



Appeal Decision

Site visit made on 5 February 2025

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2025

Appeal Ref: APP/N5660/W/24/3350989

218 Railton Road, Lambeth, London SE24 0JT

- 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 Mrs Lilly Shi against the decision of the Council of the London Borough of Lambeth.
 - The application Ref is 23/02323/FUL.
 - The development proposed is described as 'Erection of retail of single-story ground floor and first-floor rear extension to create 2-bed s/c flat'.
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Decision

1. The appeal is allowed and planning permission is granted for Erection of a single storey ground floor rear extension to the retail unit including an extractor flue plus 2 No. roof lights and first-floor rear extension to the maisonette unit, together with replacement of the shopfront to create a new separate entrance door to the maisonette at 218 Railton Road, Lambeth, London SE24 0JT in accordance with the terms of the application, Ref 23/02323/FUL, and subject to the conditions set out in the schedule to this decision.

Application for costs

2. An application for costs was made by Mrs Shi against the London Borough of Lambeth. This application is the subject of a separate Decision.

Preliminary Matters

3. The description of development in the banner heading above has been taken from the planning application form. However, the appellant's appeal statement includes different wording which better captures the scope of the development and reflects the description in the Council's Officer Report. I have therefore used this revised description in my decision. However, whilst the description given in the Council's Decision Notice is also similar, I have not included the additional wording it includes because the appeal proposal would not create a self-contained maisonette.

Main Issue

4. The main issues are:
 - whether the proposed development would exacerbate existing parking stress and congestion on the surrounding highway network; and
 - whether sufficient refuse and recycling storage could be provided.

Reasons

Parking and congestion

5. The appeal site consists of a terraced property in the Herne Hill District Centre and is situated almost opposite the railway station. Although currently vacant, the property contains a residential maisonette above the ground-floor commercial (hot food takeaway) unit. The former is only accessible through the latter. However, whilst this may not be ideal for either of the uses, the two-bed maisonette is nonetheless already a self-contained residential unit given it contains the main features necessary for private day-to-day domestic existence and is separated from the takeaway by a stairway door. The available evidence does not indicate that either the ground-floor takeaway or the residential maisonette are unlawful.
6. London Plan (LP) Policy T6 seeks to restrict car parking and sets out that car-free development should be the starting point for all development in places that are well-connected to public transport. Consistent with this, Policies T1 and T6 of the Lambeth Local Plan 2020-2035 (LLP) seek to maximise trips made by sustainable modes and reduce ownership and use of the private car. Alongside LP Policy T5 and LLP Policy T3 which seek to promote cycling and ensure sufficient provision of cycling facilities, there is, therefore, a clear policy intent towards promoting active travel, restricting the use of private vehicles and reducing parking demand.
7. Nevertheless, the appeal proposal involves extensions and alterations to the building and would neither create an additional/new residential unit nor change or override the site's lawful uses and any restrictions on them. On this basis, and with the maisonette remaining as a two-bed unit, the proposed development would not be likely to increase the use of private vehicles or demand for parking compared to what can occur under the current lawful uses of the site. The improved access arrangement proposed for the maisonette, via the provision of a separate entrance door, does not lead me to a different conclusion.
8. Accordingly, the proposed development would not significantly change existing levels of congestion or parking demand in the locality. Conversely, the extended maisonette would include a separate bicycle storage area, which the existing unit does not have. On this basis, mitigation such as that identified in part C of LP Policy T4 and part B of LLP Policy D4, is not needed. A planning obligation restricting access to resident parking permits and providing car club membership is thus not necessary to make the development acceptable. With the proposal not providing a new residential unit, cycle hire membership, as per LLP Policy T3, is not applicable either.
9. For the above reasons, I conclude that the proposed development would not exacerbate existing parking stress and congestion on the surrounding highway network. Consequently, mitigation in the form of a planning obligation is not necessary. I therefore find that the appeal proposal does not conflict with LP Policies T4, T5 and T6 or LLP Policies D4, T1, T3 and T6.
10. The Council also alleges a conflict with LP Policy DF1 with regards to this matter. However, my attention has not been drawn to any words in it that are relevant to this issue. The policy has therefore not been determinative in my decision.

Refuse and recycling storage

11. The proposed plans do not show where refuse and recycling would be stored. However, as identified in the appellant's appeal statement, there would be space beyond the rear of the ground-floor extension to store waste for the commercial unit. In addition, whilst the maisonette would not have access to any ground-floor or outside storage space, such situations are not unusual where residential units are located above commercial premises which front on to the street.
12. In such circumstances, the Council's Refuse & Recycling Storage Design Guide indicates that internal provision may be only option, with a dedicated, sufficiently sized and carefully considered storage space provided within the kitchen. I have little substantive evidence that this could not be provided. The Lambeth Waste Team's consultation response – as detailed in the Council's Officer Report – also indicates it would have no concern with sack collections continuing at the property. On this basis, and given that the Council's original Officer Report (dated 10/10/2023) did not identify this matter as unacceptable, there is little before me which indicates that full details of waste storage cannot be secured by condition.
13. For the above reasons, I conclude that sufficient refuse and recycling storage could be provided. I therefore find that the appeal proposal does not conflict with LLP Policies Q2 and Q12 which, amongst other aspects, expect sufficient refuse and recycling storage and suitable living conditions for residents.

