

Appeal Decision

Site visit made on 20 August 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2024

Appeal Ref: APP/C5690/W/23/3334609

7 Dartmouth Grove, Greenwich, Lewisham, London SE10 8AR

- 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 Roadville Properties against the decision of the Council of the London Borough of Lewisham.
 - The application Ref is DC/23/132156.
 - The development proposed is the erection of a single storey extension and conversion of the property from two self-contained flats to three self-contained flats together with addition of cycle and refuse store.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated it on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
3. The appeal site is located within an Air Quality Management Area. The appeal submission includes additional evidence which was not before the Council at the time of its decision. This includes an Air Quality Neutral Assessment. The Procedural Guide states that it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.
4. I have considered this additional information taking into consideration the principles established by the Courts in *Holborn Studios Ltd*¹. In this case, the additional information provides further evidence in relation to the Council's reasons for refusal, rather than significant amendments to the proposal. For this reason, I consider that there would be no prejudice to any party.
5. The Council has advised that they are satisfied that this addresses their concerns in relation to air quality matters. Consequently, the Council is no

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

longer pursuing the fourth reason for refusal stated on its Decision Notice, and I do not need to consider this matter further.

Main Issues

6. The main issues are:

- The effect of the proposed development on the character and appearance of the area, including whether it would preserve or enhance the character or appearance of the Blackheath Conservation Area;
- Whether the proposed development would provide adequate living conditions for future occupiers, with particular regard to internal space standards and outlook;
- whether the proposed development would provide appropriate facilities for cycle parking;
- whether the proposed development would provide appropriate facilities for refuse storage; and
- whether the proposed development would preserve the setting of No.5 Dartmouth Grove, a Grade II listed building.

Reasons

Character and Appearance

7. The appeal site, 7 Dartmouth Grove, is a three-storey, mid-terrace, bay fronted Victorian property. It has a small front garden, which is partially enclosed by an existing hedge and low-level fence. It is prominently located within the street scene, close to the junction with Dartmouth Row. Originally built as a single dwelling; it has subsequently been converted and a lawful development certificate² has been granted for the use of the property as two flats. It is located within a predominantly residential area.
8. The appeal site is located within the Blackheath Conservation Area (BCA). The significance of the BCA lies in the architectural quality of many of its buildings, also its relatively low density of development and a green, well-treed and generally well-maintained environment. The significance of the BCA in so far as it relates to the appeal site lies in its contribution as a traditional building and its appearance within the streetscape.
9. The Blackheath Conservation Area Character Appraisal and Supplementary Planning Document published March 2007 establishes that the appeal site is within the Dartmouth Row and Dartmouth Grove Character area. In this part of the BCA, it is noted that all frontage buildings make a positive contribution to the character and appearance of the BCA. As such, the appeal site is considered to be a Non-Designated Heritage Asset (NDHA).
10. The proposed development comprises the erection of a single storey extension to the rear of the property, a replacement rear dormer window and the replacement of the front boundary fence with a low wall. The existing hedgerow would be retained. The proposal would also involve the alteration

² Planning Application Ref: DC/23/130242

and conversion of the appeal property to provide three self-contained flats with cycle and refuse storage. Overall, the proposal would involve the creation of a 3-bedroom, 5-person ground floor flat, with garden; a 2-bedroom, 4-person flat on the first floor and a 1-bedroom, 2-person flat on the second floor.

