gloomy places, and the dwelling as a whole would receive plenty of sunlight and daylight. I am satisfied on the basis of all the evidence before me that the proposed arrangement of windows and rooflights would ensure that bedrooms 3 and 4

² Internal Daylight Analysis, XCO2 – Document 9.699 dated 4 November 2021

would receive good levels of daylight, and there would be an acceptable outlook from their main windows.

21. I conclude that the proposed dwelling would provide acceptable living conditions for future occupiers in respect of daylight and outlook. The development would therefore comply with Policy H5 of the RGLP and with Policy D6 of the London Plan 2021; together these policies seek to ensure that new residential development is designed to a high standard, and provides a good standard of amenity for future occupiers (including acceptable levels of daylight and outlook).

Other Matters

22. The planning application received several objections from interested parties living nearby; many of these concerned matters relating to the scale of the dwelling and its effect on the Conservation Area, which I have addressed in the main issue above. While allowing the development to go ahead would inevitably mean some disruption for neighbours during the construction phase this would be relatively short-lived, and I consider that this could be appropriately managed by a condition requiring the submission and approval of a construction management plan.
23. The Council considered that the development would not cause unacceptable harm to highway safety, to neighbours' living conditions due to a loss of privacy, daylight or sunlight, or noise from the occupation of an additional dwelling, or in respect of drainage. While I note the other comments made by interested parties, none of the evidence before me leads me to a different conclusion on any of these points.
24. Some interested parties noted that there may in fact only be a very limited right of access to the appeal site via Rosse Mews, and that this could prevent the development from going ahead as the appellants intend. There is nothing before me to confirm this, but in any event it would be a private legal matter for the relevant parties to address; it has not had any bearing on my consideration of the planning merits of the appeal. None of the other matters raised has altered my overall conclusion.

Conditions

25. I have considered the conditions suggested by the Council having regard to the tests in the Framework and the advice in the Planning Practice Guidance. I have also taken into account the appellants' comments in response. Where necessary I have made minor alterations to the wording in the interests of clarity and effectiveness.
26. In addition to the standard time limit condition (1), in the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans (2). The specified plans reflect the "Option B" amended drawings I have described above.
27. Conditions in respect of materials (3), hard and soft landscaping (11), and green roofs and walls (13) are necessary to ensure that the development is designed and built to a high standard and, in the cases of condition 13, to ensure that it includes appropriate measures to support biodiversity and ecology. I have retained the pre-above ground works trigger for condition 11, as in my view it is fundamental to ensuring that the development is well

integrated into its surroundings, including the Blackheath Conservation Area; I agree with the appellants' suggestion that condition 13 would be more appropriate at pre-occupation stage, and have amended it accordingly. A condition is also required to protect retained trees on and around the site (4).

28. As I have described above, I consider that a condition requiring the submission and approval of a construction management plan (5) is necessary to protect neighbours' living conditions and the wider local environment. Conditions preventing the dwelling being enlarged or otherwise altered without the permission of the local planning authority (10) and requiring the submission and approval of a basement impact assessment (12) are also required to protect the residential amenity of neighbours; the latter of these is also necessary to secure the stability of the appeal site and surrounding properties.
29. Conditions in respect of accessibility and adaptability (6), and storage of waste (8) and cycles (8/9) are necessary to ensure a high standard of residential accommodation, and in the case of condition 9 to support measures which reduce the need for private car travel. A condition in respect of water usage (7) is necessary to ensure the efficient use of natural resources.
30. I have not included the condition suggested in respect of boundary treatments, as these details are included on the approved plans.

Conclusion

31. The proposed development would not harm the character and appearance of the area, and the significance of the Blackheath Conservation Area would be preserved. The proposed dwelling would provide acceptable daylight and outlook for future occupiers. The proposal complies with the development plan read as a whole.
32. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

M Cryan

Inspector

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below:
 - Proposed floor plan and elevations (RM/656/01 Rev C)
 - Proposed site layout (RM/656/SP01 Rev C)
 - Proposed Street Scenes, Sections, Block Plan and Site Location Plan (RM/656/SS01 Rev H)
 - Arboricultural Report
 - Basement Impact Assessment
 - Daylight, Sunlight & Overshadowing Report
 - Design & Access Statement
 - Part M Compliance Checklist
 - Planning Statement
 - Preliminary Ecological Appraisal.
- 3) The development hereby approved shall be constructed in those materials as submitted namely:
 - “Wienerberger Terca Megaline long grey multi face” brick;
 - Knotwood Aluminium cladding with wood effect finish
 - Sedum living green roof;
 - Anthracite black aluminium windows and doors;
 - Anthracite black aluminium boxed fascia detail; and
 - Living green wall.and in full accordance with the approved plans.
- 4) Prior to the commencement of the development hereby approved, a detailed Arboricultural Method Statement shall be submitted to and approved in writing by the local planning authority. The method statement shall include specification of:
 - Tree protection fencing locations;
 - Ground protection locations;
 - Driveway installation methodology including cellweb specification; and
 - Site supervision by an arborist.The details submitted shall include measures taken in respect of the Horse Chestnut Trees at 8 Rosse Mews and the Beech, Holly and London Plane Trees at 1 Annesley Road and at 9 Kidbrooke Park Road and the development shall be implemented in accordance with the approved details.
- 5) Prior to above ground works, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority for

a management scheme to control and minimise emissions of pollutants attributable to the construction of the development. This should include a risk assessment and a method statement in accordance with the control of dust and emissions from Construction and Demolition Best Practice Guidance published by the Greater London Authority.

The method statement shall include details of the following:

- Hours of Construction
- Haulage routes;
- Likely noise levels to be generated from plant;
- Detail of any noise screening measures;
- Proposals for monitoring noise and procedures to be put in place where agreed noise levels are exceeded;
- Proposals for monitoring dust / particulates and procedures to be put in place where agreed dust / particulates levels are exceeded;
- A dust risk assessment shall be undertaken with dust suppression methods to be used including details of equipment during the different stages of the development;
- The access and parking of vehicles of site operatives and visitors;
- Loading and unloading of plant and materials;
- Storage of plant and materials used in constructing the development;
- Wheel washing facilities and facilities for discharging the water;
- Bonfire policy;
- A scheme for recycling/disposing of waste resulting from demolition and construction works.

Reference shall be made to:

- The Council's Construction Site Noise Code of Practice
- The Mayor of London's 'The control of dust and emissions from construction and demolition' Best Practice Guidance
- BRE four part Pollution Control Guides 'Controlling particles and noise pollution from construction sites'.

The construction process shall be carried out in accordance with the approved details.

- 6) The dwellings hereby approved shall comply with Building Regulation requirement M4(2) 'accessible and adaptable dwellings'.
- 7) The development hereby permitted shall comply with Regulation 36(2)(b) of the Building Regulations 2010 (as amended by the Building Regulations (Amendment) Regulations 2015/767) and as set out in section G2 of the Building Regulations Approved Document (110 litres per person per day).
- 8) Prior to the occupation of the development hereby approved the refuse and recycle store shall be implemented in accordance with Drawing RM/656/SP01 Rev C.

- 9) The development shall provide 2 secure and dry cycle spaces. The cycle parking spaces shall be installed prior to the first occupation of the dwellings and maintained thereafter in working order.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modifications), no enlargement or other alteration to the dwellinghouses hereby permitted shall be carried out without the prior written permission of the Local Planning Authority.
- 11)
 - a) Prior to the implementation of works above ground level, full details of the hard and soft landscaping arrangement for the site shall be submitted to and approved in writing by the Local Planning Authority. The soft landscaping arrangement shall include suitable native replacement trees for those to be felled as part of the development.
 - b) The hard landscaping shall be completed in accordance with the approved details and the works completed before the first occupation of the dwelling.
 - c) The soft landscaping shall be completed in accordance with the approved details either within 6 months of the dwelling being completed or the first planting season whichever is the earliest.
- 12) The basement level hereby approved shall not be implemented until a detailed 'Basement Impact Assessment' (BIA) has been submitted to and approved in writing by the Local Planning Authority. The Basement Impact Assessment should set out how the basement works are to be implemented without damaging the structural stability of adjoining properties and preserve the residential amenity of adjoining occupiers. The BIA should:
 - i. Be carried out by a suitably qualified professional (civil or structural engineer). The civil or structural engineer who completes the BIA should also be involved in the implementation of the approved works;
 - ii. Confirm whether or not the site is located above an aquifer;
 - iii. Confirm whether or not the proposed development will extend beneath the water table surface, or if it is located within 100m of water course;
 - iv. Explain how the development will impact on flooding and drainage, including the preventative measures which will be taken to reduce the risk of flooding of the basement itself and neighbouring properties;
 - v. Include a ground and hydro logical condition report dealing with groundwater flow ensuring structural stability during excavation and demolition;
 - vi. Demonstrate the methodology to be used to implement the basement development and how this will maintain the structural stability of neighbouring properties;
 - vii. Set out how temporary propping/temporary works and construction work will be sequenced and carried out so as to minimising disturbance to neighbours and manage effects on water flow.
 - viii. Provide for the drilling of bore holes to understand the geology of the site etc.;

- ix. Include proposals for monitoring vibration and procedures to be put in place to minimise such disturbance, including those relating to any piling on the site (it is expected that vibration over 1mm/s measured as a peak particle velocity would constitute unreasonable vibration);
- x. Explain the likely noise levels to be generated by plant;
- xi. Provide details of any noise screening measures, including those relating to piling on the site;
- xii. Include proposals for monitoring noise and procedures to be put in place where agreed noise levels are exceeded, including those relating to piling on the site;
- xiii. Set out the likely dust levels to be generated, and any screening measures to be employed, including those relating to piling on the site;
- xiv. Contain proposals for monitoring dust and controlling unacceptable release such as asbestos; and
- xv. Provide details and justification for the piling methodology to be adopted

The basement level hereby approved shall be implemented in accordance with the approved details.

- 13) Prior to the first occupation of the dwelling hereby permitted, full details of the green roof and green living wall hereby approved shall be submitted to and approved in writing. The details submitted shall also include a maintenance and management plan for their upkeep.

The development shall be implemented in accordance with the approved details and the green roof and living wall shall be retained for the lifetime of the development.