



Appeal Decision

Site visit made on 16 November 2023

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2023

Appeal Ref: APP/N5660/W/23/3321874

620-626 Streatham High Road, London SW16 3QJ

- 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 AP Assets Ltd against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 22/02599/FUL, dated 12 July 2022, was refused by notice dated 12 December 2022.
 - The development proposed is described as a three-storey extension to create 9 x flats, reconfiguring refuse and cycle stores, provision of living roof, formation of soft landscaping and roof terraces for each unit (scheme incorporates the same works as those approved under prior approval: 20/04110/P20).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the original decision, the appellant has submitted amended plans as follows: Proposed 5th Floor Plan, Drawing number - PL_105 (27.04.2023); Proposed West Elevation, Drawing number - PL_304 (06.05.2023); Proposed West Elevation, Drawing number - PL_305 (06.05.2023). The appellant has also submitted Modelled Images, a revised Planning Fire Safety Strategy, and a Draft s106 Agreement.
3. As this is a minor amendment, and the Council's concerns on the original set of plans are clear in their evidence, I do not consider that their interests or those of any interested parties would be prejudiced if I take these amended plans into account. I shall therefore determine the appeal on the basis of the amended plans.
4. The Council have also had the opportunity to comment on the additional documents submitted with the appeal. I shall determine the appeal having regard to the documents submitted.

Main Issues

5. The main issues are 1) the effect of the proposed development on the character and appearance of the area, 2) the effect of the proposed development on the living conditions of existing and future occupants with regard to outlook, light, and amenity space provision, 3) whether or not the development would achieve the highest standards of fire safety, and 4) whether or not the development would support sustainable modes of travel.

Reasons

Character and appearance

6. The appeal property is a three-storey building with commercial use on the ground floor and residential properties on the upper two floors. The building is 'L' shaped and fronts onto Streatham High Road and Colmer Road. This corner siting gives the building a relatively prominent position in the street-scene.
7. This area of Streatham High Road contains buildings of various heights. There are four storey blocks opposite the appeal site and a five storey block adjacent to it. There are also three storey and two storey buildings within close proximity on Streatham High Road. The streets behind Streatham High Road, such as Colmer Road to the side of the appeal site, are predominantly made up of two storey residential properties, including some with half-basement levels. There is a wide range of building designs and materials used in the surrounding area.
8. The proposed development would add an additional three storeys to the existing building, resulting in a six-storey building overall. Two of these additional storeys would be an upward continuation of the design and form of the existing building. The remaining uppermost storey would be formed of zinc cladding and be set back from the building edges.
9. The property has extant planning permission¹ and prior approval² for a two-storey upward extension. The Council have commented that the planning permission is for one full storey addition and one-set back addition. This is similar to the approach in the appeal proposal, save for the appeal proposal being for two full storey additions and one-set back addition. In terms of the prior approval, the Council have commented that, this was determined prior to a High Court judgement which confirmed that in the consideration of external appearance, this could include consideration of the wider townscape or street-scene. The Council have commented that were the prior approval to have been considered afresh following this judgement, it is unlikely consent would have been granted.
10. The extant planning consent and prior approval are material considerations in the appeal. Although the Council have suggested their decision would be different in light of the High Court judgment, it is nevertheless an extant consent. Although the whole of the development is before me, I have had regard to these extant consents in my decision.
11. The proposed development would result in a six-storey building overall. Despite there being a number of four to five storey blocks in the surrounding area, including a development under construction at 604-610 Streatham High Road, the resulting building would be the greatest in height in the surrounding area. I find that less harm would be caused where this relationship exists with the adjacent Marquee Tower. However, the relationship with the built environment on Colmer Road would not be quite so harmonious.
12. Colmer Road is of a distinctly lower scale than Streatham High Road. The resulting building, sitting in close proximity to the two storey properties would result in a marked and striking difference in height, with only a small

¹ Planning Application Ref: 19/04767/FUL

² Prior Approval Application Ref: 20/04110/P20

separation, that would create a discordant and inharmonious relationship. The resulting building would appear dominant and incongruous in the street-scene, particularly when viewed from further down Colmer Road. The extended appeal building would produce a sudden and abrupt change in levels that would cause visual harm.

13. I acknowledge that much of the arrangement would exist through the implementation of the extant prior approval. Fundamentally, however, despite using a different material and setting the additional floor back from the building edges, the appeal proposal would have a greater impact in terms of its overall scale and height. Therefore, the fallback would not be the same, and its weight in the appeal is reduced in this regard.
14. The Council have outlined how they consider the existing building is of poor quality and materials and that replicating the design and materials for an upward extension would cause harm. I acknowledge these concerns and agree that repeating the design and materials in the proposed extension would not result in a building of high quality in design terms. I also share the concerns in relation to the materials to be used. The existing materials have weathered somewhat, and the use of new materials would create a clear division in the appearance of the building, which has clearly been intended to be seen as a continuation, save for the rooftop addition. The stone band course would provide a break of sorts, but would not overcome this concern entirely.
15. It is however, on these matters, important to give the appropriate weight to the extant prior approval. I am satisfied that if the appeal proposal was not implemented, there is every likelihood that the fallback would be implemented. The prior approval scheme would have the same impact and implications as the scheme before me, on these matters. Therefore, on these matters, I regard the fallback as a material consideration of significant weight, and as such it would not be appropriate to dismiss the appeal on this basis, and a finding on these matters, other than in accordance with the development plan, is appropriate.
16. Therefore, on the matter of the scale and height of the building, I find that significant harm would be caused to the character and appearance of the area. On the matter of its design and materials, although this would be contrary to the requirement to achieve high quality design, giving appropriate weight to the fallback, this aspect of the development would not be unacceptable.
17. The proposed development is therefore contrary to Policies Q5, Q7, Q8 and Q11 of the Lambeth Local Plan (2021). These policies require, amongst other things, that developments have regard to the local built form including bulk, scale and height, and their relationship with other buildings. Developments should be of a bulk, scale/mass, siting, building line and orientation which adequately preserves or enhances the prevailing local character.

Living conditions

18. The existing building contains six residential flats. These are accessed via open balconies to the rear of the building. All existing units have windows that look onto the rear yard area and the respective street frontage on the other side. There is currently no amenity space provision for any of the existing residential units.

19. Policy H5 of the Lambeth Local Plan (2021) relates to housing standards. For new residential development, the policy requires, amongst other things, that at least 10sqm of private outdoor amenity space should be provided per flat either as a balcony/terrace/private garden or consolidated with communal amenity space for new flatted developments.
20. The evidence sets out a comparison of the existing, approved and proposed amenity space provision³. This table shows that there would be no change between the approved amenity space provision and the proposed amenity space provision for flats 7 to 12. The private amenity space for these units would, however, fall short of the minimum amount required by Policy H5. It would, however, comply with the lower amount of 5sqm as required in Policy D6 of the London Plan (2021).
21. As I am satisfied that if the appeal proposal was not implemented, there is every likelihood that the fallback would be implemented, and thus provide the same amount of amenity space for flats 7 to 12. In this regard, the proposed development would provide no worse living conditions, in terms of private amenity space provision, than the fallback. On this matter, I therefore regard the fallback as a material consideration of significant weight which would justify making a decision which is not in accordance with the development plan.
22. In terms of flats 13 to 15, these do not have an extant consent or fallback. Flat 15 would have 30sqm of private amenity space and thus comply with the requirement in Policy H5. Flats 13 and 14 would provide 9.4sqm of private amenity space and fall marginally short of the requirement. I acknowledge that the required space is a 'minimum' however the policy allows for the consideration of the provision of communal amenity space in flatted developments. In the proposed development, 35sqm of communal amenity space is proposed. This provision is considered to justify the shortfall identified above.
23. The proposed development includes the provision of a new lift and stair core. The Council have highlighted that this feature was not part of either of the extant consents. The lift and stair core would be in close proximity to a number of the existing and proposed units.
24. The appellant has submitted a Daylight, Sunlight & Overshadowing Assessment⁴. This concludes that, having regard to the BRE Guidelines, the existing and proposed habitable rooms achieve the minimum target internal daylight levels. I am not presented with any substantive evidence to contradict the findings of the report. Therefore, based on the evidence before me, I find that there would not be an unacceptable impact in terms of light levels to the existing and proposed units.
25. Having regard to the position of habitable room windows in the existing and proposed layout, the lift and stair core would be positioned close to a bedroom in flats 3, 6, 9 and 12. The bedroom in each of these flats is the second bedroom, with the first, main, bedroom overlooking Streatham High Road. Each of these units also has the main living area windows overlooking Streatham High Road.

