



Appeal Decision

Site visit made on 11 April 2023

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 April 2023

Appeal Ref: APP/N5660/W/22/3307233

82 Macaulay Road, Clapham, London SW4 0QY

- 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 Miss Melanie Ryan against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 22/01807/FUL, dated 18 May 2022, was refused by notice dated 17 August 2022.
 - The development proposed is a garden studio.
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Decision

1. The appeal is allowed and planning permission is granted for a garden studio at 82 Macaulay Road, Clapham, London SW4 0QY in accordance with the terms of the application Ref 22/01807/FUL dated 18 May 2022 subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan – SW4 0QY, Block Plan – SW4 0QY and 220201015GSQ1 Design: Garden Studio.

Preliminary Matter

2. The Council's decision notice amends the description of development from that originally stated within the planning application. However, neither party has provided written confirmation that a revised description of development was agreed. I have therefore used the one given on the original application.

Main Issues

3. The main issues are the effect of the proposal on open space, biodiversity and on the character and appearance of the Clapham Conservation Area.

Reasons

4. The appeal site is located within the Clapham Conservation Area ('the CA'), and I have therefore paid special attention to the desirability of preserving or enhancing the character or appearance of the CA in accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The CA is centred around Clapham Common and includes a mix of buildings which date predominantly from the 18th, 19th and 20th centuries. In my view, the CA derives some significance from the varied development, and the pattern of the buildings and the spaces around them.

5. The site includes a maisonette to one end of a four-storey block which is set back from Macaulay Road fronting a green open space. Gardens to the rear of the block are smaller than those provided to many of the buildings nearby, but appear broadly proportionate to the dwellings which are also relatively modest. A few of the gardens accommodate outbuildings, including a shed on the appeal site, but these are typically small and the gardens are largely open. Together with the green space to the front of the block and a communal garden to the side of the appeal dwelling, they provide for a setting to development in keeping with the generally spacious and leafy surrounds to buildings in this part of the CA. As an element of this setting, I find that the appeal site makes a positive contribution to the significance of the CA.
6. Policy Q14 of the Lambeth Local Plan 2021 ('the LLP') sets out requirements for development in gardens and amenity spaces. As corrected by an Erratum Notice dated 7 October 2021, Part C of the Policy states that new development in rear gardens will be supported where, amongst other things, *'outside of conservation areas, the total area of ground covered by buildings within the curtilage does not exceed 50 per cent of the total area of the curtilage excluding the ground area of the original dwelling'*. However, the wording of Part C of the policy is permissive, and it does not state that development in rear gardens inside of conservation areas will necessarily be inappropriate.
7. Neither do the further specific requirements for domestic curtilage structures such as garden sheds and summer houses set out at the following part of Policy Q14 outline a presumption against such structures in conservation areas. The provisions require only that structures should not exceed one storey, and should be set back at least 1m from all site boundaries unless site circumstances dictate otherwise.
8. Paragraph 10.67 of the LLP comments that given the statutory obligation to preserve or enhance conservation areas, it is not anticipated that development in rear gardens will be appropriate within most conservation areas. However, the preceding text refers to the need for London's character to evolve to accommodate additional housing, and provides commentary on the appropriateness of different housing types according to prevailing spatial characteristics. Read in this context, the comment seems to me to be directed more at new housing development rather than outbuildings. In any event, it does not pronounce that rear garden development in conservation areas will always be inappropriate.
9. On a fair reading of Policy Q14 and its supporting text, I find no clear in principle objection to the erection of an outbuilding within the CA, and I consider that it is instead necessary to have regard to the particular circumstances of the proposal.
10. In this case, the outbuilding would be larger than the existing shed on the site, and I recognise that there would be some reduction in openness. However, the outbuilding would still be of very modest height and footprint relative to the appeal dwelling and garden, and the simple design and materials would give it an understated appearance. I find as a consequence that it would be clearly subordinate to the host building, and the reduction in openness would be small with a much larger proportion of the garden remaining open. There would also be significant separation between the outbuilding and the rear of the dwelling providing for an appreciable open gap.

