



Appeal Decision

Site visit made on 10 December 2024

by **L Clark BA(HONS) DIPTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13th February 2025

Appeal Ref: APP/N5660/W/24/3350991

8a Rozel Road, Lambeth, London SW4 0EP

- 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 Mr Harpreet Arpsa against the decision of the Council of the London Borough of Lambeth.
 - The application Ref is 23/03945/FUL.
 - The development proposed is the demolition of the existing building and the erection of a new dwellinghouse with basement.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2024, with further minor updates in February 2025. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments and will not be prejudiced as a consequence.
3. The appellant has requested that I consider changes which were not before the Council when it took its decision. These changes relate to a lower extent of obscure glazing (approximately 1.5 metres above the finished floor level) within the dormer window. I have considered the proposed changes taking into consideration the tests on *Holborn Studios Ltd*¹. Given that the Council contend that the changes would be similar to the previously refused planning permission Ref 23/01350/FUL, and that in this case harm was found with regard to the privacy of occupants within the neighbouring properties, I consider it would be prejudicial to interested parties to accept them. I have therefore determined the appeal on the basis of the plans listed on the Council's decision notice.
4. Whilst the submitted plan 'Existing Sections' depicts the partial remains of a roof, it was apparent during my site visit that construction works have commenced through the construction of a basement which was void of any roof. As the appeal site (No 8a) has an extant planning permission Ref 20/02311/FUL, I have dealt with the appeal based on the proposed plans submitted with the planning application and considered and consulted upon by the Council.
5. During the course of my site visit, the appellant drew my attention to a development adjacent to 2 Turret Grove (No 2) which they claimed was similar to the appeal before me. Given that the dwelling is visible within the street, I have not found it

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

necessary, in the interests of natural justice, to go back to parties for comment as neither party would be prejudiced by my consideration of this in my determination of the appeal.

Main Issues

6. The main issues are:

- the effect of the proposed dwelling upon the character and appearance of the surrounding area;
- the effect on the living conditions for existing occupiers of 9 and 11 Turret Grove (Nos 9 and 11) with regard to outlook;
- the effect on living conditions for existing occupiers on Rozel Road and Turret Grove with regard to noise; and,
- whether the future occupiers would likely experience acceptable living conditions within the first floor with regard to outlook and sunlight.

Reasons

Character and appearance

7. No 8a is located to the flank elevation of 8 Rozel Road (No 8), and to the rear of 9 and 11 Turret Grove (Nos 9 and 11), within a residential area of compact, fairly high-density, terraced housing. Properties are predominantly characterised by traditional Victorian two-storey terraced dwellings with bay windows to the ground floor and recessed front doors set back from the road by front gardens. The built form largely consists of streets running at 90 degrees from Rozel Road with gardens creating separation from the streets behind. Given the separation between Turret Grove and Rozel Road, and as levels fall towards Wandsworth Road, the rear elevation of Turret Grove is exposed and visible. Opposite are two flat roof garages set to the flank wall of 5 Rozel Road and to the rear of 13 Turret Grove SW.
8. The proposed development would appear as a predominantly single storey dwelling from street level with only the roof visible above the brick wall bounding the pavement. Even if the roof pitch and materials would be similar to those on Rozel Road, it would be significantly lower than the remaining terrace and would appear approximately alongside the first floor of No 8 and the remaining terrace. I saw that the first floor of Rozel Road is mainly constructed from brick and is vertical in appearance. Given this, the contrast in materials at the upper level, together with the sloping nature, would contrast with the prevailing character of the remaining terrace. Whilst the upper floor of the proposed development would be narrower than the lower floors and punctuated with roof lights, these features would not reduce its dominance when viewed in context. The juxtaposition of its design and resultant appearance would therefore appear discordant with the prevailing character of the street.
9. Furthermore, while several properties within Rozel Road have roof lights, from my observations these are set predominantly above the first floor and within the roof slope. In contrast, the roof lights within the proposed development would be set at the first floor, viewed alongside the windows of the adjoining terrace. As such, their position would likely be highly visible and therefore would result in greater prominence.

10. Submitted plans show that the proposed solar panels would be laid on the flat section of the main roof. Whilst no details of their upward projection from the roof have been submitted, it is clear that these features would be flat and plans specifically state they would not be visible from ground level. Given the appellant's intentions, I am satisfied that the matter could be addressed by a suitably worded condition if I were minded to allow the appeal. Subject to the imposition of such a condition, I am satisfied that the proposed solar panels would not result in harm to the character and appearance of the surrounding area.
11. Whilst the design and materials used on the elevations of the modern development adjacent to No 2 contrast with nearby properties, its first floor was vertical to the street and the main body appeared to terminate approximately in line with the eaves line of its immediate neighbour (No 2). However, this would not be the case with the appeal before me. I have not been provided with the circumstances relating to its presence and as such, I do not consider this case to be comparable.
12. For the reasons given above, I conclude that the proposed dwelling would be materially harmful to the character and appearance of the surrounding area contrary to Policies Q2, Q5, Q7 and Q8 of the Lambeth Local Plan 2020-2035 (Local Plan) which collectively seek, amongst other matters, to ensure development maintains visual amenity from adjoining sites, and where its bulk and scale/mass adequately preserve or enhance the prevailing local character.
13. The Council contend that the proposed development would be contrary to Q6 of the Local Plan. This relates to urban design and the public realm and seeks, amongst other matters, for the building line of new development to maintain or improve upon the prevailing building line. As the submitted plans show that the main ground floor building line on Rozel Road would be maintained, I do not find conflict with this Policy. However, this does not affect my conclusion that the proposed dwelling would cause material harm to the character and appearance of the surrounding area.
14. The council also contends that the proposal would be contrary to Policy Q14 of the Local Plan. However, this policy relates to development in gardens and amenity spaces and is not directly relevant to matters surrounding character and appearance. As the main area of dispute subject to this appeal relates to character and appearance, this policy is not applicable to this main issue.

Living conditions - Existing occupiers Nos 9 and 11

15. The main rear elevations of Nos 9 and 11 overlook their modest rear gardens and the appeal site. No 11 appears to have extended its outrigger at the first floor with a glazed extension. This results in its rear elevation projecting beyond the rear of properties within the same terrace. The proposed development would abut the common boundary and extend along their entire length, with its first-floor flank elevation set in from the shared boundary with Nos 9 and 11 by approximately 1.585 metres.
16. The appellant has provided photographs taken from 'Move The Market' which they contend relate to the internal arrangement of No 11. Whilst the Council do not dispute the accuracy of the images, it does state that they are undated. Image 5 shows the ground floor rear wall recessed beneath the first-floor glazed element however, I saw that the wall was flush and had an oriel window inserted. Furthermore, whilst it is clear from Image 7 that the largely glazed room to the rear was a bathroom, I saw clear glazing to windows in both the end and side elevations.

Given that the images were associated with sales particulars and are undated, I am not certain whether this room is still a bathroom. I therefore attach little weight to the appellant's claim that this room is not habitable.

17. The appellant has drawn my attention to an extract of a floor plan and section they contend relates to No 9. The Council does not dispute these and based on the evidence and observations on site, I have no reason to take a different view. Whilst the ground floor of the proposed development would extend across the rear boundary, the submitted Side Elevation (South) plan shows that it would not project above the existing boundary wall. The proposed first-floor element would however, project above the wall and across part of the rear boundary and would, therefore be visible from No 9. Even if the ground floor kitchen of No 9 extends the full width of the plot and is largely glazed, it is likely that views towards the first floor of No 8a would predominantly be at an angle. As such, occupants would retain a largely unobscured outlook. With regard to habitable rooms within the first and second floors, these are set within its main rear wall and would be set a significant distance from the proposed development. Given the separation, I do not consider the outlook for existing occupants from these rooms would be materially harmed.
18. My attention has been drawn to appeal Ref APP/N5660/A/06/2015145² to which submitted plans show the front and rear elevations only of a two-storey dwelling with a mono-pitched roof sloping towards Nos 9 and 11. The dwelling appears to be constructed approximately on the common boundary with Nos 9 and 11 and has an eaves line which projects above the eaves of No 8. Given the separation distance between the flank elevation and Nos 9 and 11, together with the overall height of the and design of the dwelling, I do not consider that this scheme is similar to the appeal before me.
19. I conclude that whilst I have found that the proposed development would provide an adequate outlook for occupants of No 9, this would not be the case with respect to occupants of No 11. Accordingly, the proposed development conflicts with Policy Q2 of the Local Plan which seeks to ensure, amongst other matters, that development provides an adequate outlook and avoids wherever possible any undue sense of enclosure or unacceptable levels of overlooking.

