



Appeal Decision

Site visit made on 5 August 2024

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2024

Appeal Ref: APP/C5690/W/24/3337413

The Old Sorting Office, 4 to 6 Silverdale, Sydenham, London SE26 4SZ

- 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 Oola Boola Antiques Ltd against the decision of the Council of the London Borough of Lewisham.
 - The application Ref is DC/23/131879.
 - The development proposed is retention of the front façade together with the front part of the building and refurbishment as galleried offices / studio spaces. Demolition of the rear part of the building and the construction of seven residential apartments and two mews houses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted additional plans as part of their appeal in response to the Council's reasons for refusal. The appeal file does not contain a Statement from the Council and so it is unclear what the Council's view on this evidence is.
3. Whilst the proposed changes are fairly minor, Government guidance¹ is clear that the appeal process should not be used to evolve a scheme. I have determined this appeal on the basis of the originally submitted plans, not the amended plans, and with regard to the other information submitted by the parties.
4. On 30 July 2024, the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework), including draft text for consultation, as well as other proposed changes to the planning system. The Secretary of State also made a written ministerial statement (WMS) entitled "Building the homes we need".
5. Neither the consultation nor the draft Framework constitute Government policy or guidance. However, the WMS is an expression of Government policy. I have had appropriate regard to these documents as material considerations in determining this appeal.

¹ [Procedural Guide: Planning appeals – England - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/procedural-guide-to-planning-appeals)

Main Issues

6. The main issues are the effect of the proposal on:

- Employment land provision;
- The Living Conditions of future occupiers with particular regard to:
 - Size, aspect and layout of the dwellings,
 - Outlook,
 - Privacy, and
 - Natural light.
- The significance of the Sydenham Thorpes Conservation Area;
- Highway safety;
- The living conditions of nearby occupiers at 2 Silverdale, with particular regard to privacy; and,
- Biological Diversity.

Reasons

Employment land provision

7. The appeal site contains a disused and vacant former Royal Mail sorting office constructed in the late 19th century and which closed in 2007. There is a small, railed forecourt to the front, by Silverdale, whilst to the rear of the building are ancillary outbuildings and yard areas. The appeal site is in a predominantly residential area although there are commercial units in the nearby centre on Sydenham Road.
8. Since it ceased to function as a sorting office a number of uses have been approved at the site, including use as a Pilates/Yoga studio and as an Antiques Centre. However these are said to have been unsuccessful and in 2022, whilst vacant, the building is said to have been used as a location for the manufacture of illegal drugs, with various works undertaken in association with this use. Further attempts at illegal access to the premises and damaging anti-social behaviour are said to have occurred subsequently.
9. The appellant has submitted a building survey (31 May 2023) and a Viability Assessment (24 January 2023) which was updated 10 January 2024. In addition to the damage associated with criminal activity, other failures have occurred to the building, allowing water ingress, and there is evidence of damage from vegetation.
10. The building is old and there has been some deterioration of materials and structural elements. The building does not have cavity walls and the substantial roof area is uninsulated, leading to a poor thermal performance. There is evidence of dry rot and the presence of asbestos is considered likely in places.
11. There is some evidence that the building has not been effectively maintained, only some of which is as a result of the occupation of the premises by criminals and consequent damage that was caused. Few details regarding this incident are provided but the fact that criminals were able to occupy the space for a period of time suggests that the maintenance of the unoccupied premises could have been better.