11. Policy HC1 of the London Plan 2021 states that development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings.
12. Policy 15 of the Lewisham Local Development Framework Core Strategy Development Plan Document adopted June 2011 (CS) also seeks to ensure any development conserves and enhances the borough's heritage assets, and the significance of their settings, such as conservation areas, listed buildings, registered parks and gardens, scheduled monuments and the Maritime Greenwich World Heritage Site.
13. The guidance contained within the Alterations and Extensions Supplementary Planning Document adopted 2019 (SPD) states that alterations within conservation areas should be of the highest quality design using high quality materials. It also states that alterations and extensions should respect the original design and architectural features of the existing building.
14. The proposed development would involve the erection of a rear extension that would replace some existing extensions and structures at the rear of the property. The main part of the extension would measure approximately 3.9 metres deep, by 4.5 metres wide and 3.3 metres high. It would adjoin a secondary smaller extension that would measure approximately 2.3 metres deep by 2.4 metres wide and 3.2 metres high. The proposed single storey extensions would have a larger footprint than the existing extension, and would be constructed using brick, with a flat roof and lantern style roof feature.
15. Whilst revisions were made to the design of the proposed extension during the course of the application, the proposed brick colour would not be in keeping with the existing London stock brick. Additionally, the proposed detailing, which includes a thick banding at the top of the extension would relate poorly to the existing architectural design of the host property, thereby causing harm to the character and appearance of the host property. The proposed extension by virtue of its design and materials would fail to respect the architectural character of the host property and would represent an unsympathetic form of development, that cause harm to the character and appearance of the host property, which is a NDHA.
16. In respect of the BCA, I accept that the proposed single storey rear extensions, by virtue of being located to the rear of the property would have limited visibility within the surrounding area. As a result, it would not alter the appearance of the property from within the wider BCA. However, it would be a permanent feature that would be visible from a number of neighbouring properties who overlook the rear garden area and therefore by developing part of the rear garden, this would reduce some of the leafy green character which contributes positively to the BCA.

17. I note that it has been suggested that the use of a green roof could mitigate some of the loss of green space within the rear garden. However, whilst this would address some of the concerns regarding the reduction in garden area and its contribution to the verdant character of the area, this would not overcome the harm to the host property which I have identified above.
18. For these reasons, I therefore find that the proposed rear extension would cause harm to the character and appearance of the host property a NDHA, and to a more limited extent the significance of the BCA.
19. The front garden is small and constrained by the presence of the hedgerow and projecting bay window feature. Together, these features limit the available space within the front garden. The proposal involves the creation of three residential units, an increase from the two which are currently permitted. As a result, there would be a requirement for refuse and cycle parking to service all three of these properties. The submitted plans show that provision would be made for six bins and three cycle parking spaces, together with new areas of hardstanding.
20. Visual blight caused by the presence of storage containers within front gardens can result in adverse effects on the character and appearance of the area. As such this level of provision, in a constrained location such as this, would be likely to overwhelm the small front garden area, thereby causing harm to the character and appearance of the area and the BCA. Furthermore, the presence and use of storage facilities in the front garden, could by virtue of its proximity, result in harm to or even the eventual total loss of the existing hedge, which is a positive feature within the area. Any harm to or loss of the existing hedgerow would, given its prominent position, cause harm to the character and appearance of the area and the BCA.
21. I have had regard to whether further details of cycle and refuse storage could be secured by condition. However, given the constrained nature of the front garden, the overall storage requirements, and the potential for adverse harm to the character and appearance of the area and the BCA, a condition requiring further details would not be appropriate. For these reasons and on the basis of the evidence before me, I find that it has not been demonstrated that the minimum servicing requirements for three flats could be provided within the front garden of the appeal site without causing unacceptable harm to the character and appearance of the area and the BCA.
22. The proposed development would also include the replacement of an existing rear flat roof dormer window, with a pitched roof dormer. The proposed dormer would be located on the rear roof slope and as a result would only be visible from some neighbouring properties. It would appear subservient addition to the existing roof slope and would match the design of the existing larger dormer which would be retained. The width of the dormer would match the width of windows below. However, it would be taller and narrower than the existing dormer, exceeding the ridge height and resulting in an awkward relationship to the existing dormer. Whilst I have had regard to the Council's suggestion that amendments could be sought, this is not the proposal before me. Notwithstanding this, the Council did not include this element of the proposal within their reason for refusal.

