



Appeal Decision

Site visit made on 27 February 2025

by **M Cryan BA(Hons) DipTP MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1st May 2025

Appeal Ref: APP/N5660/W/24/3355228

83 Park Hill, London SW4 9NX

- 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 P O'Sullivan against the decision of the Council of the London Borough of Lambeth.
 - The application reference is 24/00311/FUL.
 - The development proposed is the erection of 3no. dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. On 12 December 2024 the Government published a revised National Planning Policy Framework ("the Framework"), replacing the December 2023 version extant at the time the Council determined the planning application. Both main parties' final appeal submissions were made in the light of the revised Framework, and I have not therefore sought further comments on the changes. Where I have referred in my decision to specific paragraphs of the Framework, the numbering used is that of the December 2024 version.
3. The proposed development was described on the planning application form as the "erection of 3no. dwellings (revised application to extant permission 19/04459/FUL for the erection of 3 dwellings)". That earlier planning permission ("the 2020 permission"), granted on 7 October 2020, has now lapsed; in any event the reference to it is not strictly a description of development. I have therefore used a shorter description of the proposal in the banner heading above. I address the 2020 permission at relevant points of my reasons below.
4. The decision notice issued by the Council gave three reasons for which it had refused planning permission. The third reason related to securing a car-free development by preventing occupiers of the proposed dwellings obtaining permits for the local Controlled Parking Zone, and by providing car club and cycle hire scheme memberships for residents of the development. The Council's officer report was clear that its concerns on this matter would have been addressed if a suitable planning obligation had been provided. The need for such a mechanism was not disputed by the appellant, and a completed "Section 106 agreement" was submitted during the appeal. Neither the need for a planning obligation nor the submitted agreement were addressed further by the Council during the appeal; although I return briefly to this matter below, based on everything I have seen I am satisfied that it does not need to be addressed as a main issue here.

Main Issues

5. The main issues are whether the proposed development would:
- Provide acceptably safe and efficient access for residents, for servicing and deliveries, and for emergency services; and
 - Comply with the energy sustainability requirements of the development plan.

Reasons

Access

6. The appeal relates to a backland plot at the rear of Nos 81 to 87 Park Hill which, at the time of my site visit, was largely overgrown with vegetation including several trees. No 83 Park Hill, with which the development would be closely associated, is a modern building of nine flats over five-storeys (plus basement); Nos 81, 85 and 87 are mid-19th century dwellings with three storeys (plus basements). The site backs on to Mayfield Close, a private cul-de-sac serving a low-rise late 20th century residential development, from which it is separated by a brick wall.
7. The proposed development is the erection of three detached two-storey (plus basement) dwellings; two with three bedrooms, and one with two bedrooms. It is intended that the new development would provide car-free housing. Pedestrian access would be provided from the front forecourt of No 83 Park Hill; the “primary” route would be a pathway between No 81 and No 83, with a “secondary” route through the communal hallway and corridor on the ground floor of No 83.
8. The primary route would involve a walk of around 80 or 90 metres from the street to the new dwellings’ front doors. For a good part of this length, the pathway would be no more than 1m or so wide; at some points between No 81 and No 83 even this limited width would be further constrained by meter cabinets, rainwater downpipes and the like. Its narrowness would make it hard for two people on foot to pass one another in reasonable comfort, and anyone looking to manoeuvre a bicycle (which would be necessary to get to and from the three dwellings’ cycle stores) or pushchair in or out of what is, presumably, intended to function as family housing would be likely to find it extremely difficult and inconvenient.
9. The 90° corners, including at some of the narrowest parts of the path, would severely limit visibility for users; while the path would be securely gated, I saw on my site visit¹ that it offers a relatively dark and secluded route into and out of the site. Even if future occupiers or visitors found that they were physically able to pass safely along the path, there would still be likely to be a significant *perceived* lack of safety. Nevertheless, as the primary access route it is to be expected that the pathway would be used frequently; the comings and goings to the three new dwellings, especially at the rear of No 81 where the pathway would be very close indeed to ground floor rooms in that building, would also be likely to lead to unacceptable noise disturbance to neighbours.
10. The appellant states that the alternative route, through the ground floor of No 83, “is intended to be a secondary access and an alternative simple option if large deliveries find that they cannot utilize the proposed passageway”, and that it is “not intended to be regularly used by future occupiers or visitors”, though it is not clear

¹ On what was a bright and reasonably sunny day, even in February.

to me how this could practically be controlled. That route has the advantage of being more direct, and through more hospitable surroundings, than the external path; it is likely that it may be preferred for regular use by at least some future residents. However, the internal corridor within No 83 is also very narrow, and has a hard floor² which would be likely to accentuate noise within that building. There would be increased comings and goings, and disruption when large or cumbersome items needed to be moved along through the corridor (which, with three new family dwellings to serve might be a reasonably frequent occurrence). The internal corridor was clearly not intended to serve three additional family dwellings; its use for that purpose would be likely to cause significant noise disturbance to residents of the ground floor flats.

