



Appeal Decision

Site visit made on 11 September 2023

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2023

Appeal Ref: APP/A5840/W/22/3311996

Land at rear of 163 Camberwell Grove, Camberwell, London SE5 8JN

- 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 Ray Ford against the decision of the Council of the London Borough of Southwark.
- The application Ref 22/AP/2068, dated 13 June 2022, was refused by notice dated 16 September 2022.
- The development proposed is the demolition of a listed garden wall and existing double garage, and construction of a 3-storey 2-bedroom house and walled garden to front elevation.

Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. The appeal relates to a detached garage at the rear of No 163 Camberwell Grove ("No 163") which, with its neighbour No 165, is a Grade II listed building¹. There is no dispute between the parties that the walls which form the appeal site's south-eastern and south-western boundaries with Nos 163 and 165 are within the curtilage of that listed building, and therefore part of it. I have a statutory duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Act") to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. The site is adjacent to the Camberwell Grove Conservation Area ("the CGCA").
3. Although the Council's officer report referred to a separate application for listed building consent having been submitted², there is no information before me as to whether that application has been determined or not. The application for listed building consent does not form part of this appeal, which only relates to the refused planning application.
4. The Government published revised versions of the National Planning Policy Framework ("the Framework") on 5 September 2023, replacing the July 2021 version extant when the application was determined, and again on 19 December 2023. The amendments did not have any bearing on the main issues, and it was therefore not necessary to seek comments from the main parties on the updated Framework. Where I have referred to specific paragraphs of the Framework, the numbering is that of the December 2023 version.

¹ List entry number 1278422

² LPA Ref: 22/AP/2069

Main Issues

5. The main issues are:

- The effect of the proposed development on the character and appearance of the area, including its effects on the significance or setting of designated heritage assets.
- Whether or not the development would make an appropriate provision for affordable housing;
- Whether the proposed dwelling would provide acceptable living conditions for future occupiers, with particular regard to private amenity space;
- Whether sufficient information has been provided to demonstrate that the proposed basement development would not compromise the water environment or biodiversity in the local area;
- The effect of the proposed development on trees; and
- Whether the proposed arrangements for the storage of refuse would conflict with pedestrians and vehicles passing the site.

Reasons

Character and appearance

6. The appeal site sits behind the rear garden of No 163. It is accessed via a small open forecourt on the south side of Grovelands Close, a cul-de-sac development of late 20th century houses. The proposed development is the demolition of the garage, and its replacement with a three-storey two-bedroom dwelling on a slightly larger footprint. The lowest floor of the dwelling would be a part-basement. There would be a small garden with cycle parking and refuse storage facilities in front of the proposed dwelling towards Grovelands Close. The building would be of yellow London Stock brickwork, with soldier course copings and brick arches to window heads, with stone steps and window sills, aluminium Crittall-style window frames, and wrought iron railings.
7. As heritage assets are irreplaceable, the Framework states that they should be conserved in a manner appropriate to their significance (paragraph 195). It goes on to advise that any harm or loss (from their alteration or destruction, or from development within their setting) requires clear and convincing justification (paragraph 206), and that any harm that is less than substantial must be weighed against the public benefit of the proposal (paragraph 208).

163 and 165 Camberwell Grove

8. Nos 163 and 165 Camberwell Grove are a pair of semi-detached houses, described in the official list entry as dating from the mid-19th century. Their special architectural interest is most apparent in their impressive front elevations, with large round-arched windows to the raised ground floor, and the side returns which have entrance porches with Tuscan columns set within two-storey stair halls with round arched windows on the first floor. Together, these elevations present an attractive and imposing face to Camberwell Grove; I consider that the significance of the listed building, insofar as it relates to this appeal, is derived from its architectural quality, including some fine detailing, and its age, which contributes to an understanding of the growth of the area as

a residential suburb. The generous plot sizes of Nos 163 and 165, including their long and spacious rear gardens, provide room for the quality of the building and its status to be appreciated. Although these factors are mostly experienced when viewing the front and side elevations from Camberwell Grove itself, the rear gardens also contribute positively to the building's significance.

Camberwell Grove Conservation Area

9. The CGCA covers a substantial area south of the original Camberwell village. It is based on two long residential streets, Camberwell Grove and Grove Lane, which were laid out between the 1770s and 1840s. I have been provided with limited information in respect of the CGCA, but insofar as it relates to this appeal I consider that its significance is derived from the quality of its Georgian, Victorian and Edwardian residential development, including the listed building Nos 163 and 165 Camberwell Grove which I have addressed above.
10. The side and rear boundary wall of No 163 Camberwell Grove marks the boundary of the CGCA, so that the appeal site lies outside the conservation area. The existing garage on the appeal site is not in good condition, and the site itself does not therefore make a positive contribution to the setting of the CGCA. The narrowness of Grovelands Close and the relatively modest scale of its modern housing means that it has a character distinct from the main streets within the CGCA so that taken as a whole (and notwithstanding the poor state of the appeal site), the street's pleasant verdant appearance makes a positive contribution to the setting of the CGCA.

Effects on designated heritage assets

11. The height of the garden walls to No 163 has been increased by the addition of timber fencing. The external face of the walls to Grovelands Close and the appeal site's forecourt is rendered and painted white; the garage wall section is obscured within the garden by grey-painted timber screening enclosing a shed. The proposed development would result in the demolition of a section of this wall, though this would amount to a small part of the total length of walling surrounding the garden, and the salvaged bricks would be used for rebuilding. The Council's officer report considered that the demolition of the curtilage listed wall would be "acceptable as it is of no particular architectural merit". Based on the evidence before me including my observations on site, I see no reason to disagree; the relevant parts of the wall make a very limited contribution to the appreciation or understanding of No 163, and their demolition and replacement as proposed would not result in harm to the significance of the listed building.
12. The Council is of the view that the height, form and massing of the proposed dwelling would be harmful to the setting of the listed building. However, Nos 163 and 165 have substantial basements and, due to their height and the slope of the land, read as three-storey buildings at the rear. The proposed dwelling would be taller than the existing garage, but even where the land is at its lowest the basement would still be partly below the ground level, and it would therefore read as a two-and-a-half storey building. The submitted drawings show that the top of the proposed dwelling would be lower than the bottom of the first-floor window openings at the rear of Nos 163 and 165; it would also be separated from them by the generous length of the rear gardens of Nos 163 and 165. While the proposed house would inevitably be visible against the rear elevation of No 163, its modest scale would ensure that it would not dominate or otherwise overwhelm the listed building.

13. The Council also expressed its concern that the “lack of any set back to the top storey [of the proposed dwelling would result in] sheer walls rising out of context”. I accept that mews-type buildings are not a feature of Grovelands Close, and I note that the red brick houses with steeply-pitched roofs on that street have a degree of unity of form and character of their own. However, the overall form of the building would not be at all dissimilar to other mews-type buildings of varying ages which I saw elsewhere in the area (for example, on Stories Mews and Canning Cross) during my site visit. Furthermore, the proposed dwelling would be viewed in the context of its location immediately to the rear of Nos 163 and 165. In such a setting, a mews-type building would be unlikely to read as an alien or intrusive feature.
14. In terms of detailing, the proposed dwelling would use different sizes and styles of windows. However, these would not be so disparate as to result in the building appearing incongruous or disjointed, and I saw that Nos 163 and 165 themselves have a variety of round arched, camber arched, and rectangular window openings. Furthermore, I saw that among the various mews-type properties on back lanes within the CGCA it is not uncommon for there to be different sized window and door openings, usually with larger openings to the ground floor presumably reflecting a building’s earlier use as garages or stabling. I did not see evidence that Juliet balconies are a common feature within the CGCA, but that does not in itself amount to a reason for their being unacceptable in principle for a development outside (even if abutting) the area. I also consider that the proposed materials would be in keeping with those I saw in the surrounding area.