Living Conditions - Existing occupiers Rozel Road and Turret Grove

20. The proposed development would be sited adjacent to the residential property of No 8 Rozel Road and similar noise-sensitive properties on Turret Grove. The Council contend that insufficient evidence has been provided with regard to the predicted noise levels to ensure acceptable living conditions for occupiers on Rozel Road and Turret Grove.
21. Whilst the appellant states the ground source heat pump and mechanical ventilation and heat recovery system would be located inside the proposed dwelling thereby reducing sound disturbance, submitted plans do not show where these would be located. I have nevertheless considered whether a condition to secure details of energy efficiency technologies and noise associated with them would address the Council's concerns. Whilst an internal location would reduce noise externally, I have nothing to demonstrate that they could be located internally. In this instance, I am not satisfied that otherwise unacceptable development could be made acceptable through the use of a condition.

² Planning application ref 06/00370/FUL

22. For the reasons given above, in the absence of any mitigation, and in the absence of a noise assessment to address the Council's concerns, I conclude that noise would result in harm to the living conditions of occupants within the nearby noise-sensitive properties. As such, the proposed development would be contrary to Policy Q2 of the Local Plan which states, amongst other matters, that the adverse impact of noise is reduced to an acceptable level through the use of attenuation, distance, screening, or layout/orientation.

Living conditions – future occupiers

23. Plans submitted show one bedroom within the first floor (Bed 3). The Council states that this room would achieve adequate sunlight exposure of approximately 5.8 hours. However, refusal reason 1 contends, amongst other matters, that by virtue of the obscure glazing future occupiers of this room would have inadequate levels of sunlight.
24. I note that the submitted Daylight and Sunlight Report (Within Development) dated 24 October 2023 does not clarify whether its assessment of Window 16 included partial obscure glazing. However, given the Council's contradictions and having regard to recent case law³, I am satisfied that the light levels within this room would be adequate for future occupants.
25. The proposed dormer window would be obscurely glazed up to approximately 1.8 metres from the finished floor level, above which would be clear glazing. From approximately 1.8 metres, views would be unobstructed and would be predominantly of the sky. This outlook would be similar to habitable rooms within roof spaces served solely by roof lights. Taking into account the proposed light levels, together with the fact the Council found no harm with the floor-to-ceiling height or the internal floorspace, I consider the outlook for future occupiers would be acceptable.
26. For the above reasons, I conclude the development would provide adequate living conditions for future occupants with particular regard to sunlight and outlook. Consequently, there would be no conflict with Policy H5 of the Local Plan which seeks, amongst other matters, to ensure new residential development accords with the principles of good design.

Other Matters

27. During the course of the appeal the appellant submitted a Unilateral Undertaking: to secure membership to a Car Club and Cycle Club for residents, restrict future residents from obtaining car parking permits, and include payment of the Council's Monitoring Fee. However, the Council has raised concerns regarding its effectiveness and enforceability and requested it to be changed. Had I been minded to allow the appeal then I would have gone back to the appellant for comments. Given that I am dismissing the appeal for other reasons, I have not needed to consider this matter further.
28. The appeal scheme before me is a resubmission of a preceding application refused by the Council Ref 23/01350/FUL. I appreciate that the appellant has attempted to overcome the concerns previously raised, however, the amendments would still result in a proposal which would harm the character and appearance of the street and the living conditions of nearby occupiers.

³ Bounces Properties Limited v Secretary of State [2023] EWHC 735 (Admin)

29. Whether or not the Council undertook a site visit falls outside the scope of my assessment which must focus on the planning merits of the appeal proposal.

Conclusion

30. Given my findings above, the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
31. Therefore, I conclude that the appeal should be dismissed.

L Clark

INSPECTOR