



Appeal Decisions

Site visit made on 3 April 2024

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 MAY 2024

Appeal A Ref: APP/C5690/W/23/3333100

1 Radlet Avenue, Lewisham, London SE26 4BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Maya Carni against the decision of the Council of the London Borough of Lewisham.
 - The application Ref is DC/23/132676.
 - The application sought planning permission for the demolition of the existing dwelling at 1 Radlet Avenue SE26 and the construction of a 2-storey plus roof space four bedroom dwelling house with solar panels, associated landscaping, bin store and the provision of a car parking space without complying with a condition attached to planning permission Ref DC/22/128638, dated 4 January 2023.
 - The condition in dispute is No 2 which states that: The development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below: LO-A-01; EX-A0.01; EX-A1.01; EX-A1.02; EX-A1.03; EX-A2.01; EX-A2.02; EX-A2.03; EX-A3.01; EX-A3.02; EX-A3.03; EX-A3.04; EX-A3.05; LO-A-02; PR-A1.02; PR-A1.03; PR-A1.04; PR-A2.02; PR-A2.03; PR-A3.01; PR-A3.02; PR-A3.03; PR-A3.04; PR-A3.05; PR-A3.06; PR-A3.07; PR123899-03 (Tree Protection Plan); PR123899ts (Tree Survey); PR123899-01 (Tree Survey Plan) (Received 30th September 2022); PR-A0.01 REV.4; PR-A2.01 REV.4; PR-A1.01 REV.4 (Received 4th January 2023).
 - The reason given for the condition is: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the local planning authority.
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Appeal B Ref: APP/C5690/W/23/3327151

1 Radlet Avenue, Lewisham, London SE26 4BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Maya Carni against the decision of the Council of the London Borough of Lewisham.
- The application Ref is DC/23/130910.
- The application sought planning permission for the demolition of the existing dwelling at 1 Radlet Avenue SE26 and the construction of a 2-storey plus roof space four bedroom dwelling house with solar panels, associated landscaping, bin store and the provision of a car parking space without complying with a condition attached to planning permission Ref DC/22/128638, dated 4 January 2023.
- The condition in dispute is No 2 which states that: The development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below: LO-A-01; EX-A0.01; EX-A1.01; EX-A1.02; EX-A1.03; EX-A2.01; EX-A2.02; EX-A2.03; EX-A3.01; EX-A3.02; EX-A3.03; EX-A3.04; EX-A3.05; LO-A-02; PR-A1.02; PR-A1.03; PR-A1.04; PR-A2.02; PR-A2.03; PR-A3.01; PR-A3.02;

PR-A3.03; PR-A3.04; PR-A3.05; PR-A3.06; PR-A3.07; PR123899-03 (Tree Protection Plan); PR123899ts (Tree Survey); PR123899-01 (Tree Survey Plan) (Received 30th September 2022); PR-A0.01 REV.4; PR-A2.01 REV.4; PR-A1.01 REV.4 (Received 4th January 2023).

- The reason given for the condition is: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the local planning authority.
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Decision

1. Appeal A is allowed and planning permission is granted for the demolition of the existing dwelling at 1 Radlet Avenue SE26 and the construction of a 2-storey plus roof space four bedroom dwelling house with solar panels, associated landscaping, bin store and the provision of a car parking space at 1 Radlet Avenue, Lewisham, London SE26 4BZ in accordance with the application Ref DC/23/132676, without compliance with condition number 2 previously imposed on planning permission Ref DC/22/128638 dated 4 January 2023 and subject to the conditions set out in the schedule at the end of this decision.
2. Appeal B is dismissed.

Preliminary Matters, Background and Main Issues

3. In respect of Appeal A, the appellant has submitted a revised proposed front elevation to omit three flues on the main roof slopes, which they indicate were an error in the drawing. This is in response to comments in the Council's Officer Report highlighting the absence of flues on the proposed roof drawing and which indicate that the Council had sought their removal.
4. The amended plan does not fundamentally change the scheme. However, it has also omitted the protruding roof light from the main roof, which is shown on all other elevation and section drawings. It is thus inconsistent with the rest of the submitted drawings and so I have not considered it as part of this appeal.
5. Nevertheless, in order to address the anomaly created by the flues, clarification can be provided in the schedule of conditions to confirm that they do not form part of the proposal. The matter of the roof light is addressed below.
6. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published. This has not raised any new matters which are determinative to the outcome of this appeal.
7. As set out above there are two appeals on this site relating to proposals to vary planning conditions appended to an extant planning permission. The extent of proposed changes differ in each case, and I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
8. Planning permission was granted in January 2023¹ for a replacement dwelling at the appeal site with associated landscaping, bin store and car parking. I saw on my site visit that the pre-existing dwelling has been demolished and its replacement is under construction. Condition No 2 of that permission sets out the approved plans for the development.