11. In terms of emergency service access, the development would incorporate a dry riser between the front of the site on Park Hill and the three dwellings, which would allow water to be pumped through for firefighting. However, the convoluted access routes would be likely to make it difficult for firefighters or ambulance crews to quickly enter the site in an emergency. The narrowness of the passageways would also make it difficult to evacuate (by stretcher, trolley or wheelchair) anyone needing emergency medical treatment and unable to leave under their own steam.
12. In respect of deliveries of parcels and the like, the appellant suggests that “the use of a camera doorbell would easily enable residents of the dwellings to communicate with delivery drivers that they are on their way” and that, as “servicing drivers are typically familiar with their delivery routes, most drivers would know that residents of this particular site would need to walk out for a minute, prior to reaching the wider site access point”. However, that assumption seems to me to rely on drivers having both the site-specific knowledge and the time to wait more than a few seconds, something which based on my own experience might be considered an optimistic and unrealistic expectation of busy people having to make perhaps dozens of tightly scheduled deliveries a day. While this consideration might not be fatal to the scheme in its own right, it is a further illustration of the poor arrangements for access and servicing of the proposed development.
13. I note the appellant’s comments that “the non-typical walking distance and indirect walking route [...] is also not very different from a residential access into a large flatted complex”, and that the access arrangement would be “not uncommon in a dense urban environment”. The immediate surroundings are characterised by residential buildings in reasonably spacious settings, rather than being the type of area where it might be expected to find dwellings down extremely narrow alleyways (as might conceivably be the case in some parts of more central London, for example). In terms of both safety and convenience, the proposed access arrangements fall well short of what in my experience would be expected even in a small scheme. I acknowledge that occupiers would be likely to anticipate at least some of these shortcomings before they moved into the new dwellings, although an unacceptable situation is not made acceptable simply because future residents may be aware of it.
14. I conclude that the development would not provide acceptably safe and efficient access for residents, for servicing and deliveries, or for emergency services. It would therefore not comply with Policies T3 and T7 of the 2021 Lambeth Local Plan (“the LLP”); together, and among other things, these policies seek to ensure

² Of timber, or timber-effect, laminate.

that adequate provision is made for cycle parking, and for servicing appropriate to the scale, form and location of the proposed development. I find no specific conflict with Policy T6; that policy was also referred to in the decision notice but relates to car parking matters which do not appear directly relevant to this issue.

Energy sustainability

15. Policy EN4 of the LLP sets out the Council's requirements for sustainable design and construction, including that minor residential developments such as the appeal scheme must achieve a minimum on-site reduction in regulated carbon emissions of at least 19 per cent beyond Part L of the Building Regulations, unless it can be demonstrated that such provision is not feasible. A Sustainability and Energy Statement ("SEA") was submitted as part of the planning application. The SEA was prepared in March 2020 and originally submitted and verified as part of the 2020 permission; to the best of my knowledge, it has not been updated since then. No independent verification of the SEA has been carried out in respect of this appeal scheme.
16. During the appeal the appellant indicated that they would be willing to pay the verification fee, though there is nothing before me which would secure this. They also questioned whether it would (in effect, though I paraphrase) be an unauthorised planning fee. I have no information before me as to how much the fee would be or how it would be calculated, so cannot determine whether it might be excessive or otherwise unreasonable. However, even the SEA submitted for a small scheme of three dwellings is a technical document of some complexity, and it appears to me that the certainty sought by Policy EN4 is only likely to be provided by independent verification. As such, in my view the cost of independent verification should realistically be seen as an integral part of preparing a development scheme rather than an additional fee for processing a planning application.
17. The development plan has changed since the 2020 permission was granted; both the LLP and the current version of the London Plan were adopted in 2021. Not only that, as the appellant's evidence noted, the Greater London Authority's energy assessment guidance was updated in 2022. While the three dwellings proposed here would be essentially the same as those granted permission in 2020 (insofar as this main issue is concerned), the changes in planning policy and guidance mean that it cannot be taken as read that energy sustainability measures proposed five years ago would be considered adequate or acceptable today.
18. I conclude that sufficient information to demonstrate that the development would be carried out in accordance with the energy sustainability requirements of the development plan has not been provided. Consequently, the proposed development does not comply with Policy EN4 of the LLP, the principal relevant requirements of which I have set out above, or with Policy S11 of the London Plan 2021 which seeks to improve air quality.

Other Matters

Planning Obligation

19. As I have explained in paragraph 4 above, a completed Section 106 agreement was submitted during the appeal. It contains provisions in respect of restricting access to residential parking permits and providing car club membership for future residents of the proposed development. The Section 106 agreement is intended to

mitigate the effects of the proposed development, and as I am dismissing the appeal for other reasons it has not been necessary for me to consider it in further detail.

Conservation Area

20. The appeal site is within the Clapham Park Road and Northbourne Road Conservation Area, and I therefore have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The Conservation Area is predominantly characterised by 19th century suburban houses set in verdant and spacious gardens, although it is also interspersed with later residential development, as I have briefly described above. The Council's 2023 Conservation Area Character Appraisal notes that this mix "usefully illustrate[s] the fragmented pattern of historic development of the area".
21. The development of this site was considered in an earlier appeal decision relating to what I understand to be a broadly similar development³, in which the Inspector concluded that the character and appearance of the Conservation Area would be preserved. The Council's officer report in respect of this scheme noted that the development would "integrate well with the varied forms and scales of nearby development, particularly Mayfield Close", and that it would preserve the character of the Conservation Area. None of the evidence before me leads me to a different view on this matter; I am satisfied that the character and appearance of the Conservation Area would be preserved.

Previous permission

22. The appellant contends that the principle of the development was established by the lapsed 2020 permission, though I note that the Council did not in fact raise any "in principle" objections in this case. The development allowed by the 2020 permission would also have been car free, but with pedestrian and cycle access from Mayfield Close; this would have allowed quick, convenient and safe access to all three dwellings for residents and, presumably also, deliveries and the emergency services. In this case, it is intended that site access from Mayfield Close would only be available during the construction period. For the reasons I have set out in addressing the first main issue, this is a fundamental difference between the two schemes. The earlier grant of planning permission does not therefore weigh significantly in favour of this particular proposal.

Housing delivery; other benefits of the scheme

23. The development would provide three new dwellings. It would therefore make a positive contribution to the supply of housing, albeit a small one. There would also be social and economic benefits arising from the scheme, including jobs and support for local contractors and suppliers during the construction phase, and the introduction of new households which would be likely to help sustain local businesses; again, given the scale of the development, these would be modest in total.
24. The Framework states that where a local planning authority cannot demonstrate a five-year supply of deliverable housing sites, its policies for the supply of housing are out of date and proposals should be considered in the context of the

³ PINS Ref: APP/N5660/W/17/3184501; that appeal was dismissed for other reasons.

presumption in favour of sustainable development set out in Paragraph 11. This was not at issue when the planning application was determined or at the beginning of the appeal process, but the December 2024 changes to the Framework, and associated amendments to the “standard method” for calculating local housing need mean that the appellant considers that the Council is “now unable to demonstrate a housing land supply of five years based on the housing delivery test”.

25. Taking a precautionary approach on this point, in view of the lack of substantive evidence before me I do not find that the most important development plan policies are out-of-date. However, even if I were to accept that the Council does not have a five-year supply of deliverable housing sites, it does not necessarily follow that the appeal should be allowed.
26. For the reasons I have set out in considering the first main issue, the proposed development would not provide safe and suitable access for all users, for the efficient delivery of goods, or for access by emergency vehicles. It would be unlikely therefore to function well over its lifetime. In these respects, there would be conflict with the provisions of Paragraphs 115, 117 and 135 of the Framework. For the reasons set out in considering the second main issue, it has not been demonstrated that the development would include adequate energy sustainability measures; there would therefore be further conflict with the provisions of Chapter 14 of the Framework which address, among other things, meeting the challenge of climate change. I consider that these harms would significantly and demonstrably outweigh the benefits associated with the provision of three additional dwellings.

Conclusion

27. The proposal would conflict with the development plan taken as a whole. There are no material considerations, including those of the Framework, which indicate that the decision should be made other than in accordance with the development plan.
28. For the reasons given above, the appeal is therefore dismissed.

M Cryan

Inspector