



Appeal Decision

Site visit made on 4 June 2024

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 28 August 2024

Appeal Ref: APP/A5840/W/23/3332052

Land rear of 213-215 Camberwell New Road, London SE5 0TJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr R Nash (Mondrian Property Ltd) against the decision the Council of the London Borough of Southwark
 - The application Ref 22/AP/2497, dated 12 July 2022, was refused by notice dated 2 May 2023.
 - The development proposed is the redevelopment to form 2 mews houses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement (WMS), which is a material consideration, the proposed changes to the Framework can only be given limited weight at this stage, given that no final document has been published. The main parties have been provided with an opportunity to comment on these documents and their responses have been taken into account, where received.

Main Issues

3. The main issues are: the effect of the proposed development on the character and appearance of the area, including on the setting of listed buildings; whether the proposal makes adequate provision for affordable housing, taking account of the viability of the development; the effect of the proposal on the living conditions of future occupiers with regard to outlook and external amenity space provision; and whether the proposal would provide adequate cycle parking.

Reasons

Character and Appearance; Listed Buildings

4. The site is land to the rear of the dwellings at Nos. 213-215 Camberwell New Road, which are Grade II Listed Buildings are notable due to their traditional, late 18th Century townhouse style. The site is off Farmers Road, on the southwest side of the entrance to Madrigal Lane. It currently features hardstanding at No. 213 and an outbuilding spanning the length and width of the rear space at No. 215.

5. The form and design of buildings on Farmers Road is varied. However, the rear outbuilding of No. 217 Camberwell New Road marks the transition to the entrance of Madrigal Lane where, on the southwest side in the vicinity of the site, built form abutting the lane is limited in height, primarily comprising garages and outbuildings associated with the Camberwell New Road properties. This allows the traditional style rear facades of the Camberwell New Road dwellings to be experienced and appreciated in the vicinity.
6. While the current outbuilding at the appeal site may have limited merit in terms of its precise external design, it assimilates with the garages and outbuildings at this section of Madrigal Lane due to its limited height and the opportunity to view the rear elevations of Camberwell New Road beyond. In this regard, the appeal site contributes positively to the character of the area.
7. The proposal seeks to erect two dwellings at the site. Although modern, they would have a mock mews style design that, in itself, would not harm the character of the surrounds. However, they would be two storey in nature. While Farmers Road and Wyndham Road feature development of various heights and a prevalence of terraced dwellings, I nevertheless found that the appeal site primarily reads as part of Madrigal Lane, defined on this side by single storey garages and outbuildings.
8. Alongside the outbuilding to the rear of No. 217 and the nearby lower-level structures on this side and section of Madrigal Lane visible from Farmers Road, the proposal would introduce an incongruous height of built form. It would appear dominant and bulky in this context, failing to respect the immediate predominant scale of development and creating a disjointed appearance to the streetscene on this part of Madrigal Lane.
9. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest.
10. The significance of the asset can be harmed as a result of development in its setting, being the surroundings in which that asset is experienced. There is a strong historic and visual link between the appeal site and the properties at Nos. 213-215 Camberwell New Road, such that it forms part of, and contributes, to their setting. The proposal would not be visible from the front of Camberwell New Road and, in removing the outbuilding at No. 215, would go some way to reestablishing the historic footprint of the buildings.
11. Nevertheless, from Madrigal Lane and Farmers Road the proposal would be seen in conjunction with the rear elevations of these listed buildings. While these elevations do not share the strict architectural symmetry of the front facades, overall their traditional style remains evident. The proposal would be of notably lesser height than the listed buildings themselves. However, as a result of its two storey scale and prominent position it would appear obtrusive from Madrigal Lane and Farmers Road. It would visually compete with the rear facades of Nos. 213 and 215 to a much greater extent than the current situation, distracting from the buildings and the ability to appreciate them in the immediate vicinity.
12. As such, even noting the attempts of the external design of the proposal to evolve the existing Georgian architecture, the proposal would make a negative

contribution to the setting of the listed buildings. It would fail therefore to preserve the setting of the buildings, harming their significance. This finding carries considerable weight.