23. The proposal also includes the removal of the timber fence to the front garden and construction of a low-rise brick wall and installation of metal gates. The drawings show that the existing hedge would be retained. The replacement of the existing timber fence along the front boundary, with a low wall to match neighbouring properties would be an improvement to the appearance of the host property. Timber fences, such as the one which currently exists are not typically found within the local area and its replacement would be more in keeping with the area and as a result would be a positive benefit to the character and appearance of the area.
24. The submitted plans show that the existing hedgerow would be retained. As noted above, this is a feature which contributes positively to the verdant character of the area and the BCA. In their reasons for refusal, the Council cited conflict with Policy DM25 of the Lewisham Local Development Framework Development Management Local Plan, adopted November 2014 (DMLP) which states that applicants for all major development and, where appropriate, non-major development will be required to submit a Landscape Scheme, proportionate to the size of the development. This includes the submission of a Landscape Plan for areas not occupied by buildings that takes note of the relevant site features and indicates those that are to be retained, including trees and the presence of any species of nature conservation interest. However, on the basis of the evidence before me, I am satisfied that had I not found harm in respect of the main issues, that compliance with this policy could have been secured by imposition of as suitably worded planning condition.
25. For the above reasons, whilst I have found that the rear dormer and low boundary wall would not cause unacceptable harm to the character and appearance of the area and the BCA, I find that the proposed extension and cycle and refuse storage would cause unacceptable harm to the character and appearance of the host property, the area and to the BCA. Thus, it would fail to preserve or enhance the character or appearance of the BCA.
26. Although I have found that some aspects of the proposed development would not cause harm to the setting of the BCA, the proposed development would still constitute less than substantial harm to the BCA and this must attract considerable importance and weight because of the statutory requirement of Section 72(1) of the Act. However, Paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of that proposed, including, where appropriate, securing its optimal viable use.
27. In terms of public benefits, the proposal would make a contribution to housing supply of a single dwelling. However, this contribution would be limited and therefore can only be afforded limited weight. No other public benefits have been put to me which would outweigh the harm I have identified.
28. For these reasons, I conclude that the proposed development, taken as a whole, would cause unacceptable harm to the character and appearance of the host building, the area, and the BCA. Consequently, the development fails to accord with Policy HC1 of the London Plan, Policies 15 and 16 of the CS and Policies DM30, DM31, DM36 and DM37 of the DMLP.

29. Taken together, these policies seek high-quality design that pays special attention to the special interest of Conservation Areas and conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings. These policies also require development proposals to respect and/or complement the form, setting, period, architectural characteristics, and detailing of the original buildings.
30. The proposed development also does not meet the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Additionally, there would be conflict with the guidance contained with the Alterations and Extensions SPD, for the reasons set out above.

Living Conditions (Future Occupiers)

31. Policy D6 of the London Plan states that housing development should be of high-quality design and provide adequately sized rooms, with comfortable and functional layouts which are fit for purpose and meet the needs of Londoners without differentiating between tenures. Policy D6 of the London Plan also states that housing developments are required to meet the minimum standards which apply to all tenures and all residential accommodation that is self-contained.
32. It is not disputed that each of the proposed flats would exceed the minimum internal space standards requirement for the Gross Internal Area (GIA) as set out in Policy D6 of the London Plan. However, the Council's reason for refusal refers to the failure of the proposed development to meet the built-in storage space requirements, this applies in respect of Flat A only.
33. Policy D6 of the London Plan sets out that for a 3-bedroom, 5-person dwelling, a minimum of 2.5m² of built-in-storage should be provided. Further guidance contained within the Housing Design Standards London Plan Guidance adopted June 2023 sets out minimum and best practice space standards, which includes a best practice recommendation that dwellings with two or more bedrooms should be provided with a utility room and also exceed the minimum built-in storage provision by 0.5m².
34. The submitted plans show that Flat A would be provided with approximately 1.5m² of built in storage which would also appear to function as a utility space. Therefore, this would be less than the minimum required provision of 2.5m².
35. I have had regard to the proposed provision of additional communal storage within the basement. However, the submitted plans do not show how much of this space, if any, would be allocated to Flat A. It would also only be accessible to the occupants of Flat A via the communal area for Flats B and C. Therefore, even if the basement could be made into secure storage compartments for each flat, it would be located outside of the flat and therefore may not be practical in terms of day-to-day use. Furthermore, external storage such as this is not the same as built-in storage, which is required by Policy D6 of the London Plan.
36. I have had regard to the approach of the appellant which states that the deliberate design choices made to prioritise spacious living and dining areas, are equally important for the well-being of the occupants. They also state that