³ Table 2 (Amenity Space) - Appellant's Statement of Case

⁴ PP2009/SHR/DL/202209-AV - December 2022

26. The lift and stair core would restrict the outlook from these rooms at certain angles, however an unrestricted outlook would be permissible at other angles. Taking this into account, and the otherwise good levels of outlook to the units as a whole, I do not consider that this would result in unacceptable living conditions.
27. Therefore, on the matter of living conditions for existing and future occupants, having regard to amenity space provision and levels of daylight, sunlight and outlook, I do not consider that there would be an unacceptable impact on living conditions. The proposed development would therefore comply with the requirement of Policy H5 of the Lambeth Local Plan (2021) and Policy D6 of the London Plan (2021) in terms of protecting living conditions and ensuring good living conditions are provided in developments.

Fire safety

28. Policy D12 of the London Plan (2021) outlines that in the interests of fire safety and to ensure the safety of all building users, all development proposals must achieve the highest standards of fire safety. The policy sets out the measures that developments must achieve. Policy D5 of the London Plan also sets out that in all developments where lifts are installed, as a minimum at least one lift per core (or more subject to capacity assessments) should be a suitably sized fire evacuation lift suitable to be used to evacuate people who require level access from the building.
29. The appellant has submitted a Planning Fire Safety Strategy⁵ with the appeal. The report highlights that it covers the fifth floor only and that it complies with the requirements of Policy D12.
30. Although the building has extant consent for two additional storeys, as set out above, the whole development comprising an additional three storeys is before me. It is clear, however, that the submitted fire safety report does not cover the proposed third and fourth floor additions.
31. I acknowledge that elsewhere in my decision I have given significant weight to the fallback such that a decision may be made not in accordance with the development plan. This is in relation to matters of character and appearance and living conditions. However, on the potentially perilous matter of fire safety, I do not consider that it would be appropriate to justify departing from the requirement of the development plan on the basis of the existence of a fallback, particularly as there may have been changes in fire safety legislation and policy in the interim.
32. As such, I can not be certain that the proposed development when considered as a whole, would achieve the highest standards of fire safety. It would therefore be contrary to Policy D12 of the London Plan (2021).

Sustainable travel

33. Policy D4 of the Lambeth Local Plan (2021) identifies that Section 106 planning obligations will be sought to ensure that development proposals provide or fund local improvements to mitigate the impact of the development and/or additional facilities and requirements made necessary by the development. Depending on the nature of the development, this may include, amongst other

⁵ Planning Fire Safety Strategy Revision A – 9 May 2023, Valur Consulting

things, car clubs and parking restrictions. Policy T3 also outlines that a minimum of three years free membership of the Cycle Hire scheme for all residents regardless of tenure, should be made available in new residential developments.

34. The Council have set out the measures that would be necessary to mitigate the impacts of the development, to promote sustainable modes of travel and reduce dependence on the private car. The appellant has confirmed they agree to all the requirements, and I have no reason to form a different view.
35. To this end, the appellant has submitted a draft S106 agreement with the appeal to secure the necessary measures. Although I accept it as the appellant's willingness to enter into an agreement, it is not however a completed agreement and therefore is of limited weight in the appeal.
36. In the absence of a completed agreement, the development would fail to promote sustainable modes of travel as is required in Policies D4, T3, and T6 of the Lambeth Local Plan (2021) and Policies T5 and T6 of the London Plan (2021). Given that I am dismissing the appeal for other reasons the presence of a completed agreement could not, in any event, lead to a different decision.

Planning Balance and Conclusion

37. The Government's objective as set out in the National Planning Policy Framework (the Framework) (2023) is to support housing growth. The proposed development would result in a moderate increase in the Council's overall housing number. This is a factor of moderate weight in favour of the proposed development.
38. However, in light of the harm I have identified would be caused to the character and appearance of the area, combined with lack of evidence to demonstrate how the development would achieve the highest standards of fire safety, and the failure to secure measures to promote sustainable travel, these matters attract significant weight that outweighs the benefit associated with the proposed development.
39. The proposed development would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.
40. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR