

Appeal Decision

Site visit made on 6 August 2024

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2024

Appeal Ref: APP/E5330/W/24/3340183

18 Trafalgar Grove, Greenwich SE10 9TB

- 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 Kunle Awgsonya against the decision of Royal Borough of Greenwich.
 - The application Ref is 23/1600/F.
 - The development proposed is rear, side, roof and basement extension to accommodate 1 x 3 bed/6p family unit with garden and 2x2 bed flat and 2x1 bed flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development on the appeal form differs from that on the application form. No confirmation has been provided of an agreed change and therefore I have used that as set out on the application form.
3. The Council advises that the decision notice refers in error to Policy SOS(f) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies 2014 (RGLP), rather than Policy OS(f). Having regard to all of the evidence before me, I am satisfied that neither of the main parties has been prejudiced in this regard.
4. In December 2023 the National Planning Policy Framework (the Framework) was revised. The main parties have had the opportunity to comment on any implications of the revised Framework within the appeal timetable.

Main Issues

5. Having regard to all of the evidence before me, the main issues are:
 - the effect of the proposal upon the character or appearance of the East Greenwich Conservation Area (CA), including the host property;
 - the effect of the proposal upon the housing stock and the local environment;
 - the effect of the proposal upon trees; and
 - whether the proposal would provide acceptable living conditions for future occupiers with particular regard to noise and disturbance.

Reasons

Character or appearance

6. The appeal property (No 18) is within the East Greenwich CA, the significance of which stems partly from its historic development as a residential area, with a mixture of other uses that took advantage of the river location. The CA includes a variety of house types, and the appeal site is within a sub character area of residential properties to the south of Trafalgar Road.
7. No 18 is an early 19th century/Victorian two-storey, two bay property with basement and includes an attic room within its pitched roof form. Its entrance is slightly elevated above the footway, with railings surrounding a wide and deep lightwell. It is located at the end of the easterly side of Trafalgar Grove before the boundary wall of the railway, which runs at some depth below.
8. The evidence before me indicates that No 18 along with two other terraced properties opposite are the only surviving properties along the street, likely following bomb damage during World War II. These three properties retain original architectural detailing and make a positive contribution to the special historic and architectural interest of the CA.
9. Development adjoining these surviving properties is also terraced, but of a more contemporary appearance, with mansard roof forms, rear outriggers and openings with a regular rhythm. The relationship is such that the newer terraced forms are well set back behind their historic neighbours, and their rear elevations extend much deeper. This results in a discordant building line with the historic terraced forms that remain, such that they appear similar to bookends to the newer terraced properties. Nonetheless, the significance of the surviving properties including No 18 is heightened by the loss of its historic neighbours.
10. The proposed mansard roof form would be a profound departure from the existing pitched roof of No 18, and it would be discordant to the other two surviving historic properties opposite. The proposed mansard roof would be taller than that of the adjoining neighbours at Charville Court. While the increase in roof height would enable an adequate ceiling height, this would be discordant to the character of its host and the wider street scene. Although the Framework supports upward extensions and mansard roof forms, such support is not unfettered. For example, mansard roof forms are supported where their appearance harmonises with the original building, which is clearly not the case here.
11. Both the side and rear extensions would have a staggered footprint. The existing property is about 5m wide, and the proposal would result in an increase in the width of the property at all floor levels. The rear elements would be up to 10m wide, effectively doubling the width of the rear elevation. The side extension would add about 2.3m to 3.8m width to the existing property, less than half the width of its host. However, part of the staggered extension would share the mansard roof form to full height, such that it would not be subservient to the existing roof. The sheer size of the proposed side and rear extensions, combined with the mansard roof form,

would result in a top-heavy appearance, despite the use of matching/complementary materials and a staggered footprint.

12. Within the front elevation, the proposed windows to the mansard roof would fail to follow the form, proportion and alignment of those of the adjoining terrace. This effect is illustrated in the appellant's contextual elevation drawings submitted to the appeal. Similarly, the ground floor openings to the side extension would fail to respect the existing openings of the host property. The openings to the front elevation would therefore be discordant to the rhythm of the street scene. The proposed openings to the rear elevation appear to take their design cue from the neighbouring terrace, and as such fail to respect those of its host. The proposed Juliet balconies are an alien feature in this regard. Although the appellant is willing to amend the scheme to remove such balconies, there is no such amendment before me. Overall, the appeal scheme results in discordant openings which fail to respect those of its host, and its neighbours.
13. Drawing all of the above together, it seems to me that the appeal scheme appears to follow design cues from the neighbouring terrace, such that it fails to respect the roof form, scale and architectural detailing of its host. The fact that the host property is the last one at the end of the street, near the boundary wall of the railway, with limited angles of view within the street does not set aside my findings. While visibility of the proposal from within the public realm would be limited, this has little bearing on my overall considerations, as I am duty bound to consider the effect upon the CA as a whole. For these reasons, the proposal would fail to preserve or enhance the character and appearance of the host property, and thus harm its positive contribution to the significance of the CA.
14. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. The proposal conflicts with the provisions of the Act, the significance of which is not diminished by the fact that the host property is not a locally listed building. I find the harm to be less than substantial in the context of the CA as a whole. Nevertheless, the harm is of considerable importance and weight. In such circumstances, the Framework requires that the harm must be weighed against any public benefits of the proposal, and I will return to this balance later in my decision.
15. I therefore conclude that the proposal is contrary to Policies D3, HC1 and HC2 of the London Plan 2021 (LP); RGLP Policies DH1, DH3, DH4, DH(a) and DH(h); and the Council's Urban Design Guide Supplementary Planning Document 2023 (SPD). Among other things, these policies and guidance seek to ensure that site capacity is optimised using a design led approach; that development is of high quality design; conserves the significance of heritage assets and their settings including buffer zones and is sympathetic to its significance; and preserves or enhances the character or appearance of conservation areas; and that proposals for additions should respect the scale, character and design of the host building and be appropriate to the locality.

Housing stock and local environment

16. The first part of RGLP Policy H(b) sets out that the sub-division of residential property will not be permitted where any of three circumstances apply, in order to protect small and medium sized family dwellings and the local environment. The first circumstance is "*i. The original premises is less than 111.48 sqm of net floor area (1,200 sqft) excluding any garages or less than 130 sqm of net floor area (1,400 sqft) where they form part of a terrace.*" The policy wording and supporting text do not define 'original premises.' The SPD provides guidance for residential conversions and seeks to exclude both garages and existing extensions from floorspace measurements. In this regard, the SPD does not fully accord with the policy wording.
17. The appellant draws my attention to Counsel's opinion submitted to the appeal, which suggests that the interpretation of the first criterion refers to the current footprint of the building, minus garages at the time of the application for planning permission. However, it seems to me that a common dictionary definition of "original" has not been considered, such as that within the Cambridge Dictionary: '*something that is in the form in which it was first created and has not been copied or changed; existing since the beginning or being the earliest form of something*'. Consequently, I consider that the use of the adjective 'original' conveys a meaning of the subject premises as first built, as opposed to what may be as existing at present.
18. The appellant states that the appeal property has a net floor area of 104.5m² including the existing loft room. In my judgement, it is a terraced property, given that it shares a side wall with its adjoining neighbour, even if for a limited length. As it is not separated from its neighbour it cannot be considered as a detached property. Consequently, it is below the threshold of 130m² as specified in the first circumstance of RGLP Policy H(b), whereby sub-division is not permitted.
19. The *Existing Area with PD Area* plan shows how the appellant considers the appeal property could be extended utilising permitted development rights to result in a further floor area of about 37.5m², such that the net floor area would be above the policy threshold. However, it has not been robustly demonstrated that the extensions indicated would comply with the GPDO¹. Furthermore, there is no evidence that any enactment of such rights is more than a theoretical possibility and that the appeal property would be extended in this manner if the appeal was dismissed. Therefore, this position attracts negligible weight.
20. The existing property does not meet current standards for internal space. The Council considers that the proposed units of accommodation would be generally compliant with internal space standards, including the unit of family sized accommodation. I find no reason to consider otherwise. As such, the proposal would not undermine the overall purpose of Policy H(b), insofar as it relates to the housing stock. However, it has not been demonstrated that the appeal proposal is the only way for the existing

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (As amended)

property to achieve compliance with current standards. This matter will be weighed in my final balance.