¹ Council Ref DC/22/128638

9. The Appeal A proposal seeks to alter fenestration and brick detailing on the front, side and rear elevations, increase the extent to which the roof light would protrude above the side roof slope, reduce the depth and width of the dwelling in places, and omit brick detailing on the northeastern corner and front and rear elevations of the dwelling.
10. The Council refused planning permission in this case as it considered the proposed amendments would represent a reduction in visual and architectural quality from the consented scheme.
11. The Appeal B proposal seeks to remove the driveway/path brick divide and reduce the height of front boundary enclosures, alter fenestration in the front, side and rear elevations, increase the area of articulated brick façade in the rear elevation, add additional roof lights, reduce the depth of the dwelling, omit brick detailing on the north eastern corner of the dwelling, relocate the bike store and plant room, and alter the bike store doors.
12. The Council refused planning permission in this case as it considered the proposed amendments would represent a reduction in visual and architectural quality from the consented scheme, would make it difficult for residents to access bicycles and would result in an overprovision of car parking.
13. The main issue in both appeals is therefore the effect of the proposed development on the character and appearance of the appeal site and surrounding area. With respect to Appeal B, there are additional main issues concerning whether the proposal would provide adequate cycle storage and an appropriate level of off-street car parking, with regard to the relevant provisions of the development plan.

Reasons

Character and appearance

14. The surrounding area is characterised by a mix of house types and sizes. Radlet Avenue and Thorpewood Avenue are predominantly lined by traditional two storey detached, semi-detached and terraced dwellings. Characteristic design features include chimneys, projecting bay windows and hipped roofs. Front facing gable features are also relatively common. Window openings are often wide, however there are examples of narrower openings with more vertical emphasis in the vicinity. Finishing materials are a mix of different colour render, brickwork and hanging tiles.
15. The approved dwelling is largely contemporary in appearance and of a unique design. In the context described above it is itself somewhat of a departure from the more traditional forms and styles found in the immediate area. However, its siting and scale remains largely consistent with neighbouring dwellings.
16. In both appeals, the arrangement of windows and doors and the extent of brick detailing would differ from the approved scheme. The proposed substitution of approved front elevation windows with narrower and taller units would create a wider expanse of brickwork in the central part of the front elevation. However, while I do not find the approved fenestration particularly jarring, the amended proposal would provide greater symmetry in the design, aligning windows on each floor and mirroring the positioning of those on the opposite side of the front elevation. The staggered design of the front elevation would adequately

- break up the expanse of brickwork and add sufficient depth and interest. Moreover, the solid-to-void ratio of this elevation would not be unduly affected.
17. Both proposals would also result in omission of double height fluted brick detailing on the corner of the front elevation. While this would somewhat simplify the design, it would not look out of character or unbalance the front elevation.
 18. With respect to Appeal A, the omission of brick detail to the central upper part of the front elevation would be substituted for brick detail below the second-floor bedroom window and aligned with similar detailing on the floors below.
 19. With respect to Appeal B, the evidence indicates that the amended proposals would feature shallower window reveals than those approved. This would reduce the amount of shadow cast over the openings and result in a flatter façade. It would however better reveal the glazing and reduce the amount of exposed brickwork, particularly in oblique views from the street.
 20. The proposed relocated cycle store in Appeal B would infill space at ground floor between the approved dwelling and the adjacent neighbouring dwelling. However, the approved dwelling already visually adjoins this neighbouring dwelling towards the rear. Upper floors would also remain set back from the shared boundary, providing a degree of visual separation. This would thus have limited appreciable visual impact on the relationship between the host dwelling and this neighbouring dwelling when viewed from the street.
 21. Overall, I find that both of the amended proposals would retain sufficient characteristics of the original design aesthetic and would not significantly detract from the balance, visual weight and interest it provides.
 22. I recognise that centrally placed windows are a common feature of dwellings in the surrounding area. However, the contemporary design of the approved dwelling is a conscious departure from the more traditional architecture in the immediate vicinity and the proposed amended windows would remain sympathetic to this approach.
 23. Nevertheless, the alignment of windows and brick detailing would continue to reference the bay window and hanging tile designs found locally. Moreover, symmetry in the design of dwellings is also common locally, and there is sufficient variations in the style, size and arrangement of windows in the local area that the amended proposals would not look unduly incongruous.
 24. In respect of Appeal A, the Council highlight that the amended plans show a protruding roof light on the main roof slope, in place of the approved flush roof light. However, no specific concerns have been raised in respect of this element of the amended proposal. This type of roof light is not uncommon, with several examples in the immediate vicinity. Given its modest size and elevated position, it would not compromise the overall design of the dwelling.
 25. With regard to this main issue, the Council has not raised any concerns with respect to the other design changes proposed in either appeal, or the effect of the proposals on the setting of the Forest Hill Conservation Area. There is no compelling reason for me to come to a different conclusion on these matters.
 26. In respect of both Appeal A and Appeal B, I therefore find that the amended proposals would not unduly harm the character and appearance of the appeal