these areas provide a significant improvement to the quality of life for residents, which the appellant argues far outweighs the minor deviation from traditional storage solutions.

37. However, whilst I acknowledge that the shortfall would be minor and therefore only result in a limited amount of harm, it would nevertheless, lead to conflict with Policy D6 of the London Plan. Furthermore, it has not been satisfactorily demonstrated that in this particular case, that the provision of larger living accommodation, whilst welcomed, would address this conflict. Therefore, on balance, I find that the proposed development would not provide adequate living conditions for future occupiers, with regards to the internal space standards.
38. In terms of outlook, all of the proposed flats would be dual aspect and have a generally acceptable outlook. The only exception to this would be the window within Bedroom 1 of Flat A, on the ground floor, which would look out onto the small front garden area, and as shown on the submitted plans, this would become the main refuse and cycle parking area.
39. Whilst the details of the refuse storage provided indicates that these would structures would not be visible above the bottom of the window, the Council has identified some discrepancies in the measurements of the proposed store and the typical dimensions, particularly the height of a 240l bin. The appellant does not dispute this. If the refuse stores were increased in height, then it is highly likely that they would become visible from this window, partially obscuring views, and lead to a poor-quality outlook for the occupants.
40. The front garden would also contain cycle parking, which would by virtue of its siting, further impact upon the quality of the outlook from this window. Whilst I accept that outlook from this window is limited to some extent by virtue its proximity to the front hedgerow, this is not the same as being obscured by refuse and cycle parking. For these reasons, I find that insufficient information has been provided to demonstrate that the provision of cycle and refuse storage within the front garden, would not lead to an unacceptable loss of outlook for the occupiers of Flat A.
41. The Council has not raised any concerns with regards to privacy, noise and disturbance, provision of external amenity space and daylight and sunlight. Based on the evidence before me, I see no reason to disagree with this assessment. However, the absence of harm on these matters does not alter my above findings.
42. Consequently, I conclude that the proposed development would not provide adequate living conditions for future occupiers with particular regard to internal space standards and outlook. Thus, it would be contrary to Policy D6 of the London Plan and Policies DM32 and DM36 of the DMLP. These policies require, amongst other things, development to provide a satisfactory level of outlook both for its future residents and its neighbours and meet the functional requirements of future residents, including meeting the minimum space standards for new development and include sufficient space for storage and utility purposes in addition to the minimum space standards.
43. Additionally, the proposal would not comply with Paragraph 135 of the Framework which, amongst other provisions, seeks to ensure that

developments create places with a high standard of amenity for existing and future users.