Findings on this main issue

15. Taking all of the above together, I find that the size and scale of the proposed dwelling would not be dominant in respect of Nos 163 and 165, nor would its form or detailed design divert attention from the listed building. The development would preserve the significance of the Grade II listed building known as 163 and 165 Camberwell Grove, and the contribution that its setting makes to its significance, and so would comply with the requirements of the Act in these respects. I also find that the proposed development would not be harmful to the character or appearance of the area; the contribution that the setting makes to the significance of the CGCA, and therefore the significance of the CGCA itself, would also be preserved.
16. The proposal would therefore comply with Policies P14, P19 and P20 of the 2022 Southwark Plan, and with Policy HC1 of the London Plan 2021. Together, and among other things, these policies seek to ensure that development is well-designed, and protects, conserves and enhances heritage assets. As I do not find that the development would cause harm to designated heritage assets, it is not necessary to apply the public benefit test set out in paragraph 208 of the Framework.

Affordable housing

17. Policy P1 of the 2022 Southwark Plan requires that development creating nine homes or fewer must provide “the maximum amount of social rented and intermediate homes or a financial contribution towards the delivery of new council[,] social rented and intermediate homes with a minimum of 35% subject to viability...”. The appeal scheme is described by the appellant as a self-build scheme for which an exemption is available. On the face of it

therefore, the proposed development may well not need to make a financial contribution towards the provision of affordable housing.

18. However, there is no mechanism before me (in the form of a “section 106” legal agreement or unilateral undertaking) which would secure and retain the self-build status of the proposed dwelling. In the absence of such a mechanism I cannot be certain that the proposed development makes an appropriate provision for affordable housing (acknowledging that “appropriate” may ultimately mean no contribution in this case). I therefore conclude that the proposal fails to comply with Policy P1 of the 2022 Southwark Plan, the relevant provisions of which I have set out in the preceding paragraph.

Living conditions

19. The proposed dwelling would have approximately 12.7m² of external amenity space, comprising a 10m² front garden, and a 2.7m² cantilevered terrace accessible from a first-floor bedroom. Policy P15 of the 2022 Southwark Plan seeks the provision of a minimum of 50m² of private garden space for new houses. The appellant has referred to information from the Council which “states [they] prefer at least 10m² in a two-bed house”³, but there is nothing else before me which explains where this “advice” has come from. I note that in responding to the appellant the Council stated that “policy requires 50m² gardens for new houses [but given] the constraints of the smaller site a smaller area of amenity space *could* [my emphasis] be considered acceptable”⁴, but that does not in itself amount to a “green light” for such a small amenity space.
20. The front garden would be next to Grovelands Close, so would be in view of people passing along that street. It would be partially occupied by bicycle storage areas⁵, and overshadowed at least some of the time by mature trees in the rear garden of No 163 Camberwell Grove. I accept that there may well be circumstances in which providing smaller amenity spaces than sought by the development plan could be justified by site-specific circumstances. In this case, however, not only would the quantity of amenity space provided fall *significantly* below that sought by the development plan, the qualitative shortcomings of the front garden which have been identified would limit its usefulness as private amenity space.
21. I therefore conclude that the proposed development would conflict with Policy P15 of the 2022 Southwark Plan, in respect of its requirements for private amenity space which I have set out in paragraph 19 above.

Basement development

22. As I have already described, the lowest floor of the proposed dwelling would be a part-basement, and would therefore require excavation of the site. In considering this matter it is of note that land adjacent to the appeal site, now developed as Grovelands Close, was previously an oil refinery (albeit a small one) and there is the possibility of contamination being present on the site. No information has been submitted to show that the development could take place without causing harm in respect of groundwater levels, surface water flooding, or biodiversity.

³ E-mail from appellant to LPA dated 6 November 2022, also referred to in appeal statement

⁴ E-mail from LPA to appellant dated 11 November 2022

⁵ The submitted drawings show an open area rather than covered storage

23. The appellant's comments on this matter referred to the Council's view that a trial trench should be dug alongside the boundary wall to No 163 Camberwell Grove. This in fact related to the question of protecting trees which I deal with as the next main issue; the matter of the potential impacts on groundwater, surface water flooding and biodiversity were not addressed at all.
24. In the absence of sufficient information such as a Basement Impact Assessment demonstrating otherwise, I cannot be satisfied that the development could go ahead without causing unacceptable harm to the water environment or biodiversity in the local area. I therefore conclude that the proposed development would conflict with Policies P60, P64 and P68 of the 2022 Southwark Plan which, among other things seek to protect and enhance biodiversity, mitigate contaminated land, and reduce flood risk.