13. The Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and any harm to, or loss of, the significance of a designated heritage asset from development within its setting should require clear and convincing justification. I find the harm arising in this case to be less than substantial, such that it should be weighed against the public benefits of the proposal.
14. In this regard the proposal would provide additional housing in an established residential area, making effective use of previously developed land and optimising the use of the site. It would follow a low carbon, sustainable approach with a high quality, contemporary external design that would replace the outbuilding currently at the site. It would also level and finish the section of Madrigal Lane in front of the site, and provide planting and a green roof. As noted above, it would also go some way to revealing the historic footprint of the listed buildings. However, even taken together, I do not find that these benefits would outweigh the harm identified, particularly given my conclusions below on the quality of living accommodation to be provided and the considerable importance and weight that I attribute to the erosion of the setting of the listed buildings that would cause a loss of their significance.
15. For the reasons given, the proposal would result in significant adverse harm to the character and appearance of the area and would be detrimental to the setting of listed buildings. As such, it would conflict with Policies P13, P14, P15, and P19 of the Southwark Plan 2022 (the Southwark Plan) and the provisions of the Framework insofar as they seek to ensure high quality residential development that responds positively to its context in terms of height, scale and massing and that conserves and enhances the significance of listed buildings. While reference is also made to Policies P20 and P21 of the Southwark Plan, these relate to other heritage assets.

Affordable Housing

16. Policy P1 of the Southwark Plan states that development that creates 9 homes or fewer must provide the maximum amount of social rented and intermediate homes or a financial contribution towards the delivery of such, with a minimum of 35%, subject to viability. While the Framework states that provision of affordable housing should not be sought for residential development that are not major developments other than in designated rural areas, Policy P1 seeks to increase affordable housing delivery, consistent with the overall aims of the Framework. The appellant's position is that the proposal cannot provide affordable housing or a contribution towards this from a viability perspective.
17. A financial viability assessment was provided by the appellant at application stage, and the Council undertook an independent review of this, concluding that the proposal could make a contribution to affordable housing. The main parties disagree about certain inputs into the financial viability assessment, including: professional fees; marketing fees; constructions costs; and the build program.
18. The appellant has provided figures of 10% allowance on construction costs for the professional fees and 2% of gross development value for marketing fees. While the

Council has stated that these figures should be 8% and 1.5% respectively, I note that the appellant's figures have been informed by the Local Plan Viability Assessment. There is limited substantive information to explain why such figures as informed by the Local Plan Viability Assessment would be unsuitable and, as such, I find those figures put forward by the appellant to be reasonable.

19. With regard to the build program the appellant has utilised a period of 12 months, but provides little justification for this. Through reference to the BICS duration calculator, the Council has provided a build program 10 months. Given the limited detail to explain the appellant's build program duration, I am persuaded that the Council's estimate is more realistic. I also find the Council's suggestion that the units would likely be sold off-plan to be compelling, such that I find its sales period of 2 months to be more likely than the appellant's cited 3 months.
20. The appellant has provided a cost plan for construction costs, totalling £730,000, while the Council has provided its own cost plan, totalling £570,000. The appellant acknowledges their construction costs to be high, but notes it is inclusive of demolition costs, various abnormal costs, and contingencies. There are numerous differences between the parties regarding the cost plans.
21. However, in particular, I note the different position on contingencies. Both parties recognise a standard 5% contingency, with the appellant acknowledging that this is within the Local Plan Viability Assessment assumptions. However, the appellant's cost plan includes an 8% design development contingency and an additional 2% client contingency for variations. Even acknowledging that a design development contingency may usually be reflected separately in a viability assessment, the inclusion of such contingencies at 8% and 2% within the construction costs plan appears to go against best practice, such that I am more persuaded by the Council's position on contingencies with regard to the construction costs, reflecting best practice and the Local Plan Viability Assessment.
22. The Framework sets the weight to be given to viability assessment as a matter for the decision maker, having regard to the circumstances of the case. I have found the financial viability assessment inputs of the appellant regarding marketing and professional fees to be reasonable. However, on the information provided, I do not agree with its position on the build program and construction costs. I note that the site is previously developed land with an existing land value and the small nature of the scheme. Nevertheless, overall I am not satisfied that the viability assessment is accurately represented.
23. I conclude that the proposals would not make adequate provision for affordable housing, taking account of the viability of the development, in conflict with Policy P1 of the Southwark Plan.

