



Appeal Decision

Site visit made on 27 February 2024

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 5 April 2024

Appeal Ref: APP/N5660/W/23/3330737

7 Moorland Road, Lambeth, London SW9 8UA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Martali Management Ltd against London Borough of Lambeth.
 - The application Ref: 23/02415/FUL is dated 27 July 2023.
 - The development proposed is refurbishment and conversion to form five dwellings, including the erection of two rear dormer windows, alterations to fenestration, reinstatement of boundary treatment and the retention of an existing off-street parking space. (Please note: The reference number for this application for Full Planning Permission is 23/002415/FUL, but there is also an associated Listed Building Consent application related to these works with reference number: 23/02416/LB)
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Decision

1. The appeal is allowed and planning permission is granted for refurbishment and conversion to form five dwellings, including the erection of two rear dormer windows, alterations to fenestration, reinstatement of boundary treatment and the retention of an existing off-street parking space (Please note: The reference number for this application for Full Planning Permission is 23/002415/FUL, but there is also an associated Listed Building Consent application related to these works with reference number: 23/02416/LB) at 7 Moorland Road, London SW9 8UA in accordance with the terms of the application, Ref 23/02415/FUL, dated 27 July 2023, subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for an award of costs was made by Martali Management Ltd against the London Borough of Lambeth. That application is the subject of a separate Decision.

Preliminary Matters, Background and Main Issues

3. As the proposal is in a conservation area and relates to a listed building, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. The revised National Planning Policy Framework (the Framework) was published on 20 December 2023. This is a material consideration in the determination of the appeal. However, the changes are not directly relevant to the issues in the appeal. I am therefore satisfied that the interests of the main parties would not be prejudiced by my determination of the appeal on this basis.

5. The appeal is against the Council's failure to determine the planning application within the prescribed time limits. In its evidence, the Council states that if it had been in a position to determine the application, it would have approved it subject to the completion of a satisfactory legal agreement restricting future occupiers' ability to apply for parking permits, and membership of car and cycle clubs. However, as no satisfactory planning obligation was provided to the Council, it would have refused the application.
6. A signed and dated Unilateral Undertaking (the UU) pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted with the appeal. On the basis that it is completed, I have taken it into account in my determination of the appeal.
7. The Council failed to determine both the planning application subject of the appeal and a related application for listed building consent (Ref: 23/02416/LB). Although the appeal relates only to the failure to determine the planning application, the description of the proposed development and the listed building consent works is the same and the submitted plans illustrate the works. Nevertheless, listed building consent would be required in order for the appeal scheme to be implemented.
8. Planning permission¹ and listed building consent² were granted in October 2023, after the appeal was made, for refurbishment and conversion to form five dwellings, including the erection of two rear dormer windows and alterations to fenestration. Details pursuant to conditions imposed on the permission have subsequently been approved and I understand that the permission has been implemented. On this basis, the permitted scheme is the fallback position at this site. Based on the evidence before me, the proposal differs from that scheme insofar as it relates to the treatment of the garage door, the on-site parking and level of restriction on car parking permits.
9. Consequently, on the basis that the acceptability of all other elements of the proposal has been established by the consented scheme, the main issues in the appeal are:
 - i. Whether the proposal, with particular regard to the front elevation of the garage, would preserve a Grade II listed building, "5-23, Moorland Road SW9" (Ref: 1065047) (the LB), and any of the features of special architectural or historic interest that it possesses, and the extent to which it would preserve or enhance the character or appearance of the Loughborough Park Conservation Area (the CA); and
 - ii. Whether the proposal would make suitable provision for car parking, having regard to local planning policy.

Reasons

Heritage assets

10. The CA comprises the historic townscape centred on Loughborough Park, formerly nursery and allotment grounds. The area was laid out in 1844 and it comprises mid to late 19th century detached and semi-detached houses and elegant villas set in generous gardens. The significance of the CA, insofar as it

¹ Ref: 23/01155/FUL

² Ref: 23/01156/LB

relates to the appeal, is associated with the generally leafy, well-preserved and harmonious Victorian townscape.