12. Works would be required to address the disrepair and to enable the building to function as a basic warehouse or industrial space. Significantly more work would be required to address the poor thermal performance of the building and to make it suitable for a wider range of contemporary employment uses, including with regard to improving accessibility. The building is not in a good condition but I do not consider it to be derelict.
13. Evidence of the marketing of the premises is provided by the appellant, including a brochure, a report covering the period 13 February 2021 – 19 August 2022 and a letter from the letting agent covering the period 19 August 2022 – 11 December 2023. The report confirmed there was some interest but no offers for any commercial use were made, and the letter states that no commercial offers were made for the latter period.
14. However, I note the references to the minimum energy efficiency standards (MEES) regulations at Section 9.0 of the 2024 Viability Assessment and that 'An EPC is an essential requirement for letting and the landlord is responsible for them. Since April 2018 it has been illegal for any landlord to let a building on a new lease, lease extension or lease renewal with grades F and G.'
15. No EPC is in the evidence before me, which may provide some explanation for the limited commercial interest in the premises during the marketing exercise. However, despite the absence of an EPC for the premises in the evidence, the Viability Assessment seems to confirm that it has an EPC of grade F or G at paragraph 19.3 of the Conclusions section: 'Even if an occupier could be found for the property, it would be illegal to let the building to them.'
16. From the condition and location of the premises I would expect to see satisfactory evidence of marketing for the required period. On the basis that the appellant has not provided a copy of an EPC and would not want to illegally let the building, I do not find the marketing evidence to be a genuine attempt to find a commercial occupier.
17. Furthermore, I do not find the references in the Viability Assessment to the Lewisham Employment Land Study of 2019 to be robust. Even if this document were in the evidence before me, it was prepared, as the Viability Assessment notes, prior to the Covid – 19 pandemic, and the more recent 'Cost of Living Crisis', and with reference to a previous version of the London Plan². Even with the wider demographic evidence provided, this does not conclusively show that employment space in this location is unviable or not in demand, which is also recognised at paragraph 5.5 of the Viability Assessment.
18. I also note the work undertaken with regard to the use of the premises for office space or for industrial / warehouse space, neither of which are considered viable. However, the appeal proposal includes some galleried office space and studios, for which I assume the appellant considers there is a demand.
19. There are physical and locational constraints to the premises, an existing building near to residential dwellings and a retail centre, which may make it less attractive to certain types of employment use. However, the evidence has failed to demonstrate that this site is unsuitable for employment use, or that there is not a demand here.

² Spatial Development Strategy for Greater London adopted in March 2021

20. For these reasons, the proposed development would adversely affect employment land provision in the area. It would, therefore, conflict with Policy 5 (other employment locations) of the Core Strategy 2011 (the CS) and DM Policy 11 of the Development Management Local Plan 2014 (DMLP).

Living Conditions of future occupiers

21. The proposed development would entail the creation of seven flats and two mews houses, and I am satisfied from the originally submitted evidence, including the Design and Access Statement, that all of the units would meet or exceed the Nationally Described Space Standards in terms of internal floorspace, storage space and floor to ceiling heights.
22. I do not share the Council's concerns that flats 1, 2, 4 and 5 are single aspect units. Given the constrained nature of the appeal site some design compromises are to be expected, and the angled design of the external elevations would be acceptable in this case for future occupiers, including with regard to ventilation.
23. I also do not share the Council's view that all habitable rooms would have sufficient levels of outlook; the high level windows of bedroom 2, Flat 3 would not provide an adequate level of outlook from this habitable room. Furthermore, it has not been shown that externally, the height of the windows above ground level would be at least 1.7 metres and so acceptable in terms of protecting the privacy of future occupiers.
24. Parts of the interior of bedroom 2, Flat 7, at second floor level, would also be readily visible from the clear-glazed, north facing, first floor window at 2 Silverdale a short distance to the south, to the detriment of the privacy of future occupiers.
25. With reference to natural light, including sunlight, the evidence shows that all habitable rooms would meet the minimum BRE guideline levels for daylight in winter and some would meet the minimum BRE guideline levels for daylight in summer, when trees are in leaf. I also recognise that some habitable rooms would meet the minimum BRE guideline levels for sunlight.
26. This is a constrained, infill site and these are guidelines, not mandatory standards to be achieved. Nevertheless, this would be newly built accommodation and I am not satisfied that there would be acceptable levels of natural light to Flat 1, to the main living area of Flat 3 or to bedrooms in Flats 2 and 5.
27. For these reasons, whilst the proposed development would be acceptable in terms of internal space standards and layout, it would adversely affect the living conditions of future occupiers, with particular regard to outlook, privacy and natural light. Consequently, it would conflict with Policy D6 (housing quality and standards) of the London Plan, with Policy 15 (high quality design for Lewisham) of the CS and with DM Policy 32 (housing design, layout and space standards) of the DMLP, in this regard.

Significance of the Sydenham Thorpes Conservation Area (STCA)

28. The STCA was designated in 2001 and was originally focused upon the properties and streets of the Thorpes residential estate, which was constructed to the northeast of the appeal site in Edwardian times.

29. The STCA was subsequently extended to include a length of Sydenham Road to the south, many of the buildings fronting Sydenham Road, parts of connecting streets, such as Silverdale, as well as the Sydenham Station Approach. It is through this extension that the appeal premises became part of the STCA.
30. Insofar as it relates to this appeal, the significance of the STCA stems from its historical development and the relationship between the buildings, streets and spaces to be found there.
31. The appeal premises comprises a former Royal Mail sorting office that was constructed in the late 19th century, together with out-buildings to the rear and ancillary space to the front and towards the rear. It is a locally listed building and is located within the STCA.
32. The main building faces onto Silverdale and is constructed from bricks, with an iron-framed, dual-pitch slate roof between two gable walls. The roof contains rooflights as well as ventilation cowls above the ridgeline, serving the main, double-height sorting hall below.
33. The stepped front gable is constructed from red stock bricks with stone lintels above the windows. It is generally symmetrical and contains some decorative brickwork and stonework features. The front elevation, together with much of the slate roof and ventilation cowls, is readily visible in views from Silverdale.
34. The sides and rear of the main building are constructed from yellow stock bricks with the rear gable wall much less ornate than the front. A brick chimney stack is visible from Silverdale and from an access passageway at the south of the site, serving the rear of the site and properties on Sydenham Road. The passageway is formed by the northern side elevation of 2 Silverdale and a yellow stock brick wall, which largely screens the outbuildings at the rear of the site.
35. In my view, the significance of this non-designated heritage asset, insofar as it relates to this appeal, stems from its historical development as a sorting office, and the traditional design and materials of the main building. It makes a positive contribution to the character and appearance of the STCA.
36. The proposed development would entail the removal of the rear outbuildings and much of the main sorting hall, leaving just the front façade and part of the side wall, and the pitched roof to the rear of the façade to a depth of some 6.2 metres. This space would be used for office studios at ground and at first floor level, with a void space at first floor level referencing the double-height of the former sorting hall.
37. One of the roof ventilation cowls and the yellow brick chimney stack would be relocated closer to the front of the building, whilst the slates and rooflights on the retained part of the roof by the front façade would be replaced to match. The side walls and fenestration towards the front of the building would be retained, as would the lower boundary walls to the sides, which would be rebuilt in places.
38. The front forecourt area would be used as a landscaped space containing covered bicycle and bin storage and a car parking space for a person with disabilities.

39. To the rear, seven flats and two mews houses would be constructed to a contemporary flat-roofed design, with accommodation over three floors and including units that meet the Building Regulations M4(3) standard for wheelchair users and M4(2) standard for accessibility and adaptability.
40. The flats would be accessed from the front through the retained façade, whilst the mews houses would be accessed via the existing passageway on the southern side of the site. The dwellings would have private amenity spaces on their northern elevations, with bicycle and bin storage on the southern side of the mews houses, and to the front by Silverdale, for the flats and offices.
41. The proposed development would cause less than substantial harm to a non-designated heritage asset. Whilst the front façade and part of the adjoining sorting hall roof would be retained, most of the sorting hall would be lost and the building would no longer be appreciable for its historic function. The relocation and retention of a ventilation cowl and a chimney stack do not overcome this harm, and are contrived and somewhat awkward.
42. Whilst I have no concerns with the design and materials of the proposed residential building being contemporary, the scale and massing of the new building would be over-dominant and unbalanced towards the southern side of the site. This would be visually discordant and would detract from the appearance of the retained front façade and part of the sorting hall roof in views from Silverdale, adversely affecting the character and appearance of the STCA.
43. As the building currently makes a positive contribution to the character and appearance of the STCA, the harm I have identified would detract from the character and appearance of this designated heritage asset causing less than substantial harm to its significance. Any harm to a designated heritage asset attracts considerable weight.
44. Whilst the proposal would provide 9 dwellings and economic and social benefits during construction and occupation, I have also found that the loss of employment space has not been adequately demonstrated and that the living conditions of future occupiers would be adversely affected by the proposed development.
45. Furthermore, I am not satisfied that the proposal would be the optimum viable use for the building, and that the building has been maintained as well as it might have been.
46. For these reasons, the proposed development would harm the significance of the STCA and the public benefits of this proposal would not outweigh this harm. It would, therefore, conflict with Policies D4 (delivering good design) and HC1 (heritage conservation and growth) of the London Plan, DM Policies 33 (development on infill sites, backland sites, back gardens and amenity areas) and 36B (conservation areas) of the DMLP, and with the Framework, in this regard.

Highway safety

47. The Council's Highways and Transport department requested minor changes to the waste and recycling bin storage and bicycle parking provision, a Delivery and Servicing Plan and an updated Construction Management Plan. I am satisfied that were the development otherwise acceptable, these matters could

be satisfactorily controlled by suitably worded conditions attached to any grant of planning permission.

48. For these reasons, the proposed development would have an acceptable effect on Highway Safety. Consequently, it would accord with Policies T5 (cycling) and T6 (car parking) of the London Plan, with Policy 14 (sustainable movement and transport) of the CS, with DM Policy 29 (car parking) of the DMLP, and with the Framework, in this regard.

The living conditions of nearby occupiers at 2 Silverdale, with particular regard to privacy

49. I have already identified that the living conditions of future occupiers of the second floor bedroom 2 of proposed Flat 7 would be adversely affected by overlooking and a loss of privacy from 2 Silverdale.
50. It is inevitable that a similar adverse effect on the living conditions of 2 Silverdale from bedroom 2 of proposed Flat 7 would occur. No substantive evidence has been provided by the appellant to demonstrate this would not be the case.
51. For these reasons, the proposed development would adversely affect the living conditions of nearby occupiers, with particular regard to privacy. It would, therefore, conflict with Policy 15 of the CS and with DM Policies 32 and 33 of the DMLP, in this regard.

Biological Diversity

52. The Council has raised concerns regarding the front landscaping proposals, including the amount of room allocated for car parking, and has also raised concerns regarding tree protection works. I would ordinarily expect these sorts of matters to have been addressed during the application process. I am also concerned there may be a conflict between the Council's landscaping comments and their comments in relation to a car parking space for a disabled person and an electric vehicle charging point.
53. Nevertheless, I see no reason why these matters could not be satisfactorily addressed by suitably worded conditions attached to any grant of planning permission, were the proposal otherwise acceptable.
54. For these reasons, the proposed development would have an acceptable effect on biological diversity. It would, therefore, accord with Policy G7 (trees and woodlands) of the London Plan, with Policy 7 (climate change and adapting to the effects) of the CS, and DM Policy 25 (landscaping and trees) of the DMLP in this regard.

Other Matters

55. The Council has raised concerns regarding the absence of a contaminated land assessment of the site, particularly given the proposed residential use and some outdoor amenity spaces. The appellant has submitted an Environmental Assessment Report as part of this appeal, and were the development otherwise acceptable, I would have sought the views of the Council on this document.
56. A Unilateral Undertaking seeking to prevent new residents from obtaining permits for on-street parking in the local area should a controlled parking zone be established in the future has been submitted. However, as I am dismissing

the appeal for other reasons, there is no need for me to consider this matter further.

Planning Balance and Conclusion

57. The proposed development would have an acceptable effect on Highway Safety and Biological Diversity. However, this would be outweighed by the harm that would be caused to Employment Land Provision, the living conditions of future and nearby occupiers and to the significance of the STCA.
58. I note the importance the Government attaches to the delivery of housing and to the use of brownfield land such as the appeal site to achieve this. However, the proposal would cause extensive harm and would conflict with the development plan, as set out above. There are no material considerations that would cause me to determine this appeal otherwise than in accordance with the development plan³.
59. For the reasons given above, I conclude the appeal is dismissed.

Andrew Parkin

INSPECTOR

³ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.