Cycle Parking

44. Policy T5 states that development proposals should help remove barriers to cycling and create a healthy environment in which people choose to cycle. This will be achieved through securing the provision of appropriate levels of cycle parking which should be fit for purpose, secure and well-located. Cycle parking should be designed and laid out in accordance with the guidance contained in the London Cycling Design Standards.
45. The proposed development indicates that six cycle parking spaces would be provided, three of these would be located to the front of the property for Flat B and Flat C, with two cycle parking spaces would be located in the rear garden of Flat A and a further cycle parking space located within the ground floor hallway. It is not disputed that the minimum required number of cycle parking spaces are shown to be provided. However, the London Cycling Design Standards states that cycle parking should be fit for purpose, secure and well-located avoiding obstacles, narrow doorways, and tight corners.
46. In principle, the Council raise no objection to locating the cycle parking for Flat A in the rear garden. However, in this particular case, the access to the rear garden through Flat A would involve both narrow doorways and more than one tight turn. Whilst the appellant states that the architectural layout of the property limits any proposed revisions to the internal layout, this does not justify poorly sited cycle parking, such as is proposed. On this basis, I find that this would not provide adequate cycle parking for Flat A.
47. The proposal also involves the provision of an internal cycle parking space in the ground floor communal hallway for Flats B and C. This would appear to comprise a storage cupboard, which would be located directly opposite the main staircase. I observed at my site visit that the hallway appears spacious. However, the inclusion of a cupboard would reduce the available width of the hallway and may result in conflict between users of the shared space. The appellant states that the opening mechanism of the secure storage would ensure that there is sufficient space to manoeuvre, but no details have been provided. I therefore find that whilst this would not warrant refusal of the application on its own, in combination with the deficiencies in provision outlined above, it would contribute to further uncertainty as to whether there is sufficient space to provide the number of cycle spaces required.
48. In respect of the front courtyard, as outlined above this is of a limited size and would be the only external space where cycle parking and refuse storage can be provided for Flats B and C. Therefore, I find that it has not been demonstrated that there would be sufficient space within the front garden to provide additional cycle parking. Furthermore, any additional storage needs within this front area is likely to result in additional adverse harm to the character and appearance of the area.
49. I have had regard to whether the provision of adequate cycle parking could be secured by condition. However, based on the evidence before me, it has not been demonstrated that the required level of provision could be achieved,

therefore it would not be appropriate to rely upon a planning condition, bearing in mind my findings on the first main issue.

50. For these reasons, I find that it has not been demonstrated that the proposed development would provide adequate provision of cycle parking. Thus, it would be contrary to Policy T5 of the London Plan which requires amongst other things, the provision of appropriate levels of cycle parking which should be fit for purpose, secure and well-located.
51. The Council alleges a conflict with Policy T7 of the London Plan 2021. However, this policy appears to relate to freight movement and seeks to ensure that development proposal facilitate safe, clean, and efficient deliveries and servicing, with adequate off-street space for servicing, storage, and deliveries. My attention has not been drawn to any wording that relate to this main issue. Accordingly, the above policy has not been determinative in my decision on this issue.

Refuse Storage

52. The proposed development would require the provision of a total of six 240 litre refuse/recycling bins. The submitted plans indicate that these would be provided wholly within the front garden. However, it is not disputed that there are some discrepancies within the submitted plans, which casts doubt as to whether there is sufficient space within the front garden to provide adequate storage.
53. I acknowledge the challenges of accurately depicting the extent of the hedgerow within the submitted plans. However, due to the constrained nature of the front garden and the aforementioned discrepancies on the submitted plans with regard to the size of the bin storage areas to the front of the property, based on the evidence before me I cannot be satisfied that the required amount of refuse storage could be provided. Furthermore, the front garden is likely to become overwhelmed and this may lead to increased pressure to trim or remove the hedgerow to make space for the storage requirements.
54. For these reasons, I find that it has not been demonstrated that the proposed development would provide adequate provision of refuse storage. Thus, it would be contrary to Policy 13 of the CS and Policy DM32 of the DMLP which require, amongst other things, development to meet the functional requirements of future residents and to support recycling by providing well-designed recycling facilities to be incorporated into all new development.
55. The Council alleges a conflict with Policy T7 of the London Plan 2021. However, this policy appears to relate to freight movement and seeks to ensure that development proposal facilitate safe, clean, and efficient deliveries and servicing, with adequate off-street space for servicing, storage, and deliveries. My attention has not been drawn to any wording that would relate to this main issue. Accordingly, the above policy has not been determinative in my decision on this issue.

Setting of a Grade II Listed Building

56. The appeal site is within the setting of 5 Dartmouth Grove, a Grade II listed building (LB) and I therefore have a duty under Section 66(1) of the

Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building or its setting.

