



Appeal Decision

Site visit made on 11 December 2023

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2024

Appeal Ref: APP/N5660/W/23/3324588

64 Brayburne Avenue, Lambeth, London SW4 6AA

- 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 Richard Ashton against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 22/03920/FUL, dated 2 November 2022, was refused by notice dated 23 March 2023.
 - The development proposed is conversion of one single house into 2 flats. Refuse and cycling storage provided.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have removed the words "*No external alterations or extensions to existing building*" from the description in the above banner heading as this does not form part of the proposed development.
3. Amended plans have been submitted as part of the appeal to show that proposed Flat 2 would be a 3x bedroom 4x person unit, with a study room. The Council has had an opportunity to comment on these plans and I do not consider that the Council, or other parties, would be prejudiced by my acceptance of these amended plans as part of the consideration of this appeal. I have therefore proceeded on this basis.
4. Subsequent to the Council issuing its decision the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. Both parties have had the opportunity to make comments on the implications of the revised Framework in relation to this appeal.

Main Issues

5. The main issues are:
 - the effect of the development on:
 - the availability of family accommodation; and
 - on-street parking provision.
 - whether the development:
 - encourages sustainable modes of transport; and

- makes adequate provision for cycle parking.

Reasons

Effect on family accommodation

6. The appeal relates to a two-storey mid-terrace property with additional accommodation provided in the roof space by way of rear dormer extensions. The submitted plans show that the property is currently in use as a single 5x bedroom dwellinghouse, with front and rear yard areas.
7. The proposal seeks to convert this property into 2 x flats. The proposed ground floor flat (Flat 1) would be a 2x bedroom 4x person unit with exclusive access to the rear yard. Proposed Flat 2 would be situated at first and second floor levels and would be a 3x bedroom 4x person unit, with an additional study room.
8. Policy H4 of the Lambeth Local Plan 2020-2035 (2021) (LP) seeks to ensure proposals offer a range of dwelling sizes and types to meet current and future housing needs, and that a balanced mix of unit sizes, including family-sized accommodation, is provided. The subtext (5.27) of LP Policy H4 defines family sized accommodation as having three or more bedrooms, where at least one is a double bedroom.
9. The proposal would provide a three-bedroom unit, of which at least one is a double bedroom, within proposed Flat 2. As such the proposal would provide a family sized unit and consequently I find no conflict with LP Policy H4.
10. Policy H6 of the LP relates to residential conversions. Criterion (A) of this policy seeks to ensure mixed and balanced communities with a choice of family-sized housing and to manage the cumulative effects of residential conversions on environmental quality and local amenity. To achieve this, criterion (A) requires dwellings of less than 130m² (as originally constructed), which are suitable for occupation by families, to be protected from conversion into flats.
11. The parties agree that the property, as originally constructed, measured 127m². Whilst I acknowledge that the original floorspace is not significantly below the 130 m² threshold, the proposal is nevertheless in conflict with criterion (A) of LP Policy H6.
12. The development also does not meet the definition of a dwelling suitable for families set out in the subtext to Policy H6. This is because Flat 1 would provide only two bedrooms and Flat 2 would not have a rear garden.
13. As such, the proposal would not provide a unit that is suitable for use as family accommodation, and this would add to the conflict with LP Policy H6.
14. I note the appellant's comments that the only outdoor amenity space is a small and narrow rear yard, which in their opinion is overlooked by windows and overshadowed for most of the day, and that there is no practical way to provide access from the proposed upper floor flat to this outdoor space.
15. Whilst it may be the case that there is no way to provide access from the upper floor flat to the outdoor space, and that if this outdoor area was to be used by the occupants of the upper floor flat it would be overlooked by occupiers of the ground floor flat, this does not alter the conflict with LP Policy H6. Furthermore, I have not been provided with any substantive evidence to demonstrate that

- the appeal property could not be subdivided in an alternative way that would allow for a family unit to be provided with access to this external area.
16. The appellant also states that the existing property has insufficient garden space for a large family and that the property was put on the market in 2022, but received no offers. In order to support these comments, the appellant has provided, at Appendix A of their appeal statement, a document that shows the property was listed on the market in 2022.
 17. With regard to this submission / document, it shows that the property was listed on the market at a single moment in time in May 2022. It does not detail how long the property was on the market for; does not show any asking price changes over time; or include any statements from estate agents to confirm that the asking price is reasonable for this property or confirm that no offers were received and/or the reasons why this may be the case.
 18. As such, this submission does not provide sufficient evidence to demonstrate that the property has been marketed for a considerable period of time, and that concerted efforts have been made to sell the property as a family dwelling. I therefore attribute very limited weight to this submission in my determination of this appeal.
 19. It is acknowledged that the site is within a reasonable distance of areas of public outdoor space, and that Flat 2 would have a Gross Internal Area greater than the minimum space standards. However, these factors do not mitigate the failure of the proposal to provide family accommodation with access to outdoor amenity space.
 20. The Council's submission details that Council Tax records show that 33no. properties on this street have been converted into flats and 32no. remain as what is assumed to be single occupancy dwellings suitable for family housing. Consequently, the Council consider the loss of another dwelling suitable for family accommodation to flats would result in an unbalanced mix of housing for the area.
 21. The appellant contends however that as policies require every conversion to retain or re-provide a family sized dwelling, these conversions have not resulted in the loss of family sized units from the street and the additional smaller units that have been provided as part of these conversions has improved the overall housing balance and mix of properties on Brayburne Avenue.
 22. With regard to this issue, I have been provided with limited evidence from either party as to whether or not the existing conversions on Brayburne Avenue, referred to by the Council, have retained family accommodation. As such, this matter has not been determinative in my consideration of this appeal.
 23. In view of all the above, notwithstanding the compliance with LP Policy H4, the appeal proposal would result in the permanent loss of a property that is currently suitable for family occupation, and the proposal would not provide a unit suitable for family occupation to mitigate for this loss. The proposal therefore conflicts with LP Policy H6 which seeks to ensure, amongst other things, that proposals provide balanced and mixed communities with a choice

of family sized-housing, and that dwellings suitable for occupation by families are protected from conversion into flats.

On-street parking provision

24. The supporting text to LP Policy H6 highlights the Council's concern about the cumulative impact of residential conversions on parking capacity. The site has a Public Transport Accessibility Level (PTAL) 3 rating and is within a Controlled Parking Zone (CPZ). Criterion B(v) of LP Policy H6 states that where a CPZ is in place, no additional car parking permits will be issued to any occupiers of additional housing units created through a conversion. Similarly, LP Policy T6 criterion D(i) also states that development should be permit free where the development falls within a CPZ.
25. There is an agreement between the parties that given the existing property benefits from a parking permit, any obligation preventing the acquisition of a parking permit should only relate to the ground floor flat (Flat 1). In terms of the assessment of additional harm this approach is reasonable and I shall adopt it.
26. The appellant however has stated that given the highly sustainable location of the site, such a requirement may not be necessary in this case, but if it is considered necessary it is requested to be dealt with via planning condition.
27. The conversion of the appeal property into two flats would likely give rise to additional demand for on-street parking in a CPZ, which has limited parking provision for existing residents. Given its sustainable location, the appeal site is suitable for car-free development. However, without the controls provided by car-free development the additional unit arising from the appeal scheme would likely result in additional parking stress within the CPZ.
28. Securing this development as car-free will ensure that the demand for on-street car parking is not significantly increased as a result of the appeal proposal, as occupants of the additional unit (Flat 1) will not be eligible for a residents parking permit to park in this CPZ.
29. In terms of how car-free development should be secured for this development, LP Policy D4 details where Section 106 planning obligations will be sought, and criterion B(viii) of this policy includes parking restrictions. As such, the requirement for a Section 106 obligation to ensure Flat 1 as a car-free development, in order to prevent future occupants from obtaining a parking permit, is both reasonable and necessary.
30. In conclusion, without a Section 106 obligation to secure car free development in relation to proposed Flat 1, the appeal scheme would likely result in additional on-street parking stress within this CPZ. The proposal is therefore contrary to Policy T6 of the London Plan (2021) and LP Policies D4, H6 and T6, which together seek to ensure, amongst other things, that car parking should be restricted in line with levels of public transport accessibility and connectivity, and car-free development should be the starting point for all development proposals and be provided in a CPZ.

Sustainable modes of transport

31. Criterion D(iii) of LP Policy T6 also requires new development that includes housing to promote and provide car club membership. As such, in accordance with this policy there is a requirement to secure car club membership for the occupants of proposed Flat 1.
32. I note the appellant's preference for this to be secured by planning condition, however the supporting text within LP Policy T6, at paragraph 8.35, states that planning obligations will be used to secure such contributions. Furthermore, criterion B(viii) of LP Policy D4 lists car clubs as a requirement to be secured via a Section 106 planning obligation. As such, the requirement for a Section 106 obligation to secure membership to the car club for the future occupants of Flat 1 is both reasonable and necessary.
33. In addition, Criterion H of LP Policy T3 requires all residents in new residential developments to be provided with a minimum of three years free membership to the Cycle Hire scheme. In the absence of any information to the contrary I consider it likely that any such requirement to secure this Cycle Hire membership would involve the payment of money. The Use of Conditions section within the Planning Practice Guidance¹ advises that conditions requiring the payment of money should not be used and therefore the requirement for this to be secured by a Section 106 obligation is both reasonable and necessary in relation to proposed Flat 1.
34. In view of the above, without a Section 106 obligation to secure access to sustainable modes of transport the development would be contrary to Policy T6 of the London Plan and LP Policies D4, T1, T3 and T6, which together seek to ensure, amongst other things, that development should reduce the dependence on the private car and that occupiers of new residential developments are provided with access to both car club membership and the Cycle Hire scheme.

Cycle Provision

35. Policy T3 of the LP states that LP Policy Q13 sets out the Council's quality requirements in relation to the provision of cycle parking, and the Council will require the provision of appropriate secure and covered cycle parking facilities in accordance with the minimum standards set out in London Plan Policy T5 and LP Policy Q13.
36. Criterion (C) of LP Policy Q13 requires proposals to be compliant with the minimum standards for cycle storage as set out in the London Plan. In accordance with the standards for cycle parking within Policy T5 of the London Plan, this development is required to provide at least 4no. secured cycle spaces for the proposed flats (2 x spaces each for Flats 1 and 2).
37. The amended plans submitted with the appeal show the provision of 2no. cycle storage spaces to the front of the appeal property, with the annotated text detailing that one space would be provided for each flat. Therefore, the amount of cycle storage spaces proposed would not accord with the levels required by LP Policy Q13 and London Plan Policy T5.
38. In addition, LP Policy 13 requires cycle storage areas to be accessible, covered and secure. The submitted plans do not show that the cycle storage facilities

¹ Paragraph 21a-055-20190723

- will be covered and secured, and I observed on site that the front yard area, within which the cycles are shown to be stored, is raised above the street with no level access.
39. The appellant has commented within their submissions that the proposed cycle storage provision could be improved and agreed by way of a planning condition, and suggested that additional cycle storage provision could be provided internally and / or in the rear yard area.
40. The submission has failed to demonstrate that adequate cycle storage provision, both in terms of the number of spaces and the quality of cycle storage facilities, can be provided at this site. The provision of two spaces to the front of the property is not sufficient and it has not been evidenced that 4no. cycle storage spaces can be accommodated in this area, alongside refuse storage bins. Furthermore, the suitability of this area to the front of the property for the storage of cycles has not been demonstrated given the change in levels between this yard area and the street.
41. In addition, it has not been satisfactorily demonstrated that sufficient and suitable space could be provided internally, or in the case of bikes stored in the rear yard, that they can be transported through the property to access the street. Given this failure to demonstrate that the required level of cycle storage provision can be provided at the site, any such planning condition has not been shown to be enforceable.
42. The appellant has suggested that the requirement to enter into a Cycle Hire scheme for a minimum of three years provides a fallback position should an agreement not be reached on the acceptability of the cycle storage provision at the site. However, as detailed above a Section 106 obligation has not been submitted to secure this provision. Furthermore, the supporting text of LP Policy T3, at paragraph 8.18, states that cycle hire access should be provided in addition to, and not in lieu of, the minimum cycle parking requirements. In light of this, the requirement to enter into the Cycle Hire scheme does address the deficiency in cycle storage provision.
43. In view of the above, the proposal has failed to demonstrate that adequate provision for cycle storage can be made as part of the development. The proposal is therefore contrary to Policy T5 of the London Plan and LP Policies T3 and Q13, which together seek to ensure, amongst other things, that development proposals provide the appropriate provision of cycle parking.

Other Matters

44. The development would make a positive contribution to the delivery of housing within a sustainable location. However, the benefits arising from an increase in one dwelling would not outweigh the harm I have identified in terms of the loss of a dwelling suitable for family accommodation, the effect the appeal scheme would have on on-street parking provision, the failure of the proposal to encourage the use of sustainable modes of transport, and the failure to demonstrate that adequate cycle provision could be provided.

Conclusion

45. I conclude that the proposal would conflict with the development plan policies in respect of the loss of a house suitable for family accommodation, the effect on on-street parking provision, and the failure to encourage the use of sustainable

modes of transport and provide suitable cycle parking provision. This brings the proposal into conflict with the Development Plan when taken as a whole. There are no material considerations of sufficient weight that indicate the development should be determined otherwise than in accordance with the Development Plan and therefore the appeal is dismissed.

R Major

INSPECTOR