Other matters

14. Concerns have been raised by a third party about the proposed extraction system with regards to odour, grease and moisture. However, despite the poor dispersion in the locality, the cooking type having a high odour risk and the proximity of surrounding residential uses, the submitted evidence indicates that issues such as odour and noise from use of the replacement extraction system serving ground-floor takeaway can be appropriately managed subject to further details. A condition can secure this and thereby ensure that adjoining occupiers' living conditions are not harmed by the proposed change to the extraction system.

Conditions

15. Although the Council did not submit an appeal statement, I have had regard to the planning conditions listed in its original Officer Report (dated 10/10/2023) which recommended approval of the proposed development. I have considered those conditions against the tests in the National Planning Policy Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents and for clarity and consistency.
16. In addition to the standard time limit condition, I have imposed a condition requiring the carrying out of the development in accordance with the approved plans in the interests of certainty. The condition relating to external materials is necessary in the interests of the character and appearance of the surrounding area.
17. Conditions 4, 5 and 6 are necessary, reasonable and relevant in relation to the living conditions of adjoining occupiers. Condition 7 is necessary to ensure that acceptable storage for refuse and recycling is provided. However, because the ground- and upper-floor uses of the building are already established and the

appeal proposal does not seek to change the uses, I have amended the timing clauses in conditions 4, 5 and 7, which would otherwise have been unreasonable.

18. The appellant has questioned conditions 4 and 5 given that the business has been operating for several decades without complaint from neighbours. However, the proposed development involves the installation of new extraction and filtration equipment to serve the takeaway and the submitted reports indicate that mitigation is needed to avoid the equipment resulting in unacceptable levels of odour and noise. The conditions are therefore necessary, relevant and reasonable. In coming to this view, I have taken into account the takeaway's size and history of use, the proposed extraction and filtration system replacing the old system with newer technology, and the likely costs associated with meeting the conditions.
19. The development's relatively limited scale means that the Council's suggested condition requiring a method of construction statement would be neither necessary to make the development acceptable nor reasonable. Given that the appeal proposal does not involve a proposed change of use, restricting the hours of operation of the ground floor (takeaway) unit would also be neither reasonable nor relevant to the development. I have therefore declined to impose both conditions.

Conclusion

20. For the above reasons, and having had regard to all other matters raised and the submitted evidence, I conclude that the proposed development accords with the development plan. The appeal is therefore allowed.

T Gethin

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. S1 (Location Plan and Block Plan); Drawing No. 01 (existing floor and roof plans); Drawing No. 02 (proposed floor and roof plans); Drawing No. 03 (existing elevations); and Drawing No. 04 (proposed elevations and section).
- 3) The external materials of the development hereby permitted and work of making good shall match those used in the existing building except where indicated on the approved plans or otherwise required by other conditions.
- 4) Prior to first use of the ground-floor rear extension hereby permitted, a full specification of the kitchen fume extraction and filtration equipment, with supporting schematic and elevational plans and an ongoing maintenance and cleaning plan, shall be submitted to and approved in writing by the Local Planning Authority. The scheme of filtration and the layout of the proposed odour mitigation shall be in accordance with the recommendations of the Odour Impact Assessment dated (by Noise Assessments Ltd, dated 25/05/2023) and shall be designed to meet the stated dwell times of Section 7 of the report. The ground-floor rear extension shall not be brought into use until the approved details are fully implemented and written confirmation from the installer is submitted to the Council which confirms compliance with the dwell times stated in Section 7 of the submitted Odour Impact Assessment. The approved fume extraction and filtration equipment shall thereafter be retained and maintained in working order for the duration of the use in accordance with the approved details.
- 5) Installation of the kitchen services plant hereby approved shall be undertaken in accordance with the specifications detailed in the Noise Impact assessment (by Noise Assessment Ltd, dated 25/05/2023). Prior the ground-floor rear extension being brought into use, a post installation report shall be submitted to and approved in writing by the local planning authority. The report shall be carried out by a suitably qualified person, include suitable noise measurements and calculations confirming compliance with the standards approved, and as a minimum the standard that shall be met is a noise rating impact at the closest sensitive receptor of no more than 3dBA above background when calculated in accordance with BS4142. The approved details and attenuation measures shall be permanently retained and maintained in working order for the duration of the use and their operation.
- 6) The kitchen services plant hereby approved shall not operate outside the hours of 07.00 – 00.00 at any time.
- 7) Prior to first use of the extensions hereby permitted, details of the waste and recycling storage for the residential and commercial uses on the site shall be submitted to and approved in writing by the local planning authority. The storage shall be provided in accordance with the approved details prior to first use of the extensions and shall thereafter be kept available for storing waste and recycling.

END OF SCHEDULE