



Appeal Decision

Site visit made on 29 March 2023

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 May 2023

Appeal Ref: APP/A5840/W/22/3305368

Kings Court, Barry Road SE22 0JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Chris Coates against the decision of the London Borough of Southwark Council.
 - The application Ref 22/AP/0407, dated 11 February 2022, was refused by notice dated 27 May 2022.
 - The development proposed is provision of four additional flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. During the appeal process an amended Site Plan was submitted, Ref: 581-02-P3, which showed more precisely the current parking delineation for the existing flats. While this plan provides additional information and does not materially alter the development proposed, it has not been consulted on and comments received from interested parties indicate that car parking is a matter of interest for residents. Therefore, to ensure no parties are prejudiced, I shall determine the appeal on the basis of the plans which informed the Council's decision.

Main Issues

3. There is no dispute between the parties that the proposed development would be permitted under Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) provided it would meet the conditions set out at paragraph A.2 of the Order. From the evidence before me, there is nothing to lead me to a different conclusion.
4. The main issues are therefore whether prior approval should be granted when the proposed development is assessed against:
 - condition A.2 (1) (a) in relation to transport and highways impacts; and
 - condition A.2 (1) (g) in relation to the amenity of neighbouring premises, with particular regard to the loss of daylight.

Reasons

Transport and Highways

5. The appeal site is located close to a range of local facilities and services. It has good public transport accessibility with a PTAL rating of 4. There are bus stops nearby and a choice of tube and overground stations within walking distance. The proposal would also provide an 8-space cycle store.
6. There are frequent vehicle movements along Barry Road, including buses. However, they are not continuous and are less frequent than movements along Peckham Rye. Although there are some parking controls on Barry Road, it is not a controlled parking zone and, at my time of visiting, I saw there were spaces available to park. Therefore, whether or not additional parking spaces would be provided on-site as part of the proposal, it would have the potential to result in additional vehicle movements, as occupants could park on-street.
7. I understand the concerns of interested parties that additional vehicles would intensify existing parking problems and increase pollution. Also, that additional vehicle movements at the junction of Barry Road and Peckham Rye would compromise highway safety. However, given the availability of other forms of transport in the area, any additional vehicle movements would likely to be modest. Therefore, while the proposal could affect the availability of parking and add to the amount of traffic, any effects would be limited and would not result in unacceptable impacts on highway safety.
8. Furthermore, Policy T6 of the London Plan (2012) (LP) and Policy P54 of the Southwark Plan (2022) (Local Plan) that set out the standards for residential car parking relate to the matter set out at paragraph A.2 (1) (a) of Schedule 2, Part 20, Class A of the GDPO and, therefore, are material in this case. Policy T6 of the LP recognises that car-free development should be the starting point for all development proposal in places that are well-connected by public transport, such as the appeal site. Also, that an absence of local on-street parking controls should not be a barrier to new development. In line with this, the maximum car parking standards for the appeal site¹, set out at Policy P54 of the Local Plan in Table 11 and Policy T6.1 of the LP in Table 10.3, are zero. That is the proposal is required to be car free, with the exception of disabled persons parking.
9. Policy T6(1) of the LP states that disabled persons parking should be provided for new residential developments, and I note that the Council's Transport Policy team requested details for the arrangements of disabled residents and visitors arriving to the site by car during the application process. Nonetheless, there are no details regarding this before me. It appeared from my observations on site that the external space as currently arranged provides parking and servicing for existing residents. Furthermore, the appellant's statement confirms that the existing on-site parking arrangements would be unchanged and that no further parking would be provided as part of the proposal. I am therefore not satisfied that further space would be available to provide disabled persons parking on-site as part of the proposal. Given this uncertainty, I am unable to secure this required parking provision by condition.