21. I have concluded in my first main issue that the proposal would have a harmful effect on the character and appearance of the CA. Therefore, even if I were to reach a different conclusion on the above matters, the proposal would fail to comply with the third circumstance of Policy H(b), where sub-division is not permitted where the character and appearance of the surrounding area and buildings is adversely affected.
22. For the reasons above, I therefore conclude that the proposal would result in the loss of an existing family sized dwelling and that it would result in an adverse effect upon the local environment. It conflicts with the first and third circumstances of the first part of RGLP Policy H(b).

Trees

23. The appeal site includes five trees within the rear amenity space. Due to their height, some of the trees appear within limited view from Greenwich Park Street, as well as within private views within the appeal site and from properties to the rear. Consequently, they provide amenity value, although limited within the public realm.
24. The Arboricultural Impact Assessment (AIA) submitted with the application demonstrates that no trees require removal to facilitate the development. Two category B trees along the rear boundary would be retained, with suitable tree protection measures proposed. Three category U trees are proposed for removal in the interests of good arboricultural management. Two of these are causing displacement to the boundary wall of the railway. The third (T3) has three stems, one of which is surrounded by the boundary wall to the rear.
25. Given the above, and in the absence of any compelling evidence to the contrary to demonstrate that the retention of T3 is necessary as claimed by the Council, I find no reason to disagree with the findings of the AIA. In such circumstances, I am satisfied that the removal of T3 is necessary and reasonable. However, as the trees (including T3) can be seen within limited view from Greenwich Park Street, their loss would result in a negative effect in terms of visual amenity, and therefore replacement tree planting would be reasonable in this case.
26. The proposal does not indicate any replacement tree planting, and the proposed plans indicate very limited space for any planting scheme, due to the extent of built form and paved garden areas, and the proposed stores for bins and cycles. While the appellant suggests that the proposed stores could be relocated and/or a replacement tree could be provided, there is no substantive evidence before me to demonstrate that this could be accommodated within the site, and that any replacement tree would have sufficient space in which to thrive. For these reasons, I am not satisfied that this matter can be controlled by a condition.
27. I therefore conclude that the proposal would result in the loss of trees, and that it has not been demonstrated that replacement tree planting can be accommodated within the site. It conflicts with LP Policy G7, RGLP Policy OS(f) and the SPD. Taken together, these policies and guidance seek to

ensure that development proposals retain existing trees of value wherever possible, and that adequate replacement is made based on their existing value.

Living conditions - noise and disturbance

28. The appeal site is very close to a railway line, which runs within a cutting below the wall along its southern boundary. The proposal would result in windows to the flank elevation that would be very close to the railway and serve habitable rooms.
29. The appellant has submitted a Noise and Vibration Impact Assessment Report by KP Acoustics to the appeal, which sets out survey findings for noise and vibration for a period of 23:55 hours on 13-14 February 2024. The assessment is predicated on a certain type of construction and foundation method. The Council does not dispute the report, nor its findings.
30. The report indicates that glazing mitigation would provide internal noise levels in accordance with BS:8233; that no further mitigation measures should be required in order to protect the proposed habitable spaces from external noise intrusion; and that noise levels within external amenity space would be in line with guidance. In terms of vibration, the report concludes that adverse comment would not be expected. In the absence of any substantive evidence to the contrary, I have no reason to consider otherwise, and therefore these matters could be controlled by suitable conditions.
31. Given the above, I therefore conclude that subject to suitable conditions, the proposal would provide acceptable living conditions for future occupiers with particular regard to noise and disturbance. The proposal accords with LP Policy D13, which seeks to ensure that development proposals manage noise and other potential nuisances under the 'Agent of Change' principle; and RGLP Policy H(b), insofar as it seeks to ensure that residential conversions alleviate the problems of noise, including railway noise.

Other Matters

32. The appeal site is in an Area of High Archaeological Importance, and within an area which suffered extensive damage in World War II. In response to an informative attached to the Council's decision notice, the appellant has submitted an Archaeological Desk based Assessment to the appeal, which is not disputed by the Council. This demonstrates the site's potential for archaeological remains, including a high potential for medieval remains within the existing backfilled cellar, and concludes that some form of further mitigation may be required, in the form of an appropriately worded condition. I find no reason to consider otherwise.
33. I have considered comments from interested parties, expressing a wide range of concerns including, but not limited to the following: construction impacts, and the effects upon privacy and parking. However, I note that these matters were considered where relevant by the Council when it determined the planning application. Whilst I can understand the concerns of the interested parties, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.

