



Appeal Decision

Site visit made on 1 November 2022

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th January 2023

Appeal Ref: APP/N5660/W/22/3301186

19 Montrell Road, Lambeth, London SW2 4QD

- 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 SLC Property Limited against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 22/00617/FUL, dated 18 February 2022, was refused by notice dated 7 April 2022.
 - The development proposed is conversion of the first and second floor flat into three flats, enlargement of bay window, installation of French doors and the creation of a rear roof terrace with obscured glazing balustrade.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of the first and second floor flat into three flats, enlargement of bay window, installation of French doors and the creation of a rear roof terrace with obscured glazing balustrade at 19 Montrell Road, Lambeth, London SW2 4QD in accordance with the terms of the application, Ref 22/00617/FUL, dated 18 February 2022, subject to the conditions set out in the schedule below.

Preliminary Matters

2. Amended plans have been submitted with the appeal that show a recent planning permission in connection with the ground floor flat. I saw from my site visit that this development is underway and is substantially complete. While I have had due regard to the amended plans, as development at the ground floor flat is not yet complete, for clarity, I have determined the appeal based on the plans that were before the Council.

Background and Main Issues

3. There are three reasons for refusal, relating to the effect on the character and appearance of the area and living conditions, and the absence of a mechanism to secure sustainable travel. However, since the application was refused, a Unilateral Undertaking (UU) has been completed and the Council has confirmed this would secure appropriate sustainable travel measures. I am content that the UU is necessary in planning terms and would meet the tests set out in the National Planning Policy Framework (the Framework) (2021) and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

4. The only matter in dispute is the proposed roof terrace, the main issues are the effect of this element of the proposal on the:
- character and appearance of the area, including the appeal property; and
 - living conditions of the occupiers of the ground floor flat and neighbouring occupiers, with regard to noise.

Reasons

Character and Appearance

5. The appeal site is a large three-storey semi-detached property. It is in between a three-storey semi-detached property on one side and a smaller two storey semi-detached property on the other side. There are a number of extensions and alterations to the rear of the properties on Montrell Road, of varying design and storeys. This creates an unbalanced and irregular appearance. There are also a number of examples of other roof terraces in the wider area, at different levels and on different types of properties, and therefore a feature of the area.
6. The proposed roof terrace is modest in size, and given the scale of the appeal property, would not dominate the rear elevation. I note that the design and appearance of the bay window at the appeal property is not a consistent feature of the rear elevation of Montrell Road. However, it contributes positively to the character and appearance of the rear elevation and would still be read as such, being visible above the proposed screening.
7. 25 Montrell Road, in the area immediate to the appeal site, is the same type of property to the appeal property, being a large three-storey semi-detached property. From my site visit I saw that it has a terrace above the second floor, constructed of black metal railings and balustrades.
8. While the proposal would be different to this example, being at first floor level and having an obscure glazed balustrade, there is no clear evidence that the prevailing character and appearance of the appeal property or the surrounding area would be harmed by the introduction of a terrace at first floor level. Moreover, given the existing unbalanced appearance of the rear elevation of Montrell Road, and the other examples of roof terraces in the wider area, the proposal would not be an uncharacteristic or incongruent addition.
9. As such, the proposal would not cause harm to the character and appearance of the area, including the appeal property, and accords with policies Q2, Q5 and Q11 of the Lambeth Local Plan 2020-2035 (Local Plan) (2021). These policies seek development where visual amenity from adjoining sites is not unacceptably compromised, local distinctiveness is sustained and reinforced, and have a design which positively responds to its surroundings.

Living Conditions

10. The activity and noise associated with the use of the proposed modest sized terrace would not result in a material increase in noise for the occupiers of the ground floor flat. As such, I am satisfied that noise transmission to the occupiers of the ground floor flat would be acceptable.
11. The proposed terrace is at the first-floor level, and I note that owing to this elevated position, any noise from those using the terrace may readily project

above boundary treatments in the area, and that the proposed balustrade would do little to mitigate this. Nevertheless, in the absence of any firm evidence to the contrary, I do not consider that the modest size roof terrace would lead to such a significant increase in sound levels as to be unduly intrusive, including for the occupiers at 17 Montrell Road.

12. Accordingly, the proposal would not cause harm to the living conditions of the occupiers of the ground floor flat and neighbouring occupiers, with regard to noise, and accords with Policy Q2 of the Local Plan. This policy, amongst other things, seeks development that has acceptable levels of noise.

Other Matters

13. The appellant has submitted a signed and dated UU pursuant to Section 106 of the Town and Country Planning Act 1990. The UU contains planning obligations relating to a car parking permit free agreement, and car club and cycle hire membership for each occupier. These obligations are necessary to meet the requirements of Policy T6 and T3 of the Local Plan and make the development acceptable in planning terms. Furthermore, they would be directly related, and fairly and reasonably related in scale and kind, to the development proposed.
14. The UU therefore meets the relevant tests. I am satisfied that the UU meets the policy requirements set out in Policy T6 and T3 of the Local Plan (2021), which require a range of measures to control and manage the availability of parking and promote cycling. As mitigation for the proposal, the completed UU is only a neutral factor.

Conditions

15. The conditions requested by the Council have been considered and amended as necessary in light of the Planning Practice Guidance. In addition to the standard condition that limits the lifespan of the planning permission it is necessary to impose a condition identifying the approved plans for clarity. I also impose conditions requiring materials to match the existing building and details of boundary treatments to protect the character and appearance of the area.
16. In the interest of protecting air quality, I impose a condition in relation to non-road mobile machinery. A condition relating to cycle parking is necessary to ensure adequate provision is available and to promote sustainable modes of transport. In order to ensure that facilities are adequate, a condition requiring the provision of waste and recycling storage prior to occupation is necessary.
17. A condition is also imposed in relation to obscure glazing and use of the roof terrace in the interest of protecting the living conditions of neighbouring occupiers. A condition regarding access to the communal amenity space is imposed in the interest of protecting the living conditions of the future occupiers of the proposal.

Conclusion

18. For the reasons given above I conclude that the proposal accords with the development plan. Material considerations have not been shown to carry sufficient weight as to indicate a decision otherwise than in accordance with it. Therefore, the appeal is allowed.

F Harrison

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans; CP/2021/56/01 - 1st, CP/2021/56/A/02 - 1st, CP/2021/56/A/03 - 1st, CP/2021/56/A/04 - 1st, CP/2021/56/A/05 - 1st, CP/2021/56/D/10 - 1st, CP/2021/56/D/11 - 1st, CP/2021/56/D/22 - 1st and CP/2021/56/D/23 - 1st.
- 3) The materials used in any exterior work shall be of a similar appearance to those used in the construction of the exterior of the existing building, except where indicated otherwise on the approved plans.
- 4) Prior to the occupation of the development hereby permitted, details of boundary treatments including external walls, fences and gates shall be submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details.
- 5) No non-road mobile machinery (NRMM) shall be used on the site unless it is compliant with the NRMM Low Emission Zone requirements (or any superseding requirements) and until it has been registered for use on the site on the NRMM register (or any superseding register).
- 6) Prior to the occupation of the development hereby permitted, cycle parking facilities shall be provided in accordance with a scheme which has been submitted to, and approved in writing by the local planning authority, and shall be retained as such thereafter.
- 7) Prior to the occupation of the development hereby permitted, waste and recycling storage shall be provided in accordance with details which have been submitted to, and approved in writing by the local planning authority, and shall be retained as such thereafter.
- 8) Prior to the occupation of the development hereby permitted, the windows noted to be obscured on approved plan CP/2021/56/D/11 - 1st, shall be fitted with obscure glass or glazing film over the entirety of the glass, to a minimum level of obscurity equivalent to Pilkington Texture Glass Level 3, and shall be retained as such thereafter.
- 9) Prior to the occupation of the development hereby permitted, access to the communal amenity space shall be provided for all dwellings and shall be retained as such thereafter.
- 10) The roof terrace hereby permitted shall not be used or accessed, other than for emergency egress, until the obscure glazed balustrades shown on the approved plans have been fully implemented to a height of 1.7m above the floor of the terrace and a minimum level of obscurity equivalent to Pilkington Texture Glass Level 3. The approved balustrades shall be retained as such thereafter.

*****End of Conditions*****