57. The list description indicates that No.5 was built in approximately 1630, with later alterations. It derives its significance from its historical and architectural interest. It is a substantial, three-storey end terraced building with its front (road facing elevation) dominated by a canted three window bay design.
58. Policy 15 of the Lewisham Local Development Framework Core Strategy Development Plan Document adopted June 2011 (CS) seeks to ensure any development conserves and enhances the borough's heritage assets, and the significance of their settings, such as conservation areas, listed buildings, registered parks and gardens, scheduled monuments, and the Maritime Greenwich World Heritage Site.
59. Policy DM36 of the DMLP states that the Council will have special regard to the desirability of preserving the setting of listed buildings in considering any application in their vicinity and consider opportunities for new development within the setting to enhance or better reveal the significance of the asset.
60. In respect of the setting of the adjacent listed building, the proposed extension would be located along the boundary with No.5, although it would only be visible from the rear of the appeal site or the upper floors of No.5 and other neighbouring properties. There are existing extensions to both No.7 and No.5 which run largely parallel to each other, separated by a high boundary wall. Although the proposed extension would be in a similar position, it would be larger and for the reasons set out above not be of a design that respects the architectural character of the host property. Nevertheless, due to the presence of various extensions to the rear of No.5, the existing relationship of the rear extensions to No.7 and the fairly modest size of the proposed development, I find that it would not significantly alter how the setting of No.5 is experienced.
61. For these reasons, I find that the proposed development would preserve the setting of the LB and would thus comply with Policy HC1 of the London Plan, Policies 15 and 16 of the CS and Policies DM30, DM31, DM36 and DM37 of the DMLP. Taken together, these seek developments which pay special attention to the special interest of Conservation Areas and conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings. The proposed development would also comply with the duty set out in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Other Matters

62. I understand that the appellant sought pre-application advice on the proposals. However, I also understand from the evidence before me that the proposals were subsequently amended prior to submission of this application, including the design of the rear extension. Therefore, whilst I acknowledge that the Council may have reached some different conclusions to those provided at the pre-application advice stage, they have provided reasoning as to why they have departed from the advice previously given and identified where changes have been made to the pre-application scheme. In any case,

pre-application advice is given without prejudice to any future decision and therefore whilst mindful of the appellant's frustrations, this has no bearing on my considerations of the appeal proposal.

63. The existing property contains two separate self-contained dwellings, the proposed development would as a result of reconfiguration of the internal layouts result in an additional dwelling (totalling three self-contained dwellings). This would result in a very small contribution to the Borough's annual housing target of 1667 new homes. The proposal would also provide a mix of housing types, including a contribution to family-sized housing, with a private garden. However, whilst I recognise these benefits, the contribution to housing supply and mix would nevertheless be small and as a result I can only attribute very limited weight to these benefits.
64. It has been put to me that the current condition of the property means that it does not comply with the necessary regulations to enable the property to be let, I also note that there is a protected tenant living in the property. I understand from the evidence before me and my own observations, that the property suffers from structural problems and infestation. The appellant states that failing to obtain permission not only perpetuates the current state of vacancy but also squanders potential housing resources that could benefit the community and that granting planning permission is crucial not merely for the landlord's ability to utilise the property but for revitalising an underused asset within the community, ensuring it meets safety and habitability standards and can be fully occupied.
65. However, I have not been presented any substantive evidence to demonstrate that there are any reasons to prevent the current owner carrying out repair works to the property to rectify the aforementioned issues and bring the property back into use as two dwellings. Therefore, whilst I acknowledge that there would be some benefits arising from the appeal proposal, it has not been demonstrated that these largely private benefits could not be achieved regardless of the outcome of this appeal. For the reasons set out above, in respect of the main issues, the scheme as a whole would result in unacceptable harm, which is not outweighed by the benefits associated with the improvement of the existing property.

Conclusion

66. For the above reasons, the proposed development conflicts with the development plan taken as a whole. There are no material considerations of sufficient weight which indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

K Lancaster

INSPECTOR