site and surrounding area. They would therefore both be in accordance with Policy D3 of the London Plan March 2021 (the London Plan), Policy 15 of the Core Strategy Development Plan Document Adopted June 2011 (the Core Strategy) and DM Policy 30 of the Development Management Local Plan Adopted 26 November 2014 (the Local Plan). These policies, among other provisions, seek to ensure development enhances local context, positively responds to local distinctiveness and is of high standard of design, with architecture that pays attention to detail and the sensitive use of quality and durable materials.

27. I have not identified any conflict with Paragraphs 131 or 135 of the Framework. These paragraphs, among other provisions, indicate that good design is a key aspect of sustainable development and seek to ensure that developments add to the overall quality of the area, are visually attractive as a result of good architecture and are sympathetic to local character. I have also not identified any conflict with the Small Sites Supplementary Planning Document (October 2021) with respect to this main issue.

Car parking

28. Policy T6 of the London Plan states that the maximum car parking standards set out in Policy T6.1 should be applied to development proposals. The maximum standards set out in Policy T6.1 are based on the Public Transport Accessibility Level (PTAL) of the area in which the site is located.
29. The appeal site is in a PTAL 3 area. The appellant does not dispute that the provision of one off-street parking space represents an over-provision of car parking based on the standards set out in the London Plan. Nevertheless, the Council accepted this level of provision through the approved scheme as there was already off-street car parking provision on site and all properties in Radlet Avenue have access to an off-street parking space.
30. The amended proposal in Appeal B would omit the low-level dividing wall between the vehicle and pedestrian accessways, which provides a segregated pedestrian access to the front door. I recognise the width of this space may be somewhat limited compared to a standard double driveway. However, the plans before me indicate that its combined length and width with the wall removed would be of ample size for at least two vehicles to park, even if they were not to park side by side.
31. The proposal would therefore amount to an increased overprovision of off-street car parking space, contrary to the maximum parking standards set out in the London Plan.
32. In respect of Appeal B, I therefore conclude that the amended proposal would not provide an appropriate level of off-street car parking, with regard to the relevant provisions of the development plan. It would therefore be contrary to Policy T6 of the London Plan and Policy 14 of the Core Strategy. These policies, among other provisions, seek to adopt a managed and restrained approach to car parking provision to contribute to the objectives of traffic reduction while protecting the operational needs of major public facilities, essential economic development and the needs of people with disabilities, including by restricting car parking in line with levels of existing and future public transport accessibility and connectivity.

Cycle storage

33. Policy T5 of the London Plan requires that dwellings of this size provide a minimum of 2 cycle parking spaces for residents. The plans before me indicate that the amended proposal in Appeal B would provide 4 cycle parking spaces within the relocated store.
34. The proposed relocated cycle store is not as spacious or as accessible as the approved store. Bikes would be parked in tandem in the narrow gap between the host dwelling and the adjacent house. It would thus be more difficult to manoeuvre bikes in and out of this space.
35. Policy T5 states that cycle parking should be designed and laid out in accordance with the guidance contained in the London Cycling Design Standards. This document is referred to by the Council in their reason for refusal however there is no copy of it before me.
36. Nevertheless, even if I were to find that the relocated store is of insufficient size to store even the minimum number of bikes required by Policy T5, there remains ample space within the appeal site for additional secure, fit for purpose and well-located cycle storage. In particular, the evidence indicates this could be located within the rear garden area, using the same access along the side of the dwelling as in the approved scheme. I am therefore satisfied that this matter could otherwise have been resolved using a planning condition.
37. In respect of Appeal B, I therefore find that the amended proposal would provide adequate cycle storage, with regard to the relevant provisions of the development plan. It would be in accordance with Policies T5 and D3 of the London Plan, Policies 14 and 15 of the Core Strategy and DM Policy 30 of the Local Plan. These policies, among other provisions, seek to ensure the highest quality design, remove barriers to cycling, encourage and facilitate active travel, and secure the provision of appropriate levels of cycle parking in new development in line with local standards.
38. Policy 31 of the Local Plan concerns alterations and extensions to existing buildings including residential extensions. The appeal proposal concerns replacement of an existing dwelling and so I do not find this policy to be applicable in this case.

Other Matters

39. In respect of Appeal A, there are no significant increases in the size of window openings proposed and separation distances to neighbouring properties remain as approved. There is no compelling evidence to indicate the proposals would result in any undue increase in noise. There would thus be no appreciable harm to the living conditions of neighbours, with regard to privacy or noise, arising from the proposals in Appeal A. Notably, the Council also found the amended proposals would result in no significant harm upon residential amenity.
40. Concerns have been raised by interested parties regarding the number of amendments and the potential for future changes. The appellant has a right to apply to vary the conditions of the planning permission by virtue of Section 73 of the Town and Country Planning Act 1990 (as amended). I must consider the amended proposals before me and cannot give weight to speculation regarding potential future amendments. Any further amendments would require a separate application and would be considered on their individual merits.

Conditions

41. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. In respect of Appeal A, the Council has provided a list of suggested conditions that are much the same as those imposed on the original planning permission, save for minor modifications pursuant to the amended proposals.
42. The Council's suggested list of conditions also omits condition No 14 of the original planning permission, which sought to restrict the lopping or felling of trees without prior written consent. The appellant has subsequently clarified that a previous permission pursuant to section 73² was granted by the Council to remove this condition and so I have not included it in the schedule below.
43. In the first instance, it is not necessary to re-impose the standard time limit condition for implementation, as the development has already commenced. The appellant contends that several of the other conditions imposed on the original permission have also already been discharged (including condition Nos 2, 3, 4, 6, 8, 9 and 15 of the schedule below). However, no further evidence pursuant to these matters has been provided, and the Council has not confirmed that the conditions have been discharged.
44. I therefore cannot be sure of the status of the other conditions on the basis of the evidence before me. Accordingly, I shall impose all those that I consider remain relevant. In the event that some of the other conditions have in fact been discharged, that is a matter which can be addressed between the parties.
45. Notwithstanding this, the original permission was subject to several conditions that required submission of details prior to commencement, or prior to above ground works. As the development has already commenced and construction work is being carried out above ground, the original trigger points for these conditions are no longer applicable. I have therefore amended the trigger points as appropriate to ensure the conditions can be complied with.

Conclusion

46. With respect to Appeal A, the proposed development would adhere to the development plan as a whole and there are no other considerations that would outweigh this finding. Accordingly, for the reasons given, the appeal succeeds.
47. With respect to Appeal B, while I have not identified any harm or development plan conflict in respect of the effect on the character and appearance of the appeal site and surrounding area, or cycle storage provision, this does not outweigh the identified harm and conflict in respect of the proposed car parking. The proposal would thus conflict with the development plan, taken as a whole. I have found no material considerations that indicate the appeal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal is dismissed.

Ryan Cowley

INSPECTOR

² Council Ref DC/23/133615

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:

LO-A-01 (Location Plan)
PR-A0.01 (Proposed Site Plan);
PR-A1.01 (Proposed Ground Floor Plan);
PR-A1.02 (Proposed First Floor Plan);
PR-A1.03 (Proposed Second Floor Plan);
PR-A1.04 (Proposed Roof Plan);
PR-A2.01 (Proposed Elevations) (except in respect of the vertical flue like structures shown protruding above the roof slope);
PR-A2.02 (Proposed Elevations);
PR-A2.03 (Proposed Elevations);
PR-A3.01 (Proposed Sections);
PR-A3.02 (Proposed Sections);
PR-A3.03 (Proposed Sections);
PR-A3.04 (Proposed Sections);
PR-A3.05 (Proposed Sections);
PR-A3.06 (Proposed Sections);
PR-A3.07 (Proposed Sections).

- 2) Within 1 month of the date of this decision, a Construction Management Plan shall be submitted to the local planning authority for their written approval. The plan shall cover:-

- a. Dust mitigation measures,
- b. The location and operation of plant and wheel washing facilities,
- c. Details of best practical measures to be employed to mitigate noise and vibration arising out of the construction process,
- d. Details of construction traffic movements including cumulative impacts which shall demonstrate the following:-
 - i. Rationalise travel and traffic routes to and from the site,
 - ii. Provide full details of the number and time of construction vehicle trips to the site with the intention and aim of reducing the impact of construction related activity,
 - iii. Measures to deal with safe pedestrian movement,
- e. Security Management (to minimise risks to unauthorised personnel),
- f. Details of the training of site operatives to follow the Construction Management Plan requirements,
- g. Details of the construction hours and activity.

The measures specified in the approved details shall be adhered to during the period of construction.

- 3) Within 1 month of the date of this decision, a detailed schedule and specification/sample of all external materials and finishes/windows and external doors/roof coverings/other site-specific features to be used on the building shall be submitted to the local planning authority for their written approval. The development shall be carried out in accordance with the approved details.

- 4) (a) Prior to occupation of the development, details of proposals for the storage of refuse and recycling facilities shall be submitted to and approved in writing by the local planning authority.
(b) The facilities as approved under part (a) shall be provided in full prior to occupation of the development and shall thereafter be permanently retained and maintained.
- 5) The bike storage space as shown on drawing PR-A1.01 shall be provided and retained in perpetuity.
- 6) (a) Prior to occupation of the development, drawings showing hard landscaping of any part of the site not occupied by buildings (including details of the permeability of hard surfaces) shall be submitted to and approved in writing by the local planning authority.
(b) All hard landscaping works which form part of the approved scheme under part (a) shall be completed prior to occupation of the development.
- 7) The development shall be carried out in accordance with the Tree Protection Plan (TPP) Drawing PR123899-03 as approved by the Council.
- 8) (a) A scheme of soft landscaping (including details of any trees or hedges to be retained and proposed plant numbers, species, location and size of trees and tree pits) and details of the management and maintenance of the landscaping for a period of five years shall be submitted to and approved in writing by the local planning authority prior to occupation of the development.
(b) All planting, seeding or turfing shall be carried out in the first planting and seeding seasons following the completion of the development, in accordance with the approved scheme under part (a). Any trees or plants which within a period of five years from the 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.
- 9) (a) Details of the proposed boundary treatments including any gates, walls or fences shall be submitted to and approved in writing by the local planning authority prior to occupation of the development.
(b) The approved boundary treatments shall be implemented prior to occupation of the building and retained in perpetuity.
- 10) The electric vehicle charging point as approved shall be installed prior to occupation of the development and shall thereafter be retained and maintained.
- 11) No extensions or alterations to the building hereby approved, whether or not permitted under Article 3 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), shall be carried out without the prior written permission of the local planning authority.
- 12) The car parking accommodation for one motor vehicle as shown on drawing PR-A1.01 hereby approved shall be provided prior to the occupation of the dwelling and retained permanently thereafter.

- 13) Details/specifications of the flush integrated solar roof panels as approved in drawing PR-A1.04 must be submitted for approval to the Local Planning Authority before occupation of the property.
- 14) The sanitary fittings within the residential dwelling shall include low water use WCs, shower taps, baths and (where installed by the developer) white goods designed to comply with an average household water consumption of less than 105 litres/person/day.
- 15) (a) The building shall be designed so as to provide sound insulation against external noise and vibration, to achieve levels not exceeding 30dB LAeq (night) and 45dB L_{Amax} (measured with F time weighting) for bedrooms, 35dB LAeq (day) for other habitable rooms, with window shut and other means of ventilation provided.
(b) Prior to occupation of the development, details of a sound insulation scheme complying with paragraph (a) of this condition shall be submitted to an approved in writing by the local planning authority.
(c) The development shall not be occupied until the sound insulation scheme approved pursuant to paragraph (b) has been implemented in its entirety. Thereafter, the sound insulation scheme shall be maintained in perpetuity in accordance with the approved details.
- 16) No external lighting shall exceed 2 Lux to any habitable room window.

END