



Appeal Decision

Site visit made on 4 May 2023

by Rory MacLeod BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 July 2023

Appeal Ref: APP/H5960/W/22/3310097

78 Northcote Road, London, SW11 6QL

- 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 Mrs C Fuller against the decision of the London Borough of Wandsworth.
 - The application Ref 2022/0718, dated 4 February 2022, was refused by notice dated 29 July 2022.
 - The development proposed is replacement of existing three-storey property including a flat and restaurant space, with a four-storey development including 4 flats and a restaurant (Class E(b)) space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Wandsworth Publication Version Local Plan (WPVLP) together with representations received following publicity was submitted for independent examination in April 2022. As an emerging plan, its policies do not attract full weight but are material considerations for decision making.

Main Issues

3. The main issues are the effects of the development on:
 - (a) the character and appearance of the area by reason of its massing, particularly on the return Bennerley Road elevation, and
 - (b) the living conditions of occupiers of neighbouring dwellings, particularly in relation to overlooking from external amenity areas and noise and fumes from an extract vent.

Reasons

Character and appearance

4. The appeal relates to the redevelopment of a three storey end of terrace corner building comprising a restaurant with a separate dwelling above. The existing building contrasts with the nearest properties in the terrace in that it has a white rendered finish to upper floors below a pitched roof as opposed to brickwork and a higher parapet wall to the Northcote Road frontage.
5. The proposed building would continue the line of the parapet wall and include a recessed Mansard roof at third floor level reflecting the scale and massing of the Mansard roof to the adjacent building 76 Northcote Road. The upper floor

windows would be of a size and alignment to respect fenestration elsewhere along the terrace. The new building would be a little wider than that it would be replacing and plainer than some others in the terrace, which include decorative bay windows and brick detailing. But it would nonetheless assimilate well into the Northcote Road street scene in relation to its scale and design; its massing would be appropriate for this corner site.

6. On the Bennerley Road return elevation, the new building would encompass the present building's set back behind a low wall, extending to the back edge of the footway. A ground floor rear extension already extends to the back of the footway and is topped by a timber fence screening plant associated with the restaurant. The extension and fencing cover the full depth of the plot up to the flank boundary with 79 Bennerley Road (no.79), a three storey end of terrace building occupied as two flats.
7. The replacement building would have a similar profile extending up to the flank wall to no.79 over two floors but would be higher and topped by railings to a second floor roof terrace. The main part of the building would comprise a continuation of the four floor frontage development with the top floor recessed behind a parapet and some articulation leading to the two storey element.
8. The proposal's scale and massing would clearly narrow the gap between the rear of the building and the flank wall of no.79 at upper floor levels. But as the existing building already abuts the flank wall to no.79 at ground and first floor levels, there would be less change in massing at these levels.
9. Policy PL1 of the Wandsworth Local Plan Core Strategy (2016) promotes the distinctiveness of the various neighbourhoods that make up the borough. Northcote Road is commercial in nature to both sides of the road comprising mainly small sized shop units. The road is punctuated by many junctions with residential roads resulting in prominent corner sites with return frontages. There is variation in the height and size of buildings along the Northcote Road frontage and the height and size of the nearest building on the return road. There is also variation in the length and nature of the gaps between these buildings; some roads demonstrate a gap at ground floor level between buildings whilst at other sites there is no gap at all. There are other 4 storey corner buildings and other examples of where a side extension has been built up to the public footpath on the return frontage.
10. In these respects, there is not a uniform local character. The distinctiveness of the local character near to the appeal site includes some diversity in corner treatments. In my judgement, the additional mass to the Bennerley Road return frontage arising from the proposal would not result in harm to the spatial character of the streetscape. The proposal would be compatible with Policy PL1. There would not be conflict with the general development principles in Policy DMS1 of the Wandsworth Local Plan Development Management Planning Document (2016) (DMPD) as the proposal would have a design-led approach optimising the site's potential with a scale and massing contributing positively to local spatial character. As the proposal would reflect local character there would not be conflict with Policy DMH4 of the DMPD which is mainly about housing standards as is the Wandsworth Housing SPD (2016). The proposal would be in accordance with sections in the National Planning Policy Framework on delivering a sufficient supply of homes, making effective use of land and achieving well-designed places.

Living conditions

11. Whilst the Council has refused the application just in relation to its impact on the character and appearance of the area, local residents have objected to the proposal on amenity grounds at application and appeal stages.
12. The restaurant's existing low level extract system, located behind the screen fence at first floor level close to the Bennerley Road footway, would be replaced by plant at second floor level and an extract vent erected adjacent to the flank wall to no.79, discharging a little above its flat roof. The roof is used as an external amenity area, a roof terrace enclosed by railings and a low wall, by the occupiers of the upper unit, Flat B at no.79. The extract vent would appear as a close and intrusive feature, detrimental to visual amenity from the roof terrace.
13. Whilst habitable rooms at no.79 would not be particularly close to the extract so as to be unduly impacted by kitchen fumes, it is likely that residents using the roof terrace would be aware of any noise and odours from the extract, particularly if the unit is not optimally maintained. The sooty scar on the flank wall to no.79 above the now disused extract to 76 Northcote Road is a testament to how such systems are not always maintained correctly. A discharge above roof level would usually be on to an area of roofs not used as an amenity area by neighbouring occupiers. In my judgement, the planning conditions suggested to mitigate nuisance would not be adequate in these circumstances. Although the terrace may only be frequently used in summer months, it nonetheless forms an important facility as the sole external amenity area for the occupiers of Flat B at no.79. As the proposal is for a complete redevelopment of the site it should be possible to devise a less unneighbourly extract system for a new restaurant.
14. The rear facing kitchen window to flat 4 at second floor level would overlook the roof terrace at no.79. The terrace is already overlooked to a degree by the rear facing dormer windows at 76 Northcote Road at about the same level, but these windows are set further back with a more oblique angle of overlooking. The kitchen window would be much closer and would directly overlook the terrace resulting in an undue loss of privacy for occupiers of Flat B at no.79.
15. The occupier of Flat 79A Bennerley Road has a modestly sized back garden which would also be overlooked from the kitchen window to flat 4, but in this instance the angle of overlooking would be more oblique and the distance similar to that from the rear dormers at 76 Northcote Road which already overlook the garden. The garden would also be vulnerable to closer overlooking from the roof terrace to proposed flat 3 at second floor level. But the proposed privacy screen at 1.7m high would be sufficient to preclude overlooking, and its provision could be secured by a planning condition.
16. A small roof terrace for proposed flat 1 at first floor level would face Bennerley Road but would also afford views to the first floor front bay window at no.79. Whilst the terrace would be close to no.79, the angle of overlooking would only enable sight of the bay and not to the depth of the room. In my judgement any loss of privacy in this instance would not be significant.
17. The proposed restaurant would have an increased floor area compared to that existing with additional doors opening on to Bennerley Road. The new flats would also have a side entrance on to Bennerley Road. The provision and siting

of these flank doors would be unlikely to give rise to any significant noise or disturbance to existing residents in Bennerley Road above present noise and activity levels given the proximity to Northcote Road and its bustling nature with many shops, restaurants and cafes.

18. The rearward projection of the proposed building at upper floor levels would result in a sense of enclosure for occupiers of residential accommodation in the upper floors to 76 Northcote Road (no.76) and some loss of daylight. The appellant's Daylight and Sunlight Report examines the effects of the proposal on windows at no.76. I have no reason to disagree with the Council's findings that there would not be any unreasonable loss of amenity to residents here.
19. However, the proposal would be detrimental to the living conditions of occupiers at 79B Bennerley Road through visual intrusion and disturbance from the extract duct and from overlooking from the kitchen window at flat 4. The proposal would thereby be contrary to Policy DMS1(c) of the DMPD which requires development "*does not harm the amenity of occupiers/users and nearby properties through unacceptable noise, vibration, traffic congestion, air pollution, overshadowing, overbearing, unsatisfactory outlook, privacy or sunlight/daylight*". There would also be some conflict with Policy LP2B of the emerging WPVLP which is similar in its requirements.

Conclusion

20. Whilst I have concluded on the first main issue forming the subject of the Council's decision notice that there would not be an adverse effect on the character and appearance of the area by reason of the proposal's massing, there would be a significant adverse effect on the living conditions of occupiers of a neighbouring dwelling. For the reasons given above therefore I conclude that the appeal should be dismissed.

Rory MacLeod

INSPECTOR