¹ Inner London PTAL 4

10. In terms of servicing and delivery arrangements, given the modest scale of the proposal, it is likely that any increase in associated vehicle movements would be limited. There is no substantive evidence before me to suggest that the existing arrangements would not be appropriate to serve the proposal or that a modest increase in the associated vehicle movements would compromise highway safety. In terms of construction traffic, if the appeal was allowed the proposal would be required to provide a report detailing the management of construction by paragraph A.2(3) of Schedule 2, Part 20, Class A of the GPDO.
11. While of concern to interested parties, there is no dispute between the parties that the design, location and quantum of cycle parking and refuse storage could be secured by condition. From the evidence before me and my observations on site, I am satisfied that there is sufficient space on site to provide adequate cycle parking and refuse storage and that these provisions could be secured by condition.
12. In conclusion, Paragraph 111 of the National Planning Policy Framework (the Framework) advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. However, paragraph 112 advises that within this context, applications for development should address the needs of people with disabilities and reduced mobility in relation to all modes of transport. The proposal would not provide any disabled person parking and it has not been demonstrated that this could be accommodated on-site. In this regard, the proposal would be unacceptable in relation to transport and highway impacts.

Daylight

13. The buildings either side of the appeal property have windows within their side elevations that face the appeal property. Given the nature of these windows, particularly their relatively large size, it is likely that some could serve habitable rooms. While the gap between the buildings is not modest and the proposal would not reduce this separation, given it would project upwards it would likely affect the amount of daylight received by these windows.
14. Policy P56 of the Local Plan seeks to protect the amenity of present or future occupiers or users, including with regard to daylight and sunlight, by resisting development that would cause an unacceptable loss. This relates directly to the matter set out at paragraph A.2 (1) (g) of Schedule 2, Part 20, Class A of the GPDO and, therefore, is material in this case. However, the policy does not set out what evidence is required to demonstrate that a development would comply with this requirement.
15. The Daylight and Sunlight Assessment² (DSA) supporting the proposal concludes that there would be no adverse impact on neighbouring residents in terms of daylight. This conclusion is based on an assessment of the Vertical Sky Component (VSC). The assessment shows that the effect of the proposal would be within 80% of the existing values and would therefore comply with good practice guidance on site layout planning for daylight and sunlight set by the Building Research Establishment (BRE).

² Prepared by T16 Design, dated 31/01/2022, Ref: 4277 Issue 1

16. The proposal's compliance with the BRE guidance using the VSC assessment confirms that there is sufficient skylight available to the external face of the affected windows. However, this does not account for the size and shape of the room the windows serve. This would be assessed using a No Sky Line (NSL) test, which is recommended by the BRE guidance. However, the guidance also recognises that a NSL test can only be undertaken where room layouts of the neighbouring properties are known.
17. In this case, the DSA explains that no reliable floor plans for immediate neighbours were found and, therefore, the test has not been undertaken. A note³ has also been prepared as part of the appeal process by the consultant who undertook the DSA. The note confirms, despite exhaustive searches, that no room layouts for the impacted neighbours could be found. It also considers it to be unrealistic and impractical to gain access to the neighbouring dwellings to survey their floor layouts. It concludes, given that the NSL test is sensitive to any errors in modelling, guessing at the floorplans would introduce the potential for unnecessary inaccuracy. However, while this may be the case, there are no further details on the process undertaken to obtain reliable floorplans. It is therefore unclear how comprehensive the process was or where, or from whom, copies of the plans were sought.
18. Paragraph 125 (c) of the Framework advises local planning authorities to take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site. However, this is subject to the resulting scheme providing acceptable living standards.
19. The proposal is an upwards extension that would be likely to affect the distribution of daylight across habitable rooms of neighbouring properties. Therefore, while it may be common practice to not include a NSL calculation where floorplans cannot be obtained, in the absence of substantive evidence that an acceptable distribution of daylight would continue to be provided to the habitable rooms of the neighbouring properties, I cannot be certain that the proposal would not lead to harmful living conditions in this regard. Accordingly, there is insufficient evidence that the proposal would be acceptable in relation to the amenity of neighbouring premises with particular regard to the loss of daylight.

Other Matters

20. I have taken careful account of the representations of residents currently residing within the appeal property, as well as those nearby, including concerns regarding the effect of the proposal on the character of the surrounding area, living conditions of existing residents, and the structural capacity and maintenance of the existing building and its facilities. However, these do not affect my findings on the main issues.

Conclusion

21. For the reasons above, the appeal is dismissed.

Hannah Guest INSPECTOR

³ Appendix A of Appeal Statement by Armstrong Rigg Planning, dated August 2022, Ref: 03822/S001. Note titled Kings Court, Barry Road, Southwark, dated 05/08/2022, Ref: 4277/OW/OW.