Living Conditions

24. With regard to private, external amenity space, Policy D6 of the London Plan 2021 (the London Plan) sets out minimum standards, which apply where there are no higher local standards in borough development plan documents. In this regard, Policy P15 of the Southwark Plan states that new homes should provide a minimum of 50sqm private garden space, at least 10m in length. These are higher than the standards at Policy D6 of the London Plan and as such are applicable to the current scheme.

25. The proposal would provide external amenity spaces at the dwellings, measuring 14sqm at House 1 and 12.32sqm at House 2. This would fall considerably below the requirements of Policy P15. While I note the site constraints, it remains that these spaces would provide limited opportunity to effectively support the range of uses required of such space by future occupiers such as sitting out, hanging washing etc. This would unduly limit occupiers' enjoyment of the space. While the Council has accepted that this shortfall could be addressed by way of a financial contribution, no evidence of a mechanism to secure such a contribution is before me.
26. The main parties agree that the proposal would provide adequate outlook from the first floor habitable rooms and, based on my observations, I have no reason to disagree. With regard to the ground floor living space, although large rear patio doors would be provided, these would look towards the limited rear amenity space and the rear façade of Nos. 213-215 Camberwell New Road beyond. The limited separation distance to these Camberwell New Road properties, coupled with their scale towering above the proposed dwellings, would result in the outlook from this location being unduly constrained.
27. In the case of House 1, this would be offset by the dual aspect of the living area, with windows on the front elevation looking out towards Farmers Road. However, for House 2 the outlook from the front windows would be across the narrow Madrigal Lane towards the boundary wall on the opposite side. Together with the constrained rear outlook, this would result in the living space feeling unduly enclosed, reducing occupiers' enjoyment of this room.
28. For the reasons given, the proposal would have a significant adverse effect on the living conditions of future occupiers, with regard to outlook and external amenity space provision. As such, it would conflict with Policy D6 of the London Plan, Policy P15 of the Southwark Plan and the 2015 Technical Update to the Residential Design Standards SPD insofar as they seek to ensure that residential development provides adequate living conditions in these regards.

Cycle Parking

29. Policy P53 of the Southwark Plan sets out residential parking standards which, for areas with a PTAL rating of 5 such as the appeal site, equates to one space per bedroom plus one space per dwelling. As such, the proposal should make provision for 3 cycle spaces per dwelling.
30. However, submitted plans show that the proposal would provide two cycle parking spaces per dwelling. While this may align with requirements in the London Plan, it would fail to comply with the local policy provisions in this regard. While I acknowledge the site constraints and the fact that public on-street parking spaces are nearby, it remains that the private cycle parking proposed at the dwellings would be contrary to Policy P53.
31. For the reasons given, the proposal would not provide adequate cycle parking, in conflict with Policy P53 of the Southwark Plan.

Other Matters

32. The appellant has referred to discussions with the Council prior to the application being made that informed the final design of the scheme. This has little relevance to my assessment of the planning merits of the appeal, with pre-applications discussions with the Council carrying limited weight.

33. The proposal would be close to the boundary of the Camberwell New Road Conservation Area. The main parties agree that the proposal would not result in harm in this regard and, on my observations, I have no reason to disagree.
34. I have outlined benefits of the proposal earlier in this decision. Even when taken together with the other matters raised, including the WMS and proposed changes to the Framework, I do not find that these benefits would outweigh the harm I have identified.

Conclusion

35. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR