



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: 30 July 2024

Appeal Ref: APP/N5660/W/24/3336961

Land to the rear of 218-220 Stockwell Road, Lambeth, London SW9 9SU

- 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 NW3 Capital Ltd against the decision of the Council of the London Borough of Lambeth.
 - The application Ref is 23/02942/FUL.
 - The development proposed is the erection of a single storey dwelling with a mansard roof, together with associated landscaping and creation of new door on the rear boundary.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey dwelling with a mansard roof, together with associated landscaping and creation of new door on the rear boundary at Land to the rear of 218-220 Stockwell Road, Lambeth, London SW9 9SU in accordance with the terms of the application, Ref 23/02942/FUL, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by NW3 Capital Ltd against the Council of the London Borough of Lambeth. This application is the subject of a separate decision.

Preliminary Matter

3. The second reason for refusal cited the appellant's failure to provide a legal agreement to restrict future occupiers from obtaining parking permits and providing car club and cycle hire memberships. The appellant has completed a Unilateral Undertaking and this is a matter that I will return to later in the decision.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - whether the proposal would make adequate provision to restrict future occupiers from applying for parking permits and to ensure the provision of cycle hire membership and car club membership; and,
 - the effect of the proposed development on trees.

Reasons

Character and Appearance

5. The appeal site comprises of an area of land to the rear of properties on Stockwell Road, but with a frontage to Stockwell Avenue. The area around the appeal site comprises of mainly three and four storey terraced properties that are set back a short distance from the highway on consistent building lines. Many of the properties have regular features such as front bay windows and a rich level of architectural detailing that contributes to the coherent character of the area.
6. The proposed dwelling would occupy an open area of land that was formerly used as garden space. As a two-storey structure, it would reduce the open appearance of the site, and partially obscure views of the rear of properties on Stockwell Road. The open and leafy characteristics of the site as referenced by the Council, are not however defining features of the character and appearance of the area, and the scheme would not therefore be harmful in this respect.
7. The height and the mass of the proposed building would be greater than nearby garden buildings, but the appeal site is situated adjacent to a two storey church building and its scale would not be out of place in this context. Although none of the surrounding properties have a mansard roof form, a variety of roof designs was evident at the time of my visit, including buildings with flat and pitched roof forms. As the mansard roof would be set back behind a parapet, it would not have an unbalanced appearance on the proposed building. The materials to be utilised can be conditioned to ensure they reflect the traditional materials of surrounding terraces.
8. I therefore conclude that the appeal development would not have an unacceptable impact on the character and appearance of the area. As such, it would comply with Policies Q2, Q5, Q6, Q7, Q8 and Q14 of the Lambeth Local Plan 2020-2035 (Local Plan), which seek, amongst other matters, development that is visually interesting and responds to the positive aspects of the locality.

Legal Agreement

9. The second reason for refusal relates to the absence of a legal agreement and the appellant has submitted a Unilateral Undertaking which restricts resident's car parking permits and provides for cycle hire membership and car club membership which is necessary given the parking demand and congestion on the highway network near the appeal site.
10. The Council has raised concerns relating to Clause 12 on the payment of the monitoring fee prior to implementation rather than a sooner period, stating that it should be a period of 30 days from the appeal being allowed. The need for the Council to undertake monitoring work is noted, but in order for the monitoring fee to be necessary and directly related to the development, it would only be acceptable following the implementation of the development as otherwise, a fee may result in being paid without the development proceeding. Furthermore, Schedule 3 of the Unilateral Undertaking requires the Council to be notified in writing of the implementation of the planning permission, and I see no reason why ongoing monitoring would be required. The land registry information on the ownership of the appeal site is from November 2023, but

there is no evidence before me that the ownership of the site has changed, particularly as the Unilateral Undertaking is dated more recently in June 2024.

11. I therefore conclude that the proposal would make adequate provision to restrict future occupiers from applying for parking permits and to ensure the provision of cycle hire membership and car club membership. As such, it would comply with Policies D4, T1 and T6 of the Local Plan and Policy T6 of The London Plan, which seek, amongst other matters, to reduce dependence on the private car and maximise trips by sustainable modes.

Trees

12. The Council has raised concerns on the first-floor element of the proposal presenting an increased risk to nearby trees, a number of which are protected. The first floor would be closer to the canopy of the nearby London Plane trees than the approved single storey building on the appeal site of the same footprint, but no living spaces are proposed under the canopy of these trees. The Council has indicated that a greater level of pruning would be required due to the increased height of the proposed dwelling, which in turn would make the trees susceptible to diseases that can enter from pruning wounds. The nearby trees however already overhang the appeal site, nearby properties and the highway and there is nothing before me which demonstrates that the proposal would require greater pruning or that such pruning, if it were to occur, would be of greater detriment to the nearby trees.
13. Comments by the Council's Tree Officer have been provided but it is not clear how these are relevant to this appeal proposal as the comments relate to a different planning application which the appellant states is for an entirely different development comprising of a larger single storey house.
14. I therefore conclude, for the reasons set out, that the proposed development would not have an unacceptable harmful effect on trees. As such, the development would comply with Policy Q10 of the Local Plan, which seeks, amongst other matters, for proposals to take particular account of existing trees on the site and on adjoining land.

Other Matters

15. I have taken into consideration all other matters raised, including those relating to natural surveillance, but these do not alter my conclusions on the main issues. Having regard to the scale of the proposed dwelling and separation with surrounding residential properties, there would not be a harmful impact on the outlook of neighbouring occupiers or, having regard to the Daylight, Sunlight and Overshadowing Study¹ a detrimental impact in terms of overshadowing.

Conditions

16. I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended those suggested as appropriate.
17. I have attached a materials condition and a condition requiring detailed construction drawings in the interests of ensuring the development's acceptable appearance in order to safeguard the area's character and appearance. The

¹ Dated 5 September 2023

suggested condition requiring new external work to match the original is not required given the proposal comprises of a new build.

18. A condition requiring a Method of Construction Statement is required as the site is in a residential area and close to a busy highway network. A number of conditions are necessary to avoid harm to retained trees, including the submission of an Arboricultural Method Statement, for tree protection monitoring and supervision as well as details of service and drainage routes to avoid root protection areas. A Sustainability Statement is also required to ensure the development provides an adequate level of such measures. It is essential for a number of these conditions to be pre-commencement conditions to ensure there are no adverse effects arising on living conditions, to the retained trees and to ensure the timely incorporation of sustainability measures.
19. Details of boundary treatment are required in the interests of the character and appearance of the area and living conditions, as well as a conditions in relation to landscaping for the former reason. Conditions are also needed to secure cycle parking and on refuse and recycling storage and waste collection to promote sustainable modes of travel and make suitable provision for waste to safeguard visual amenity. Details of water efficiency measures and of the green roof are required to ensure the adequate installation and design of these measures for reasons of sustainability and visual amenity respectively.
20. A condition preventing the use of any of the roof area as a sitting out area or other amenity space is required in the interests of the living conditions of neighbouring residential occupiers. A condition removing permitted development rights is needed to ensure there is control on any further development in the interests of ensuring adequate living conditions for future occupiers. A condition relating to machinery during the course of site demolition, preparation and construction works is necessary in the interests of air quality.

Conclusion

21. The proposed development would 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 allowed.

F Rafiq

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location & Block Plans (CP-2022-02 | E-05), Existing Roof & Site Plan (CP-2022-02 | E-04-01), Existing Rear / Garden Elevations & Sections (CP-2022-02 | E4-20), Existing Street View Elevation (CP-2022-02 | E4-21), Proposed Site Plan (CP-2022-02 | S5-01), Proposed Layout Plans (CP-2022-02 | S6-10), Proposed Roof Plan (CP-2022-02 | S6-11), Proposed Front & Side Elevations (CP-2022-02 | S6-20), Proposed Rear & Side Elevations (CP-2022-02 | S6-21), Proposed Street View Elevation (CP-2022-02 | S6-22) and Proposed Section (CP-2022-02 | S6-30).
- 3) Prior to the commencement of development hereby permitted and notwithstanding the details shown on the drawings hereby approved, detailed construction drawings of all external elevations (at scale 1:10) including the following items shall be submitted to and approved in writing by the local planning authority. The development shall not be carried out other than in accordance with the approved details.
 - a) Detailed elevations showing brick and mortar detailing, decorative brickwork detailing including rustication, all at scale 1:10
 - b) Details of windows and doors (including technical details, opening methods, reveal depths, cills, cross sections)
 - c) Details of coping, parapets and upstands
 - d) Details of the terrace and roof balustrades
 - e) Details of boundary treatments including external walls, and internal and external fences and gates
- 4) Prior to the commencement of development hereby permitted, a schedule of all materials to be used in the external elevations, including samples, shall be submitted and approved in writing by the local planning authority. The development shall not be carried out other than in accordance with the approved materials.
- 5) 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 Method of Construction Statement shall include details regarding:
 - a) The notification of neighbours with regard to specific works;
 - b) Advance notification of road closures;
 - c) Details regarding parking, deliveries, and storage;
 - d) Details regarding dust mitigation;
 - e) Details of 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.

No demolition or development shall commence until provision has been made to accommodate all site operatives', visitors' and construction vehicles loading, off-loading, parking and turning within the site or otherwise during the construction period in accordance with the approved details. The demolition and development shall thereafter be carried out in accordance with the details and measures approved in the Method of Construction Statement.

- 6) Prior to the commencement of the development hereby approved, an Arboricultural Method Statement in accordance with BS5837:2012 with respect to the rebuilding of the front boundary wall relating to:

- a) groundworks within the Root Protection Area of retained trees for any construction activity (including the removal of existing foundations and hard surfaces)
- b) foundation design
- c) details of a pre-commencement meeting together with a schedule of all confirmed site supervision and tree protection monitoring

shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, the respective Method Statements shall be implemented in strict accordance with the approved details.

- 7) Prior to the commencement of the development hereby approved, details of all Tree Protection Monitoring and Site Supervision (where arboricultural expertise is required) shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in strict accordance with the approved details.
- 8) Prior to the commencement of the development hereby approved, a Sustainability Statement should be submitted to and approved in writing by the local planning authority which shows how the development responds to guidance contained within the Mayor's Sustainable Design and Construction SPG across its lifecycle.
- 9) Prior to the commencement of the works set out in this condition, a drawing showing the confirmed route of all service and drainage routes outside of all retained tree root protection areas (BS5837:2012) shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in strict accordance with the approved details.
- 10) Prior to the commencement of the works set out in this condition, details of the siting and design of all walls and/or fencing including all boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. Such walls or fencing as may be approved shall be erected before the first occupation of the dwelling and retained thereafter.
- 11) Prior to the commencement of the works set out in this condition, a specification of all proposed soft landscaping and tree planting should be submitted to and approved in writing by the Local Planning Authority. The

specification shall include details of the quantity, size, species, position and the proposed time of planting of all trees and shrubs to be planted, together with an indication of how they integrate with the proposal in the long term with regard to their mature size and anticipated routine maintenance and protection. In addition all shrubs and hedges to be planted that are intended to achieve a significant size and presence in the landscape shall be similarly specified. All tree, shrub and hedge planting included within the above specification shall accord with BS3936:1992, BS4043:1989, BS4428:1989, BS8545:2014 and current Arboricultural best practice.

- 12) All planting, seeding and turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the development hereby permitted or the substantial completion of the development, whichever is the sooner. 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.
- 13) Prior to the occupation of the development hereby permitted, details of the provision to be made for cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall thereafter be implemented in full in accordance with the approved details prior to occupation and shall thereafter be retained solely for its designated use.
- 14) Prior to the occupation of the development hereby permitted, details of the provision of refuse and recycling storage and waste collection arrangements to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The refuse and recycling storage facilities for the residential unit shall be in accordance with the requirements of the London Borough of Lambeth's 'Waste and Recycling Storage and Collection Requirements: Guidance for Architects and Developers' (May 2006) and the Refuse & Recycling Storage Design Guide (July 2013). The refuse storage facilities shall be provided in accordance with the approved details prior to the first occupation of the development and retained as such thereafter.
- 15) Prior to the first occupation of the development hereby permitted, the water efficiency calculators and manufacturers' datasheets for the installed fixtures and fittings shall be submitted to and approved in writing by the local planning authority to show that consumption levels of less than 105 litres/person/day are achieved.
- 16) Prior to the installation of the green roof, a detailed specification of the green roof shall be submitted to and approved in writing by the local planning authority. The specification shall include details of the quantity, size, species, position and the proposed time of planting of all elements of the green roof, together with details of their anticipated routine maintenance and protection for the lifetime of the development. The

green roof shall only be installed and thereafter maintained for the lifetime of the development in accordance with the approved details.

- 17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification) no enlargement, improvement, alteration, building, or enclosure permitted by Schedule 2, Part 1, Classes A, B, C, D, E or F of the Order shall be carried out or erected without the prior written permission of the local planning authority.
- 18) No part of the roof on the development hereby approved shall be used as a roof terrace, sitting out area or other amenity space.
- 19) The completed schedule of supervision and monitoring as agreed for the arboricultural protection measures shall be submitted for approval in writing by the Local Planning Authority within 28 days from completion of the development hereby permitted.
- 20) If Non-Road Mobile Machinery (NRMM) of net power of 37kW and up to and including 560kW is required on site during the course of demolition, site preparation and construction phases, it must comply with the emission standards set out in chapter 7 of the GLA's supplementary planning guidance "Control of Dust and Emissions During Construction and Demolition" dated July 2014 (SPG), or subsequent guidance. Unless it complies with the standards set out in the SPG, no NRMM shall be on site, at any time, whether in use or not, without the prior written consent of the local planning authority. The developer must register all NRMM at <https://nrmm.london/user-nrmm/register> prior to bringing it on to site and shall keep the register up to date by listing all NRMM used during the demolition, site preparation and construction phases of the development.

End of Conditions