



Appeal Decision

Site visit made on 6 December 2023

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2024

Appeal Ref: APP/N5660/W/23/3315705

2 Elder Road, London SE27 9NQ

- 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 Adebayo Oladokun-Akintonwa against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 22/02729/FUL, dated 28 July 2022, was refused by notice dated 17 October 2022.
 - The development proposed is described as “the demolition of the incongruous structure and proposed redevelopment of the existing site for 5 residential units.”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised on 19 December 2023 and is a material consideration in this planning appeal. The main parties have been given the opportunity to comment on changes to the Framework, and I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - The effect of the proposed development upon the character and appearance of the area, with particular regard to its design and scale;
 - Whether the proposal would provide satisfactory living conditions for future occupiers of the flats, with particular regard to their outdoor space and privacy;
 - The effect of the proposal upon the living conditions of neighbouring occupiers, with particular regard to outlook and loss of daylight and sunlight;
 - Whether the proposal would prevent the optimum redevelopment of neighbouring sites; and,
 - Secure cycle storage provision.

Reasons

Character and appearance

4. The appeal site occupies a prominent and highly visible corner location on a crossroads junction, positioned at the back edge of the pavement, facing onto both Elder Road and Chapel Road. The appeal property is three storey in part, nearest to Chapel Road, with a larger single storey part fronting onto Elder Road which adjoins a single storey dwelling. There is a terrace of two storey properties adjoining the appeal site on Chapel Road, which are set back from the pavement edge. The immediate area contains a variety of property types and sizes, and diagonally opposite the appeal site are three-storey pitched roof properties (some have rooms in the roof) with commercial uses at ground floor. There are other tall properties nearby away from corner positions, most of these feature dual pitched roofs, and are set back from the footpath edge.
5. There is no disagreement between the parties regarding the demolition of the existing buildings at the appeal site, which I saw have little architectural merit and I see no reason to disagree.
6. The four-storey height of the proposed building, which would be sited across the entirety of the appeal site and up to both pavement edges, would introduce a building considerably taller than what it replaces. It would also be much taller than most of the surrounding buildings, and occupy a very prominent corner location. In particular, its increased scale and mass would dwarf the adjoining single storey dwelling and be significantly higher than the terrace of properties adjoining, which are set back from Chapel Road. Its design form, particularly its eaves, its window designs and large sizes, balconies, parapet wall and roof style would not be representative of the local design and would appear incongruous in comparison to other nearby buildings. Even though its overall height may not be dissimilar to the pitched roof buildings diagonally opposite, its design and form would be much different and alien within this built context.
7. The Council has referred to the appeal site being a short distance from Elderwood Road Conservation Area (CA), although the Council did not find that there would likely be harm to the CA from the proposal. Nonetheless I acknowledge that paragraph 212 of the Framework states that new development should enhance or better reveal the significance of heritage assets. In this case, the appeal site is at a lower level than the CA, and there are other buildings of varying heights between the appeal site and the CA. In view of this and the appeal site's distance from the CA there would be no harm to the setting of the CA or of views into and out of it.
8. I also recognise that the proposed building could be clad in sympathetic external materials to match the surrounding area. Nevertheless, these aspects would not outweigh the harm identified above.
9. I therefore find the scale and design of the proposed development to be harmful to the character and appearance of the area and conflict with Policies Q5 and Q7 of Lambeth's Local Plan, 2020–2035, adopted September 2021 (LLP) that amongst other things, requires development to sustain and reinforce the local distinctiveness of Lambeth and preserve the prevailing local character in terms of its scale and design. The proposal would also conflict with paragraph 135 of the Framework as it would not be visually attractive or sympathetic to local character.

Living conditions – future occupiers

10. Although Policy D6 of the LP contains minimum private outdoor space requirements, these only apply when there are no higher standards in the local plan. In this case, Policy H5 of the LLP states that for new flatted developments there should be 10 square metres of amenity space each, as a balcony/terrace/private garden or consolidated with communal amenity space. It also states that ground floor flats should preferably have access to a private garden. In this case no communal amenity space is proposed, however each flat is provided with some amenity space either on a balcony, or in the case of the proposed ground floor flat an area open on one side set in from the pavement underneath the first floor flat.
11. The private amenity areas for the 5no. flats are said to vary between 2.7 – 7.7 square metres in area, all being well below the spaces required by Policy H5 of the LLP. I would not regard the internal corridors, or functional storage areas to constitute amenity space in this respect as they functional internal areas. Moreover, Policy D6 of the LP is clear that internal storage areas are separate to outdoor amenity space.
12. Notwithstanding the amenity spaces being below the minimum size, there are also significant concerns about the quality of the spaces provided. The proposed ground floor flat's amenity space directly abuts the pavement edge near to the crossroad junctions, where cars can be waiting and people walking directly in front of the space. Thereby having limited privacy and potential noise and disturbance from passing movements.
13. The balconies on the flats above are mostly quite small areas, directly above either Elder Road or Chapel Road, which would significantly limit the enjoyment of such spaces. The amenity space for the top floor flat is a long, but very narrow space, which would not be particularly functional. Whilst Policy D6 of the LP recognises housing can be delivered in different forms, the standards required for outdoor amenity space are minimum sizes. The proposed amenity spaces due to their location, and sizes also provide poor quality living conditions for future occupiers.
14. The appellant has stated that there are three community parks nearby, all said to be between 4–7 minutes walk from the appeal site. Although one of these, West Norwood Gateway Garden, did not appear to be in use on my site inspection. The proximity of the other community parks are still some distance away from the appeal site, and they would not address the shortfall of the private or communal outdoor space at the appeal property.
15. The ground floor flat includes a satisfactory level of accommodation and is above the minimum size for a 2 bedroom flat. It is also noted that the submitted Noise Assessment did not identify unacceptable noise impacts for the future occupiers of the proposed unit. The proximity of the proposed ground floor flat's internal accommodation to the pavement and passing traffic would not be significantly dissimilar to other residential development in the wider urban area. Noise from passing movements could be adequately mitigated through appropriate glazing, which could have been conditioned, had I been minded to allow the appeal. Whether this would be used by a disabled person or not, its internal space would be above the minimum size required, and it would provide a satisfactory residential environment for future occupiers.

16. In view of the above assessment, I conclude that whilst internally the proposed ground floor flat would provide satisfactory accommodation for future occupiers, there would not be satisfactory amenity space for the future occupiers of the proposed development, which would harm their future living conditions, and the proposal would conflict with Policies Q2 and H5 of the LLP that amongst other things, collectively require a minimum of 10 square metres of amenity space for each flat, which is practical in layout, free from excessive noise or disturbance, pollution or odour, with acceptable standards of privacy. In addition, there would also be conflict with Policy D6 of the LP as the proposed private outdoor space is also below the minimum size required.

Living conditions- neighbouring occupiers

17. The proposal is most likely to affect the living conditions of the adjoining occupiers at No. 54 Chapel Road and No. 4 Elder Road.
18. No 54 Chapel Road has a small space between its side elevation, including its rear two storey projecting part and the proposed new building. However, its existing first floor window on its side elevation is above the height of the existing single storey part of the building, which allows light into that window. The proposed development would be in very close proximity to this window and be 4 storeys high. In view of its scale and size and close proximity, the proposal would unacceptably block daylight to that window. Whilst the appellant has stated that the window serves a bathroom, it is not obscure glazed and I have no substantive evidence to confirm this. Given the tall height and scale of the proposal, along with its extension along the boundary of No.54, it would also reduce daylight to No.54's rear outdoor space to the side nearest the appeal site and have an enclosing effect.
19. In terms of No. 4 Elder Road, which is set back from the pavement, it has a very small obscure glazed window on its front elevation, nearest to the appeal property, along with a central solid door and a large window on the opposite side of its front elevation. It has amenity space, including a walkway between its front elevation and the pavement. The very close proximity of the proposed four storey building would be significantly higher than No. 4, giving an oppressive and enclosing effect upon the occupiers of No. 4 when using the front amenity space and harming the outlook from the front of No. 4. The proposed scale would also unacceptably reduce daylight to the space in front of No. 4, although given the orientation I am not convinced that there would be an unacceptable loss of sunlight to this area. In view of the window arrangements on its front elevation, I am also not persuaded that there would be a significant loss of day light or sun light from the appeal proposal, given the orientation of the building, and the separation distances.
20. I therefore conclude that the proposed development would have harmful effects upon the living conditions of neighbouring occupiers in respect of outlook and loss of day light. In doing so, I find the proposal would conflict with Policies Q2 and Q7 of the LLP, which amongst other things require development to ensure adequate outlooks are provided, avoid any undue sense of enclosure, provide adequate day light, and no unacceptable levels of overshadowing.

Redevelopment of neighbouring sites

21. I am not aware of any approved or planned re-development proposals for neighbouring sites at the current time. Nevertheless, the proposals directly

adjoin No. 4 Elder Road and the side boundary of No. 54 Chapel Road at four storey level. There are proposed to be 9 no. windows across the first, second and third floors on the side of the building that adjoins No. 4 Elder Road, which would directly face towards it, although no windows are proposed on the side elevation adjoining No. 54.

22. With No. 4 Elder Road being single storey, it would be reasonable to expect at some point, there could be proposals to either re-develop the site or add additional storey(s) of accommodation. Whether or not such proposals would be acceptable is not for me to assess, however, the proposed position of windows serving habitable rooms on the side of the proposed development along with its large scale could significantly hinder the development potential of No. 4, and any optimal development of that site. In view of the separation gap between the appeal site and No. 54, and with there being no side windows facing that property, it would be unlikely to prejudice redevelopment at that adjoining site.
23. I therefore conclude that the layout of the proposed development together with its side windows facing onto No. 4 Elder Road, would likely affect the future development of that site. The proposal is therefore in conflict with Policy Q7 of the LLP that requires development not prejudice the optimum future development of adjoining plots from openings on party walls.

Secure cycle storage

24. Policies T3 and Q13 of the LLP require cycle parking to be provided based on the requirements of Policy T5 of The London Plan, dated March 2021 (the LP). For the proposed development of flats in this case, Policy T5 of the LP requires 9 no. long stay spaces, and 2 no. short stay spaces. The proposal has 8 no. long stay spaces, a shortfall of one long stay space and no dedicated short stay spaces. The proposed cycle parking spaces would be provided in a safe and accessible location on the ground floor of the proposed building. Based on the layout of the proposed development it would not appear possible to provide the additional short stay requirement within the dedicated cycle parking area.
25. The appellant's have suggested that the cycle parking provision could be conditioned. However, in the event I was minded to allow the appeal, it would not be possible to impose such a condition without knowing if there was space for the extra cycle parking. Mindful that the proposed development is located in a well-connected area, had I been minded to allow the appeal, I would have returned to the parties to establish if this shortfall could be met by providing secure spaces nearby, in accordance with Policy T5 of the LP.
26. In the absence of any mitigation for this shortfall, the proposal does not provide sufficient cycle parking spaces and would not comply with Policies Q13 and T3 of the LLP and Policy T5 of the LP, which require long and short stay cycle parking provision is provided to serve the proposed development, and to encourage sustainable travel. For the same reasons the proposal would also conflict with paragraphs 114 and 116 of the Framework which amongst other things require appropriate opportunities for sustainable travel are provided and priority is given to cycle movements.

Other Matters

27. It is noted that this is a resubmission of an earlier refused planning application, however that does not alter my conclusions on the planning merits of this appeal proposal.
28. The appellant in support of their appeal has drawn my attention to various paragraphs of the Framework and Policies of the LP, including making an effective use of land, use of underutilised land and buildings, the contribution of small and medium sized sites to housing delivery, significantly boosting housing supply, and promoting sustainable development. In this case I have not been made aware that the Council does not have a 5-year supply of housing. Furthermore, whilst noting the support referred to by the appellant, the development plan and the Framework must be read as a whole, and in this case the proposal has been found to conflict with other parts of the development plan and national guidance.
29. The appellant has argued that there are no unacceptable noise impacts upon the proposals; that no objections have been raised regarding overlooking; the proposed use would be an improvement in terms of highway safety in comparison to the existing use; it would incorporate air source heat pumps and solar panels; that it would provide a good mix of accommodation that meets minimum size requirements; and that the proposal would be car free development. However, a legal agreement would likely be required to ensure that the development would be car free development, which has not been submitted. The points raised are noted, however some of them are requirements for any well-designed development, and they do not individually or collectively outweigh the conflict with the development plan, outlined above.
30. In support of their appeal the appellant has drawn my attention to four other planning permissions in Lambeth at; 8 Mitcham Lane in 2022¹; 214-238 Norwood Road in 2005²; 1A Tregothnan Road in 2002³; and 170-172 Tulse Hill in 2002⁴. The developments at Mitcham Lane and Norwood Road were for larger mixed-use development in a different built context than the appeal site. The development at Tregothnan Road was in a predominantly residential area and not on a busy crossroads like this appeal site. Finally, the development at Tulse Hill was not in a back edge of pavement location, and had a much different relationship to the streetscene than the appeal site. Consequently, I did not find these examples to be comparable to the appeal proposal, and I attach very limited weight to them in my decision.

Conclusion

31. For the reasons outlined above, the proposed development conflicts with the development plan taken as a whole and given the identified harm, would not comprise sustainable development. There are no other considerations, including the Framework, which indicates a decision other than in accordance with the development plan. I therefore dismiss the appeal.

A Hunter

INSPECTOR

¹ Ref. 18/01093/FUL

² Ref. 03/03488/FUL

³ Ref. 02/00167/FUL

⁴ Ref. 02/00019/FUL