34. I note that some comments from interested parties to the appeal and at determination stage appear to be related to another proposal at the appeal site for guest house accommodation; raise concerns that the appeal property is used as a guesthouse or occupied as an 'Air BnB'; and that some local campaigning may have taken place on this basis. For the avoidance of doubt, these matters have no bearing on my consideration of the appeal scheme before me, and I have considered the proposal as submitted.
35. An interested party draws my attention to legal covenants applied to the land that may prevent the development and/or require approval from Network Rail. However, these are private matters and have no bearing on my consideration of the planning merits of the scheme.
36. I note that Network Rail objected to the application not only in terms of the effect of railway noise (which I have addressed in the main issue above), but also that the proposed works could introduce surcharging and additional loading to the retaining wall which could have catastrophic effects on the running and safety of the operational railway; and that building that close would limit future access to maintain the retaining wall. Network Rail requested that the applicant contacts their Asset Protection team. In the absence of any further evidence on this matter from any party, and as I am dismissing the appeal on the main issues and overall balance, it is not necessary for me to consider this matter further.
37. In reaching my findings, I have taken into account the appeal decisions referred to by the main parties. However, each site has its own unique context and each CA has its own significance, and I am not bound by previous decisions. The appeal decisions² submitted by the appellant seek to demonstrate that policy wording and the overall purpose of a policy are determinative matters, and that the nature of existing accommodation and any fallback positions are material considerations. However, the decisions are not directly comparable as neither decision found any harm to a CA, and therefore no heritage balance was required. Furthermore, in each decision, a fallback position was clearly evidenced, which is not the case in the appeal before me.
38. The appellant draws my attention to concerns regarding engagement with the Council during pre-application and determination stages. The conduct of the Council is not a matter that affects my findings on the main issues and/or the planning merits of the scheme. Whilst pre-application advice is not binding, it is clearly unfortunate if proposals are adjusted in response to oral and/or written advice, and the final outcome is an adverse one. Such matters do not warrant allowing the appeal, and I have determined the appeal on its individual planning merits.

Planning Balance and Conclusion

39. The proposal would result in less than substantial harm to the CA, to which I am required to attach great weight. In accordance with the Framework, the harm must be weighed against any public benefits of the proposal.
40. The proposal would deliver a net increase of 4 units of accommodation in an accessible location, which would support the government's objective to

² APP/B5480/W/22/3291546 and APP/E5330/W/20/3255724

significantly boost the supply of homes and assist in meeting wider housing needs and housing choice in the borough and wider London. As a small site, it could be delivered quickly. These matters would be a positive benefit in favour of the proposal but limited by the scale of the development.

41. The fact that the proposal would deliver accommodation considered acceptable in terms of relevant standards is a policy requirement of residential development, and therefore not a benefit as such. Although the appeal property does not meet current standards for internal space, and the proposal would not undermine the overall purpose of RGLP Policy H(b), it has not been demonstrated that the appeal proposal is the only way for the existing property to achieve compliance with current standards. Therefore, this matter attracts limited weight in favour of the proposal.
42. I consider that temporary economic benefits would arise during the construction process, with additional household expenditure thereafter, but these benefits would be very modest in scale, attracting limited weight.
43. I note that PV panels are anticipated on the main roof, and a green roof is proposed on part of the proposed rear extension. Such features could assist in meeting the environmental objectives of the Framework. However, the public benefit of these potential features has not been robustly demonstrated. In any event, such benefits would be limited.
44. In accordance with the balancing exercise within paragraph 208 of the Framework, I conclude, even when considered in combination, that the benefits of the proposal do not outweigh the 'less than substantial harm' to the CA, to which I am required to attach great weight. The scheme would therefore fail to accord with the requirements of the Framework and the Act.
45. The Council is unable to demonstrate a five-year supply of deliverable housing sites, with the supply given to be 2.8 years. However, in accordance with paragraph 11 d) and footnote 7 of the Framework, the Framework's policies relating to designated heritage assets provide a clear reason to refuse the proposal. Therefore, the presumption in favour of sustainable development does not apply in this case.
46. For the reasons given above, I conclude that the proposal conflicts with the development plan when read as a whole, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

J Moore

INSPECTOR