11. Separation to the rear boundary and the boundary with the adjacent communal garden would be less than the 1m typically sought by Policy Q14, but there would still be significant spacing to the neighbouring building to the rear and the communal garden is also predominantly open. I agree with the Council that the relationship of the development with its neighbours would not harm the living conditions of neighbouring occupiers. Noting also the modest width of the garden and that there is an existing shed which is closer to these boundaries, I consider there are particular site circumstances which mean that the lesser set in from the boundaries would in this case be appropriate.
12. Moreover, the development would not be significantly larger or out of keeping with outbuildings that I observed in other rear gardens nearby. I do not know the full circumstances that led to many of these examples, and I appreciate that the outbuilding to the rear of 86 Macaulay Road may have been permitted under a different development plan context. Nevertheless, the development would not therefore appear incongruous here.
13. Given these factors, I cannot agree with the Council that the scale of the development would be excessive. In my judgement, the scale and form of the outbuilding would sit discreetly at the rear part of the appeal site without detriment to the visual amenity of the area. Adequate space would be maintained around the development, and I am satisfied that the limited scale of the outbuilding would not in this case cause a harmful erosion of the open and leafy quality of the space to the rear of the appeal dwelling. The proposal would not therefore compromise the contribution that the site and surrounding rear gardens make to local distinctiveness and to the character and appearance of the CA.
14. I therefore find that the proposal would preserve the character and the appearance of the CA, and the significance of the CA would not be adversely affected. I further note that the Council's reason for refusal does not allege conflict with LLP Policy Q22 which supporting text to Policy Q14 indicates will be relevant to proposals in conservation areas, and that the Council's Conservation and Urban Design Officer does not object to the proposal. While not determinative, these factors lend support to my view that the effect of the proposal on the character and appearance of the CA would be acceptable.
15. Policy Q14 additionally requires that development in gardens and amenity spaces should not result in loss of biodiversity, loss of trees of value or poor drainage, and, where development affects rear gardens, that requirements at Policy H5 for external amenity space are achieved.
16. The outbuilding would in part replace an existing shed, and at the time of my visit, the remainder of the area that it would occupy predominantly comprised paving slabs or was bare earth with little vegetation or even grass present. Notwithstanding that the site sits among a wider tract of gardens and open space, the value of this part of the site to biodiversity is in my judgement likely to be exceedingly limited so that any loss of biodiversity would be negligible. Similarly, there would not be a significant reduction in permeable area, and I have no firm reason to find that the proposal would cause poor drainage or a loss of trees of value.
17. Although the area of usable garden would be slightly reduced, the Council has not suggested that the remaining area would fail to meet standards under LLP Policy H5, nor provided substantive evidence that it would be insufficient to

meet needs for external amenity space. Based on my observations at my visit, I am satisfied that the garden would be of reasonable size to accommodate a range of activities and that it would be adequate to meet the needs of occupiers of the site.

18. Policy EN1 of the LLP sets out that requirements for open space and green infrastructure will be met by, amongst other things, protecting and maintaining open spaces and green infrastructure and their function. It continues that development involving the loss of existing public or private open space will not be permitted unless one of 3 tests is met, none of which would apply here. However, the proposal concerns a private residential garden.
19. The supporting text to Policy EN1 indicates that existing public and private open space includes nature conservation areas, amenity areas within housing estates and communal squares and gardens. Private residential gardens are not listed, and while the site is in the Clapham CA, the information before me does not indicate that it is part of a recognised nature conservation area. Although the list of spaces is not expressed as a closed list, private amenity space is specifically excluded in the context of roofs that are accessible to the public as open space. It is also difficult to see how development in gardens coming forward otherwise in accordance with LLP Policy Q14 would in most cases be able to meet the tests in EN1 Part A. Reading Policy EN1 and the supporting text as a whole, and from the information before me, I am not persuaded that it would be reasonable in this case to apply the requirements for loss of existing public or private open space within Policy EN1 to the appeal proposal.
20. For the reasons above, I further find that the development would not cause any tangible harm to the function of the space as a residential garden, and nor would there be meaningful harm to the nature conservation or biodiversity value of the site.
21. The Council suggests that in the event the appeal is allowed, structures in rear gardens would cumulatively cause open space deficiency, increased hard landscaping and would fail to protect and conserve habitats for species in the CA. In light of my findings above, I can see no reason that the proposal would lead to unacceptable harm in these regards. Furthermore, each application and appeal must be determined on its individual merits. Accordingly, a generalised concern of this nature would not justify withholding permission in this case.
22. I conclude that the development would not harm the character or the appearance of the appeal site nor of the wider Clapham CA, and that the openness and biodiversity and amenity value of the site would be adequately maintained. The proposal would accord with Policies EN1 and Q14 of the LLP and Policy G6 of the London Plan 2021 insofar as they seek generally to manage impacts on open space and to avoid loss of biodiversity. I also find no conflict with the Building Alterations and Extensions Supplementary Planning Document 2015 which is broadly supportive in principle of structures in gardens where they would not harm visual amenity, lead to the unacceptable loss of garden space or harm the amenity of adjoining neighbours.

Conditions

23. In addition to the standard time limit, I have imposed a condition specifying the approved plans for the avoidance of doubt and in the interest of certainty. The development concerns an outbuilding associated with 82 Macaulay Road. A

future material change of use to create a separate dwelling would require another grant of permission, and the building or use would be at risk of enforcement action if such permission were not granted. Having regard also to the scale of the outbuilding and its relationship with neighbours, I do not consider the condition suggested by the Council setting out that the outbuilding shall not be occupied other than for purposes ancillary to the residential use of No 82 to be necessary, and I have not imposed it.

Conclusion

24. For the reasons given above, I find that the proposal would accord 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 allowed.

J Bowyer

INSPECTOR