



Appeal Decision

Site visit made on 25 June 2024

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2024

Appeal Ref: APP/N5660/W/24/3339755

133 Stockwell Road, London SW9 9TN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Sadiq (Amaarah Holdings Ltd) against the decision of the Council of the London Borough of Lambeth.
 - The application Ref is 21/01349/FUL.
 - The development proposed is the change of use, conversion and reconfiguration of internal accommodation with extensions at first and second floors to deliver 5 no. flats.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the host building and the area,
 - whether the proposed development would provide satisfactory accommodation for its future occupants, with regard to outlook, privacy and private amenity space provision,
 - the effect of the proposed development on the living conditions of existing residential occupiers with regard to outlook and privacy,
 - whether the absence of a legal agreement to restrict the future occupiers from applying for parking permits and to ensure the provision of cycle hire membership and car club membership would lead to an unacceptable increase in travel by private vehicles or discourage the use of sustainable travel modes,
 - whether the proposed development would provide satisfactory cycle parking provision, and
 - whether the proposed development would prejudice the future redevelopment of a neighbouring site.

Reasons

Character and Appearance

3. The appeal site comprises of a three storey mid-terrace property that is situated on Stockwell Road, which in the vicinity of the site, is characterised by 2 and 3 storey buildings located to the edge of the footway, many with ground

floor commercial frontages. Although there is variety in the style and design of buildings, their scale and siting, as well as the uses present in the area, provide for a built up enclosed streetscene that has a commercial character.

4. The proposal would result in a significant extension at first and second floor levels that would extend across most of the site to the rear of the existing main building. Although a single storey structure occupies the majority of the ground floor to the rear currently, the increased scale and mass of the proposed rear extension, despite the lighter materials proposed, would result in it having a bulky appearance that would appear as an unduly dominant addition to the existing building.
5. At the front of the site, the proposal would be setback at ground floor level behind an amenity space, a void area and an accessway leading to an entrance door. This setback would not reflect other properties in the area whose frontages at ground floor level align with the elevations above. Although there is an underpass adjacent to the site, this is of a limited width and unlike the proposal comprises of a passageway that provides access to the rear. A general reference has been made to other basement flats on Stockwell Road with railings and voids, but from the information presented, the buildings referenced are setback from the footway with their main front elevations being in alignment. They are not therefore comparable to the proposal which comprises of a setback frontage at ground floor level only. The use of sympathetic materials in the proposal would not be outweigh the harm identified.
6. I therefore conclude that the proposal would have an unacceptable harmful effect on the character and appearance of the host building and the area. As such, it would conflict with Policies Q5, Q7, Q8 and Q11 of the Lambeth Local Plan 2020-2035 (Local Plan), which seeks, amongst other matters, development that is visually interesting and responds to the positive aspects of the locality. It would also be contrary to Paragraph 135 of the National Planning Policy Framework (Framework) which seeks developments that are sympathetic to local character.

Living Conditions – Future Occupiers

7. The proposed development would include the creation of a flat at basement level whose bedrooms and living/dining/kitchen space would be served by an outdoor amenity space and a void area. These both would be confined areas and given the window and door openings of the basement flat would face the high walls around the amenity space and of the lightwell at a close distance, it would provide a poor outlook for future occupiers. Whilst the provision of basement accommodation is more constrained as it is below ground level, it is still necessary to provide a high standard of amenity for existing and future users.
8. At ground floor level, the outlook for future occupiers of 'New Flat 3' would be constrained by the high existing boundary treatment or existing buildings. The lack of visual connection with the surroundings would therefore result in a harmful sense of enclosure.
9. The basement flat and the ground floor flat to the front would each be provided with an amenity space. The inherent limitations of a dense urban area are noted, but these spaces would be immediately adjacent to the footway without any setback, and as such, would result in direct overlooking from passing

pedestrians. My attention has been drawn to flats that have private external amenity spaces on the roadside. Whilst I don't have any further details on these other flats, from the photograph provided, the building containing the flats, unlike the appeal building, are setback from the road.

10. Three of the proposed flats, at ground, first and second floor levels would each be provided with an 8.9sqm external amenity space. Reference has been made to Policy D6 of The London Plan, which sets out the requirements for private outdoor space, but it clarifies that this is only where there are no higher local standards in the borough Development Plan Documents. The Council has referenced Policy H5 of the Council's Local Plan which sets out a minimum requirement of 10sqm per flat, which these proposed residential units would fail to provide, as would 'New Flat 2', which would only have an external amenity space of 6.4sqm.
11. The living/dining/kitchen spaces in proposed 'New Flats 4 and 5' would be served by a void area that 'Existing Flats 1 and 3' would also have windows looking on to. As the windows between the flats on each floor would be offset from each other, I do not consider there would be harmful overlooking or perceived overlooking arising.
12. Concerns have been raised in relation to a number of the balcony spaces potentially prejudicing the redevelopment of a site to the rear. This is a matter which I will return to later in the decision.
13. I conclude therefore that the proposed development would fail to provide satisfactory accommodation for its future occupiers with regards to outlook and private amenity space provision. As such, it would conflict with Policies H5 and Q2 of the Local Plan, which seek, amongst other matters, adequate outlook and outdoor amenity space to be provided. It would also be contrary to Paragraph 135 of the Framework in relation to it seeking a high standard of amenity.

Living Conditions – Existing Residential Occupiers

14. The Existing Flats 1 and 3 would retain their windows to the side and rear. Given the size and positioning of these windows, the outlook from them is currently limited. However, the proposed rear extension would have an enclosing effect in close proximity to these windows which would worsen the living conditions of the occupiers of these flats. In relation to privacy, given the offset between facing windows of existing and proposed flats at first and second floor levels, this relationship would not give rise to harmful overlooking.
15. The three-storey extension would extend along the boundary with the neighbouring properties, identified as No's 135-143 Stockwell Road. Given the position of the nearest windows on these neighbouring properties, and the stepped form of the rear extension, I do not consider there would be an adverse overbearing impact arising from the appeal development.
16. Nevertheless, I conclude that the proposal would result in unacceptable harm to the living conditions of existing residential occupiers with regard to outlook. As such, there would be conflict with Policy Q2 of the Local Plan and Paragraph 135 of the Framework, which seek, amongst other matters a high standard of amenity.

Legal Agreement

17. It is necessary for the development to restrict resident's car parking permits given the parking demand and congestion on the highway network near the appeal site, and for cycle hire membership and car club membership to be provided to future occupants for these same reasons.
18. The appellant has set out that a pre-commencement planning condition could be used to ensure that the development would not take place until an agreement has been entered into and has referenced an appeal decision¹ in support of this position. However, the Planning Practice Guidance² (PPG) states that a positively worded condition which requires the applicant to enter into a planning obligation or an agreement under other powers, is unlikely to pass the test of enforceability. The PPG also sets out³ that no payment of money or other consideration can be positively required by condition when granting permission. This is therefore a matter which should be dealt with by way of a legal agreement.
19. In the absence of a legal mechanism to prevent future occupiers from applying for resident's car parking permits and providing such occupants with cycle hire and car club membership, I conclude that the development would lead to an unacceptable increase in travel by private vehicles and discourage the use of sustainable travel modes. As such, it would be contrary to Policies D4, T1 and T6 of the Local Plan, which seek, amongst other matters, to reduce dependence on the private car and maximise trips by sustainable modes.

Cycle Parking

20. The proposed cycle parking provision would be situated centrally on the ground floor of the appeal property. Level access would be available from a side door, and despite the Council's concern on the capacity of this space, an amended plan submitted with the appeal demonstrates that 10 cycle parking spaces can be provided. Although vertical cycle stands are shown, which can be more difficult for less able bike users to utilise, a suitably worded condition to address cycle parking provision would have been possible, had the development been otherwise acceptable.
21. I conclude therefore that there would be no harm in relation to the provision of satisfactory cycle parking provision, and the proposed development would not be contrary to Policies Q13, T1 or T3 of the Local Plan, which seek, amongst other matters, to maximise trips made by sustainable modes and the provision of appropriate, secure and covered cycle parking facilities.

Redevelopment of Neighbouring Site

22. Immediately to the rear of the appeal site is a two-storey building which has a broadly rectangular form. The proposed development would introduce external amenity areas and Juliette balconies that would provide views to the rear. The neighbouring site is however already extensively overlooked by a four-storey residential building on Moat Place, and it is not clear why this appeal development would prejudice the potential redevelopment of the site to the rear.

¹ Appeal Ref: APP/W5780/W/20/3262152

² Planning Practice Guidance Paragraph: 010 Reference ID: 21a-010-20190723

³ Planning Practice Guidance Paragraph: 005 Reference ID: 21a-005-20190723

23. I conclude therefore that the proposal would not unduly prejudice the future redevelopment of the neighbouring site, and as such, it would not be contrary to Policy Q6 of the Local Plan, which seeks, amongst other matters, the effective use of a site.

Other Matters

24. The proposal would make effective use of previously developed land and result in the provision of five additional family homes in a highly accessible location. It would support local businesses through spending by residents and generate employment and revenue, including Council Tax payments.
25. The development would be policy compliant in terms of providing a mix of housing and the loss of the restaurant use. It would also be acceptable in relation to internal space standards, refuse storage, Secured by Design standards and the incorporation of sustainable design measures. There have been no objections from neighbouring residential occupiers or from statutory consultees. These are however neutral matters and not considerations which weigh in favour of the proposal.
26. I have taken into account all other matters raised, including those in relation to litter and noise, but they do not alter my conclusions in respect of the main issues.
27. I note that the Council has previously granted planning permission⁴ for a rear extension to the appeal property. Although the appellant has described this proposal as not being significantly different, the approved scheme differed in a number of respects, most notably with the first and second floors having a linear form and a smaller scale. As the approved extension at these first and second floor levels was smaller, it would not have had an unduly enclosing effect on Existing Flats 1 and 3. The appeal development would therefore be more harmful, and this previous permission does not justify the scheme before me.

Conclusion

28. The proposal would provide a number of additional flats on this site, but five additional units would make a small positive contribution to the area's overall mix and supply of housing. I attach limited weight in favour of this, and to the economic benefits given the size of the proposed development.
29. I have found no harm in relation to cycle parking provision or to the future redevelopment of the neighbouring site. These and other referenced matters are however neutral considerations and not ones which weigh in favour of the development.
30. I have found that the proposed development would be harmful to the character and appearance of the host building and the area, and in respect of living conditions. It would also be unacceptable by failing to provide a legal mechanism to prevent future occupiers from applying for a resident's car parking permits and not providing such occupants with cycle hire and car club membership. This harm would be long lasting and would be contrary to the Framework. As such, the benefits of the proposal would not outweigh the identified harm.

⁴ LPA Ref: 18/02505/FUL

31. The proposed development would not accord with the development plan as a whole and there are no other considerations, that indicate that I should take a different decision other than in accordance with this. I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR