



Appeal Decision

Site visit made on 21 July 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2023

Appeal Ref: APP/N5660/W/22/3295153

Land to the rear of 37 Clapham Common North Side, London SW4 0RW

- 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 Bacon against the decision of London Borough of Lambeth Council.
 - The application Ref 22/00147/FUL, dated 22 December 2021, was refused by a notice dated 16 February 2022.
 - The development proposed is described as 'a single storey courtyard 1-bed dwelling on land to the rear of 37 Clapham Common Northside with new opening through existing garden wall'.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: (i) the effect of the proposed development on the character and appearance of the Clapham Conservation Area including effects on trees; (ii) effects on parking demand, and; (iii) whether the proposal would provide an acceptable standard of accommodation for future occupants in terms of outlook and natural lighting.

Reasons

Conservation Area

3. The appeal site lies within the Clapham Conservation Area (CCA) which encompasses much of the north eastern side of the Common as well as the groups of buildings which surround it. This part of the CCA includes the substantial historic terraces which address and enclose the northern side of Clapham Common. These are set among a spacious and verdant setting arising from their set backs from the road and the tranquil long gardens behind, characterised by mature trees and landscaping. There are varying degrees of development behind the main terraces where, in some cases, former stables have been redeveloped as lower level housing. The presence of the long gardens and mature trees and landscaping within them contributes positively to the character and appearance of the area and the significance of the CCA.
4. In the case of no.37, the rear garden has been subdivided and includes a brick substation to its northern end. Despite not forming part of the garden of no.37, it nonetheless contributes to the appreciation of a long garden and open space behind the historic terrace.

5. The proposal would introduce built form to much of the appeal site and detract from, and be heavily at odds with, the open character of the rear gardens. These effects would be exacerbated by its domestic features including glazing and parapet, which would extend above the height of the traditional boundary walls and would draw attention to the development. The inclusion of integral courtyards would do little to reduce these effects as they would be largely concealed from public view points.
6. There is not evidence to support that a similar proposal for a use ancillary to no.37, such as a pool house, would be acceptable and I give this little weight as a potential fall back position. Similarly, while there may be other examples of houses within garden settings across London, based on the evidence before me I cannot be satisfied that their circumstances are comparable to the appeal scheme.
7. I turn now to the effect of the proposal on the nearby trees, which also contribute to the significance of the CCA as set out above. The appeal site contains a substantial Sycamore which has an extensive canopy and is prominent in views from the surrounding area. The appellant's Tree Survey identifies this as having a life expectancy of at least 20 years and it has significant amenity value. Together with the other low level vegetation on the site and other nearby trees, the Sycamore contributes positively to the character and appearance of the CCA.
8. The appellant's Tree Survey identifies a second tree on the appeal site, a poor quality Oak, and I note the dispute from third parties that this is instead the Mulberry which has been subject to recent work and separate investigation by the Council. While I found that tree to have some amenity value, I note the appellant's findings that the tree is in poor condition with a limited life expectancy. I have no strong reason to dispute those conclusions and find its removal to be acceptable on that basis.
9. However, there is not substantive evidence relating to the effects of the proposal on the Sycamore or other nearby trees. The Design and Access Statement identifies a number of screwpile foundations which may be dug within the Root Protection Area (RPA) of the Sycamore, and it is likely that several of these would lie within the RPAs of other nearby trees. These may cause significant damage to the root systems and, in turn, to the health, amenity value and longevity of the trees. There is not strong evidence to demonstrate the effects that the existing substation and boundary walls have had on the tree roots, and the presence of those structures does not provide assurances that the effects of the appeal scheme would be acceptable.
10. Furthermore, the positioning of the proposal beneath the tree canopies would increase pressure for substantial pruning or felling in the future which would lead to adverse visual effects. While the proposal would integrate the Sycamore into its design and make it a focal point for the main habitable areas, new pressure to prune or replace the tree would still arise in the future, particularly given its effects on the natural lighting of the internal spaces. There is little detail of any proposed off-site mitigation and as such it cannot be established that this would adequately mitigate for any of the above effects.
11. Given the importance of the Sycamore and other neighbouring trees to visual amenity and to the significance of the CCA, together with the absence of evidence to demonstrate that a satisfactory solution could be reached, the use

of a planning condition, pre commencement or otherwise, would not be reasonable in this instance.

12. Insofar as the harm to the visual amenity of the trees is concerned, the proposal would conflict with policies Q9, Q10 and Q14 of the Lambeth Local Plan 2021 (the LLP) and policy Q7 of the London Plan 2021 (the LP) to the extent that they relate to retention of existing trees and resist development which would give rise to a threat to the continued wellbeing of such trees.
13. For the reasons given, the proposed development, through the introduction of the built form and harm to trees, would cause harm to those attributes which contribute positively to the significance of the CCA and would neither preserve nor enhance its character or appearance.
14. Together this amounts to less than substantial harm for the purposes of the National Planning Policy Framework (the Framework). Paragraph 202 of the Framework requires that this harm should be weighed against the public benefits of the proposal. The harm to the significance of the heritage asset would be significant and long lasting and I must give that harm considerable importance and weight. In terms of public benefits, the proposal would deliver a new dwelling which would contribute to the national objective to boost the supply of homes. However, as a single unit the scale of that contribution is limited and this would not outweigh the harm identified.
15. Consequently, the proposal would conflict with policies Q5, Q6, Q7 and Q22 of the LLP which relate among other things to consideration of historic and local character and development in conservation areas and with the heritage objectives of the Framework.

Parking

16. The site has a 'very good' public transport accessibility level and is within a controlled parking zone. The proposal would increase local parking pressures and Policy T6 of the LLP requires development in this area to be permit free and make car club membership available. The appellant has confirmed commitment to providing a legal agreement to secure these measures. However, as no such agreement is before me as part of this appeal I cannot be satisfied that, if the appeal were otherwise acceptable, the required mitigation would be secured. As the appeal is being dismissed for other substantive matters, I have not considered the matter of whether this could be dealt with by an appropriate condition further.
17. The proposal would add to local parking pressures and would conflict with policies T1, T6 and D4 of the LLP which relate to sustainable travel and securing mitigation by legal agreements. I do not find conflict with the provisions of Policy T6 of the LP and, in the absence of detailed evidence on the matter, I do not find the requirement for membership of a cycle hire scheme to meet the tests for a planning obligation.

Standard of Accommodation

18. The outlook from the habitable areas of the new house would be limited to the confines of the courtyards created within the appeal site and to high level views through the windows located above the boundary walls. Despite lacking any views of greater distances, given the extent of glazing surrounding the

courtyards and the high level glazing, the outlook from the building would not create unacceptably oppressive conditions.

19. The amount of natural lighting received by the internal and external spaces would vary throughout the year with the extent of foliage on the tree canopies. However, taken together, I consider that the clerestory windows, full height glazing around the internal courtyards and rooflights would allow for acceptable levels of natural lighting within the property.
20. For these reasons the proposal would provide an acceptable standard of accommodation for future occupiers and would comply with policies H5, Q2 and Q7 of the LLP insofar as they relate to amenity.

Conclusion

21. With the above in mind, there are no material considerations that are worthy of sufficient weight that would indicate a decision other than in accordance with the development plan. The appeal is therefore dismissed.

C Shearing

INSPECTOR