11. The LB was listed in 1981 and it dates from the mid 19th century. It comprises several villas, each two storeys, with attic and basement, finished in stucco with decorative architectural frontages, elevated prostyle porches, sash windows, and with slate roof with dormers. Dwellings are set back from the street behind generally vegetated front gardens enclosed by picket fences. Given the above, I find that the special interest of the listed building, insofar as it relates to this appeal, to be primarily associated with its architectural and historic interest as a well-preserved example of elegant Victorian townhouses in a cohesive planned setting.
12. The garage door would be replaced with timber boarding comprising fixed panels and bifold shutters, one of which would incorporate a narrow vertical fixed glazing pane. The shutters would open to reveal full height glazing including an entrance door and a half-height window opener. This would be the entrance to the kitchen of Flat 1. The doors would be close to the dwelling house to align with a walkway to the side of the retained parking space.
13. The proposal would be substantially similar to the consented scheme in this regard. The timber boarding would be visually similar to a garage door. The letter box and domestic glazing would be relatively modest features and, being at lower ground floor level, they would be relatively unobtrusive. Moreover, the former garage door would be screened in part by the enhanced frontage landscape planting and the reinstated picket fence and gates along the boundary. Subject to satisfactory window details, which can be secured by condition, the treatment of the garage door would not detract from the frontage of the LB nor would it be detrimental to the character and appearance of the area.
14. Given the above I conclude that, on balance, the proposal would preserve the special historic interest of the Grade II listed building and the character and appearance of the Conservation Area. This would satisfy the requirements of the Act, paragraph 205 of the Framework and would not conflict with policies Q5, Q7, Q9, Q20 and Q22 of the Lambeth Local Plan 2020-2035 Adopted September 2021 (the LP) that seek, among other things, to ensure that proposals preserve the significance and special interest of designated heritage assets, with attractive and well-designed landscaping and boundary treatments and taking into account local and distinctiveness. As a result, the proposal would be in accordance with the development plan in this regard.

Car parking arrangements

15. The appellant considers that, during the processing of the application, the Council's position was that the existing vehicle crossover and the on-site parking space should be removed and the entire development should be car parking permit free. Notwithstanding the aims of LP policy T6, the appellant considers there is no policy justification to require the existing parking space to be removed. Moreover, the Council considered, in relation to the 2019 planning permission³, that it would be unreasonable to require the on-site parking space to be removed. My attention has also been drawn to LP Policy H6(b), which is relevant to the proposed residential conversion. This states, among other

³ Ref: 18/02204/FUL

things, that within a CPZ, no additional car parking permits will be issued to any occupiers of additional housing units created. In this case, the evidence indicates that there would in fact be a reduction in the number of units entitled to a car parking permit.

16. In its evidence to the appeal, the Council confirms that its transport officer is supportive of no vehicle parking on site and a s106 agreement for a car free scheme. However, it acknowledges that, while the retention of the on-site parking space and one car parking permit would allow for vehicle parking, there would be a reduction in car parking spaces due to the conversion of the garage to living accommodation. Moreover, the proposal would not increase the number of vehicles that could park on the road.
17. Notwithstanding the acceptability of the proposal, the Council would have refused the application on grounds relating to the absence of a satisfactory legal agreement that secured restrictions on car parking permits and that made provision for car and cycle club membership. As these are requirements of LP Policies D4 and T6, where a proposal has a PTAL of 4-6 and/or falls within an existing controlled parking zone (CPZ), the proposal would conflict with the development plan in the absence of a satisfactory legal agreement.
18. The UU submitted with the appeal includes obligations to restrict the occupiers of the 4 new residential units from holding a resident's parking permit, unless they are the holder of a disabled person's badge; and to provide for cycle club and car club membership for each of the 5 residential units. While the Council has not commented on the UU, I am satisfied that it has been provided with the opportunity to do so through the appeal process.
19. Accordingly, on the basis of the evidence before me, I find that the obligations are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. In this regard, the UU meets the tests set out in paragraph 57 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010.
20. Therefore, I conclude that, while the proposal would not be car-free, it would nevertheless accord with the requirements of LP policy H6 in relation to car parking. It would also contribute to the aims of LP policy T6, and Policy T6 of the London Plan (March 2021), in relation to promoting a reduction in car ownership, private car trips and car parking.

Conditions

21. The Council suggests planning conditions in the event the appeal is allowed. I have assessed these against the tests set out in the Framework.
22. Conditions No 1 (timescale for implementation of the permission) and No 2 (specifying the approved plans) are necessary in the interests of certainty.
23. Several conditions are necessary to protect visual amenity, the Grade II listed building and the Conservation Area. These relate to external services and flues (No 3), electric meters and dormer windows (Nos 4 and 5) and landscaping (Nos 6 and 9). However, I have re-worded condition no 4 to avoid duplication. Suggested conditions Nos 4 and 6 are pre-commencement conditions. However, given their scope and coverage, I consider that the details do not need to be approved prior to the commencement of works.

24. A method of construction statement (No 7) is necessary to protect users of the highway and residential amenity. Details of internal water consumption (No 8) are necessary in the interests of reducing potable water consumption, and can be provided prior to occupation. Details of waste and recycling storage (No 10) are necessary in the interests of sustainable waste management and visual amenity. Details of cycle parking (No 11) are necessary to promote sustainable modes of transport. Details of security measures (No 12) are necessary in the interests of residential amenity and to prevent crime and disorder.
25. The appellant has provided decision notices⁴ relating to the approval of condition No 4 (electric meters), No 5 (dormer details), No 7 (method of construction) and No 8 (water consumption) of permission 23/01155/FUL. They suggest that conditions could simply refer to these approved details rather than requiring resubmission of the information. However, the Council's suggested approved plans condition does not specify these details nor have they, including plans, photographs, calculations, covering letters, emails and transcripts, been provided with the appeal. I accept that many of the details of the appeal scheme will be identical to those of the approved scheme, nevertheless the schemes differ. Consequently, I am satisfied that condition Nos 4, 5, 7 and 8 meet the Framework tests for conditions.

Conclusion

26. For the reasons set out above, I conclude that the appeal should be allowed.

Sarah Manchester

INSPECTOR

⁴ Refs: 23/03216/DET and 23/03217/DET

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and drawings, other than where those details are altered pursuant to the conditions of this planning permission:
CP-2022-59 E1-01; CP-2022-59 S1-05 (Rev A); CP-2022-59 S1-10 (Rev A); CP-2022-59 S1-11; CP-2022-59 S1-12; CP-2022-59 S1-13; CP-2022-59 S1-20 (Rev B); CP-2022-59 S1-21 (Rev A); CP-2022-59 S1-22 (Rev A); CP-2022-59 S1-23 (Rev A); CP-2022-59 S1-24; CP-2022-59 S1-30; CP-2022-59 S1-31; CP-2022-59 S1-32; CP-2022-59 S1-40 (Rev A).
- 3) There shall be no services, flues or vents applied to the exterior of the building, unless expressly shown on the approved drawings.
- 4) Prior to first occupation of the development hereby permitted, full details and location of electric meters and the glazed openings to the entrance of Flat 1 shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 5) Notwithstanding the approved drawings, prior to installation of the hereby approved dormers, full detailed drawings (at scale 1:20 and 1:5, including sections) of the proposed dormers shall be submitted to and approved in writing by the Local Planning Authority. The dormer windows shall be single glazed. The development shall be carried out in accordance with the approved details.
- 6) Prior to the first occupation of the development hereby permitted, a scheme of hard and soft landscaping and boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. The following details shall be submitted:
 - i. The quantity, size, species, position and the proposed time of planting of all trees and shrubs to be planted.
 - ii. An indication of how all planting integrates with the proposal in the long term with regard to their mature size and anticipated routine maintenance and protection.
 - iii. Specification of which shrubs and hedges to be planted that are intended to achieve a significant size and presence in the landscape.
 - iv. Specification of evergreen planting in front of lower ground floor windows.
 - v. Specification of hard landscaping including materials and ground coverage.
 - vi. The design and treatment of boundary features.
 - vii. The maintenance of the hard and soft landscaping scheme.

All trees, shrubs and hedge planting shall accord with BS3936:1992, BS4043:1989 and BS4428:1989 (or equivalent British Standard if replaced) and current Arboricultural best practice.

The approved hard and soft landscaping scheme shall be implemented in accordance with the approved details prior to first occupation of the development, or, for soft landscaping, within the first available planting season thereafter.

- 7) No demolition or development shall commence until full details of the proposed construction methodology, in the form of a Method of Construction Statement, have been submitted to and approved in writing by the local planning authority. The Statement shall include details regarding:
- a) The notification of neighbours with regard to specific works;
 - b) Advance notification of road closures;
 - c) Parking, deliveries, and storage;
 - d) Dust mitigation;
 - e) Measures to prevent the deposit of mud and debris on the public highway; and
 - f) Any other measures to mitigate the impact of construction upon the amenity of the area and the function and safety of the highway network.

The approved Method of Construction Statement shall be adhered to through the construction period for the development.

- 8) Prior to the first occupation of the development hereby permitted, evidence shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the internal water consumption of the development will not exceed 105 l/p/day in line with The Water Efficiency Calculator for new dwellings from the Department of Communities and Local Government. The development shall be carried out in accordance with the approved details prior to first occupation of the development.
- 9) Any trees, hedgerows or shrubs forming part of the approved landscaping scheme which within a period of five years from the occupation or substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
- 10) Prior to the occupation of the development hereby permitted, and notwithstanding any indication on the approved drawings, a detailed plan of the refuse storage including food waste and details of the waste management plan shall be submitted to and approved in writing by the Local Planning Authority. The waste and recycling storage shall be provided in accordance with the approved details prior to the occupation of the dwellings and shall thereafter be retained solely for its designated use.

- 11) Notwithstanding the approved drawings, prior to first occupation of the development hereby approved, details of the provision to be made for cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details before the use hereby permitted commences and shall thereafter be retained solely for its designated use for the lifetime of the development.
- 12) The development hereby permitted shall incorporate security measures to minimise the risk of crime and to meet the specific security needs of the development in accordance with the principles and objectives of Secured by Design. Details of these measures shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development hereby permitted. The development shall be carried out in accordance with the approved details and the measures shall be retained as such for the lifetime of the development.

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