Trees

25. The appeal site is close to three large trees within the rear gardens of Nos 163 and 165 Camberwell Grove. One (the sycamore identified in the submitted *Arboricultural Implications Assessment* – "the AIA" – as T2) is particularly close to the southern corner of the existing garage building, and its assumed "original" root protection area ("RPA") encompasses most of the existing building (as shown on the Tree Constraints Plan within the AIA). The AIA states that the RPA for that tree has been "trimmed" to reflect the fall in ground levels between the base of the tree and the appeal site. Nevertheless, based on its arboricultural advice, the Council has pointed out that tree roots can grow under and beyond obstructions to capitalise on the availability of ground water, and it considers that the development may therefore have an adverse impact on the tree's root system.
26. The AIA identified T2 as "category B", a tree "of moderate quality with an estimated remaining life expectancy of at least 20 years". Its loss would cause some harm to the character and appearance of the area and, although the AIA recommended a "precautionary approach" it did not set out any specific tree protection measures. However, given the general thrust of the AIA's findings, I am satisfied that this is a measure which could be addressed by an appropriately-worded condition requiring the submission and approval of, and adherence to, an arboricultural method statement.
27. Subject to the use of such a condition, I am satisfied that the proposed development would not cause unacceptable harm to trees in the vicinity of the appeal site. The proposal would therefore comply with Policy P61 of the 2022 Southwark Plan which, among other things, seeks to retain and protect significant existing trees, including those within conservation areas, or the setting or curtilage of listed buildings.

Conflict with pedestrians and vehicles

28. An enclosure for two wheelie bins would be provided at the corner of the site next to Grovelands Close. This would be of London brick, with metal doors and a sedum grass lid and therefore, on the face of it, an attractive and functional structure. However, the submitted drawings show that its doors would open outwards from the appeal site onto public land, where they would be liable to interfere with, and have an adverse impact, the passage of pedestrians or vehicles passing the site.

29. While this would not be acceptable, it could be relatively easily overcome by redesigning the bin store, for example so that the doors would instead open into the front garden. If the scheme had been acceptable in all other respects, it would have been possible to impose a condition requiring the submission and approval of revised details for this part of the development such that the conflict would not arise.
30. Subject to the use of such a condition, I am satisfied that the arrangements for the storage of refuse would be acceptable, and there would be no adverse impacts on pedestrians or vehicles passing the site. The proposal would therefore comply with Policy P50 of the 2022 Southwark Plan, which seeks to ensure that development does not have negative impacts on highways.

Other Matter

31. The Council's officer report refers to "other listed buildings in the proximity of the application site, mainly including the Grade II listed buildings along either side of Camberwell Grove". I have been provided with very limited further information on this matter. However, in view of the location of the appeal site at the rear of No 163, and its consequent spatial and visual separation from other buildings on Camberwell Grove, I am satisfied that the appeal site does not fall within the setting of any other listed buildings.

Planning Balance and Conclusion

32. The appeal scheme would provide an additional dwelling, in a location with good access to services, at a time when the government is seeking to significantly boost the supply of housing. Given the small scale of the proposal, this is a benefit which carries moderate weight in its favour.
33. I have found that the proposed development would not cause harm to designated heritage assets, nor would it have unacceptable impacts on trees or highways. Lack of harm in these respects is a neutral factor in the overall balance.
34. However, the development would not make an appropriate provision in respect of affordable housing (which may include securing a "self-build" exemption from making a contribution towards affordable housing). It would not provide acceptable living conditions for future occupiers, and it has not been demonstrated that the basement excavation could be carried out without causing unacceptable harm to the local environment. These are matters which carry considerable weight, and outweigh the benefits associated with the scheme.
35. The proposal would conflict with the development plan taken as a whole, and there are no other considerations, including the Framework, that outweigh this conflict. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

M Cryan

Inspector