



Appeal Decision

Site visit made on 23 January 2023

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2023

Appeal Ref: APP/E5330/W/22/3297286

Marwan Motors, Rear of 5 and 6 Vicarage Park, Plumstead Common, London SE18 7SX

- 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 Nabil Yousfi of Marwan Motors against the decision of the Council of the Royal Borough of Greenwich.
 - The application Ref 20/2364/F, dated 14 April 2020, was refused by notice dated 25 November 2021.
 - The development proposed is partial demolition and rebuild of a mechanics workshop.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - The character and appearance of the area;
 - The living conditions of nearby occupiers, with particular regard to disturbance from noise and fumes; and,
 - Parking provision, highway congestion and safety.

Reasons

Character and appearance

3. The appeal site is located within a predominantly residential area to the north of an arc of semi-natural open space, Plumstead Common. The area contains a range of housing types, including a late 20th century sheltered housing development to the immediate south of the appeal site, traditional Victorian terraced dwellings on Vicarage Park to the east, and a late 20th century housing estate on the opposite side of Vicarage Road.
4. The appeal site is located within the Plumstead Common Conservation Area (PCCA), which includes the Common and nearby developed areas; the PCCA did not originally include the appeal site, which was added as part of the Vicarage Area, following a boundary review in 2010.
5. The significance of the PCCA stems from the semi-natural open space of the Common, its historic function and, from the buildings that were developed around its periphery, including the Victorian terraced houses on Vicarage Park.
6. I note the planning history of the site from the evidence. In 2019 an Enforcement Notice was issued against the demolition of buildings on the site

and the erection of replacement buildings, which was upheld on appeal in 2020¹. A mature Lime tree within the appeal site, the subject of a Tree Preservation Order (TPO), was also removed around this time.

7. A retrospective planning application for the demolition and reconstruction works was refused by the Council and similarly dismissed on appeal in 2020². The buildings currently on site are those subject to the Enforcement Notice that has not been complied with.
8. I note the comments from the Council that they consider the submitted drawings showing the pre-existing condition of the site and the various structures and buildings on it to be inadequate and misleading. The submitted plans/elevations contain limited details and are scanned paper copies. The quality of the reproduction is poor, with some elements barely legible.
9. With reference to the images contained in the Council's Officer report that are dated Sep 2015, I would agree that there are significant deficiencies with regard to the appellant's submitted information. These include the absence of the TPO protected tree from the pre-existing plans/elevations, and with the height of the smaller building by the northern boundary of the site, which is shown as considerably larger on the appellant's pre-existing elevations.
10. The Sep 2015 images show that the height of the roof ridgeline of the smaller building to be at a similar level to the eaves on the larger building to the south. The measurements given in Appendix 3 of the appellant's Statement of Case, and elsewhere, are similarly deficient.
11. Furthermore, no details of the pre-existing materials are shown on the plans/elevations. From the Sep 2015 images, the larger building by the southern boundary of the site was constructed of bricks, with its tiled, dual-pitch roof and distinctive front gable clearly visible from the street, in part as a result of the significantly smaller size of the other building, adjacent and to the north. Parts of the rear elevations of the terraced Victorian dwellings on Vicarage Park would also be visible from Vicarage Road beyond the appeal site.
12. As with the pre-existing plans/elevations the quality of the reproductions of the proposed plans/elevations is poor, with some details, including the limited annotations, almost illegible. There are also inconsistencies between the plans and elevations in terms of the windows on one of the eastern gables and very limited details of the proposed front boundary treatment are provided, with no details of any gates/doors by the road. Furthermore, no substantive details are provided of the timber folding doors to the two front openings in the proposed building.
13. The proposal would entail the demolition of much of the existing building structures on the site, followed by the construction of a replacement building spanning the full width of the site, for the continued operation of the garage.
14. There would be a largely undeveloped yard area across the front of the site, with recycling bins located by the front boundary wall. Two vehicular access/egress points to the highway from the yard would be retained and the proposed building would have two similar sized openings in the front gables for vehicle access/egress.

¹ Ref. APP/E5330/C/19/3225934

² Ref. APP/E5330/W/19/3225201

15. The proposed layout of the building would include a small office and a separate toilet at the rear, with obscure glazed windows; the remainder of the internal space would be the garage workshop. The front gable elevations would be clad in yellow stock bricks, with the remaining grey cinderblock walls rendered and painted.
16. The design of the proposed building would have some regard to the design of the pre-existing buildings, with a double dual-pitch roof, gables facing the street, and with the northern part somewhat smaller in scale and massing than the southern part. The design, siting, materials and scale of the proposed development mean that it would be less visually intrusive than the current situation.
17. However, the current situation is unlawful and I have only considered the proposal against the actual pre-existing situation. Notwithstanding the limited, and in some areas deficient, content of the appellant's submissions, I am satisfied that the design, scale and massing of the proposed development would be visually obtrusive when seen from Vicarage Road, and significantly moreso than the pre-existing situation. This would also impinge upon the predominantly residential character of the area and the historical interest of dwellings near to Plumstead Common.
18. It would, therefore, be detrimental to the significance of the PCCA and cause less than substantial harm to this designated heritage asset (DHA).
19. From the limited evidence, the TPO protected Lime tree that was unlawfully removed made a positive contribution to the character and appearance of the PCCA. Whilst a semi-mature Lime tree is proposed to be planted by the northern boundary wall in the front yard, this would take a considerable time to make a similarly positive contribution.
20. Furthermore, the proposed location of the tree and the continued operation of the garage business would be likely to result in similar circumstances that caused the appellant to unlawfully remove the TPO protected tree.
21. Government guidance states that great weight should be given to the conservation of a DHA³. I note the comment that the garage use is inharmonious in the PCCA. However, the Council accepts that the use of the appeal site as a garage to service vehicles is lawful. Whilst few details of what this lawful use entails are provided, there is no substantive evidence before me that would cause me to doubt the Council's position in this regard.
22. The proposed development would enable the existing business to continue to provide a service and tax revenues at this location, with the continued employment of up to five people in better conditions. However, most of these benefits are private and I do not find that the public benefits of the proposal outweigh the harm that would be caused to the significance of the DHA.
23. For these reasons, the proposed development would detract from the character and appearance of the area and would cause less than substantial harm to the significance of the PCCA. Consequently, it would conflict with Policy HC1 (heritage conservation and growth) of the London Plan 2021⁴ (SDSGL) and Policies DH1 (design), DH3 (heritage assets) and DH(h) (conservation areas) of

³ Paragraph 199 National Planning Policy Framework 2021 (the Framework)

⁴ Spatial Development Strategy for Greater London 2021

the Royal Greenwich Local Plan Core Strategy with Detailed Policies July 2014 (RGLPCS), and with the Framework, in this regard.

Living conditions

24. This is a predominantly residential area and whilst the garage use at the appeal site is accepted as being lawful, few details regarding the operation of the pre-existing garage use are provided.
25. I have already raised serious concerns with regard to the veracity of some of the appellant's submissions. Irrespective of the stated heights, areas and volumes of the pre-existing and proposed buildings, from the limited evidence before me it is still clear that the proposal would be an intensified use of the site.
26. The design, scale and massing of the northern part of the proposal would be significantly greater than the pre-existing northern building. Whilst few details regarding the operation of the proposed garage use are provided, it is likely to be similar to the existing use, including two car lifts. From the images dated Sep 2015 in the Council's officer report, the limited height of the pre-existing northern building means that activities within it would have been restricted and it would not have been possible for a car lift, similar to the existing, to operate within it.
27. The baseline assessment contained in the Noise Impact Assessment (NIA) dated October 2020 has not considered the pre-existing situation, only the current unlawful situation. It does not, therefore, present an adequate baseline from which to undertake an assessment of the effects of noise.
28. Furthermore, and as the Council has identified, the nearest noise sensitive receiver is not the front elevation of 2 Vicarage Road but the sheltered housing to the south of the appeal site. There is no reference in the NIA to consideration of the effects of noise on the adjacent sheltered housing.
29. It is not clear that the NIA has considered the effects from within the existing workshop with the roller shutter doors closed or with the doors open, or from activities on the front yard area. At the time of my visit there were several vehicles being worked on in the workshop, with both doors open, as well as a vehicle being worked upon in the front yard.
30. A fume extractor flue, to be disguised as a traditional chimney, would also be installed on the roof at the rear of the building, close to where the dual-pitch roofs meet. I note the assertions made in the Ventilation/Extraction Strategy document that the proposed fume extracting equipment would not cause harm, because the resulting increase in noise would be lower than the other garage machinery, such as identified in the NIA.
31. However, there is no substantive evidence to support this. It is unclear whether the fume extractor would operate continuously, which would be in contrast to the more sporadic noise from the machinery identified in the NIA. In any event, there is no consideration of the effects of noise from the proposed fume extraction equipment on nearby occupiers in the NIA.
32. I also note the height and position of the proposed flue, close to the boundaries of the rear gardens of Nos 5 and 6 Vicarage Park, and the rear amenity space at the adjacent sheltered housing. Whilst the Council's Environmental Health

Department did not respond to the consultation on the proposal, no compelling evidence has been provided that fumes removed by the flue would not adversely affect the occupiers of nearby residential properties.

33. For these reasons, the proposed development would cause harm to the living conditions of nearby occupiers with particular regard to disturbance from noise and fumes. It would, therefore, conflict with Policy D14 (noise) of the SDSGL and Policies DH(b) (protection of amenity for adjacent occupiers) and E(a) (pollution) of the RGLPCS.

Parking provision, highway congestion and safety

34. The appeal site faces onto Vicarage Road, which is a narrow access road with a footpath on the western side, and with no parking restrictions along most of its length, including in the vicinity of the appeal site.
35. At the time of my site visit the western side of the road, opposite the appeal site, was heavily parked, with very limited free space. Furthermore, the existing workshop and front yard area were occupied by vehicles, some of which were being worked upon; there was no space for further vehicles within the appeal site.
36. Whilst there were no objections to the proposal from the Council's Highways Department, various interested parties have raised concerns that the appeal business is not limited to the appeal site and that Vicarage Road and other streets are used to 'store' vehicles associated with the business, and anecdotally, to work on them.
37. Whilst not conclusive evidence, at the time of my site visit I noticed a vehicle without a rear number plate and another vehicle that had been damaged in a collision parked outside the appeal site.
38. The appellant notes that the proposed building would have a reduced floorspace compared to the pre-existing buildings and that the removal of various structures would make the manoeuvring of vehicles within the site more efficient. Reference is made to the submission of a Highway Statement by the appellant, but this is not in the evidence before me.
39. I have already determined that the proposed development would be an intensification of the pre-existing use of the appeal site. This is a compact site, the front yard of which would be restricted by the planting of a replacement Lime tree and by bin storage.
40. Given the high level of on-street parking observed at the time of my visit and the representations from third parties, there is a significant risk the proposed development would detract from on-street parking, increase congestion and reduce highway safety.
41. No substantive evidence has been provided to show how the movement or parking of vehicles associated with the garage use, both within the site or on nearby streets, operated prior to the service of the aforementioned Enforcement Notice or would operate for the proposed development.
42. Whether the business operates from the adjacent highway is beyond the scope of this appeal and would be a matter to be addressed separately by the appropriate authority.

43. For these reasons, the proposed development would adversely affect parking provision, highway congestion and safety in the area. It would, therefore conflict with Policies T2 (healthy streets), T4 (assessing and mitigating transport impacts) and T6 (car parking) of the SDSGL, with Policies IM4 (sustainable travel), IM(b) (walking and cycling) and IM(c) (parking standards) of the RGLPCS, in this regard.

Other Matters

44. The appellant has drawn my attention to Policy EA1 (economic development) of the RGLPCS which supports the expansion of existing businesses and the development of small and medium business space. I also note that up to five jobs are potentially at risk if the proposal is unsuccessful.

45. I have considered these matters in determining this appeal and they do not outweigh the identified harm or cause me to change my view of the conflict with the development plan overall. They do not cause me to reach a different conclusion with regard to the proposal.

46. The proposed development would retain the unlawful septic tank at the appeal site. However, it is unclear from the evidence where the septic tank is located, and the Council has not directly addressed this matter. If the proposal were otherwise acceptable, I would need to consider this matter further. However, as I am dismissing the appeal there is no need for me to do so in this case.

Conclusion

47. For the reasons given above, and taking into account all matters raised, I conclude the appeal is dismissed.

Andrew Parkin

INSPECTOR