



Appeal Decision

Site visit made on 4 June 2025

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th July 2025

Appeal Ref: APP/N5660/W/24/3354709

121 Broxholm Road, London SE27 0BJ

- 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 Elisha Koppel against the decision of the Council of the London Borough of Lambeth.
 - The application reference is 24/02310/FUL.
 - The development proposed is the conversion of existing two flats into three flats including a basement extension at the front and rear with front and rear light wells, ground floor single-storey rear extension and associated works; insertion of rooflights to outrigger; provision of refuse and cycle store.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether sufficient information has been provided to demonstrate that the proposed basement development would not have unacceptable impacts, including in respect of the ground water environment and land stability (including the structural integrity of neighbouring properties);
 - Whether the development would provide acceptable living conditions for future occupiers, with regard to outlook, daylight, amenity space, and privacy and overlooking; and
 - The effect of the proposed development on demand for on-street parking; and
 - Whether the development would adequately promote and support the use of sustainable means of travel.

Reasons

3. No 121 Broxholm Road is a part two-, part three-storey semi-detached property, currently divided into two two-bedroom flats. The proposed development is the reconfiguration of the property to provide three flats; two with two bedrooms, and one with three bedrooms. The scheme includes various works to facilitate the conversion, including the enlargement of an existing basement at the front of the property including front extension and lightwell, the excavation of a new basement and construction of a ground floor extension at the rear, and the provision of refuse and cycle storage, including a cycle hangar in the rear garden.

Basement development

4. Policy Q27 of the 2021 Lambeth Local Plan (“the LLP”) addresses basement development in the borough. Among other things, it is supportive of basement development only where it is demonstrated that it would not cause harm to the neighbouring structures, or to the ground or water conditions of the area. It requires a site- and development-specific Basement Impact Assessment (“BIA”) to be submitted at planning application stage. No BIA has been submitted in respect of the appeal proposal.
5. Planning permission was granted in May 2022 for a development at the appeal property described as the “erection of a ground floor single storey rear extension, together with the extension of the existing basement”¹. A BIA was provided as part of that application; the appellant stated that one was not provided here as the appeal scheme is “primarily a request for change of use on an agreed footprint of development therefore it should not be required to be resubmitted”.
6. As can be seen from the description of the scheme in this appeal, the development for which permission is sought includes the creation of new basement space at the front and rear of the building²; it is quite independent of the earlier permission which has not yet been carried out. Furthermore, the evidence before me is that the basement layout in this scheme would be different to that in the earlier permission, so it cannot be assumed that the conclusions of the previous BIA are valid for this proposal.
7. I conclude that sufficient information to demonstrate that the basement development would not have unacceptable impacts, including in respect of the ground water environment and land stability, has not been provided. Consequently, the proposed development does not comply with Policy Q27 of the LLP, the principal relevant requirements of which I have set out above.

Living conditions

8. The two bedrooms in Flat 1 would be at the front of the proposed front basement; they would be entirely below ground level, and would be served by a lightwell in the forecourt. The windows of those rooms would face an escape stair and the wall of the lightwell form a very close range. This would give those rooms a very limited and, in my view, oppressive outlook.
9. The planning application included a daylight analysis for the proposed basement bedrooms³ in Flats 1 and 2, which found that all three would receive adequate daylight. The Council considers that the daylight analysis does not meet the BRE guidance⁴, for example a narrow corridor area of one of the bedrooms had been included in the target daylight factor assessment grid despite not providing usable space. The appellant’s response during the appeal was simply to reassert that the provided assessment complied with the Council’s requirements.
10. I acknowledge that that the BRE guidance is just that – guidance rather than policy – and should be interpreted flexibly. However, in view of the lack of detailed explanation or analysis provided, including the shortcomings identified by the

¹ LPA Ref: 21/04544/FUL

² I have not been provided with full details of the earlier scheme, but given the date of that planning permission it seems likely that it has expired, as there is nothing before me to suggest that it has been implemented.

³ *Target Daylight Factor Analysis*, Norton Mayfield Architects 6 June 2024

⁴ *Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice*

Council, I cannot conclude on the basis of the submitted assessment that all the future occupiers of the development would receive adequate natural daylight.

11. Policy H5 of the LLP requires the provision of a minimum of 10m² of outdoor amenity space for new flats, either as a private balcony, terrace or garden, or consolidated with communal amenity space. It also states that ground floor flats and family-sized units should *preferably* [my emphasis] have direct access to a private garden.
12. Flats 1 and 3 would have no private amenity space. Flat 2, a three-bedroom six-person family-sized unit, would have its own outdoor space of around 12m² and, beyond this, access to the rear garden. The appellant has stated that the rear garden would be communal for the use of occupiers of all three flats and indeed, as it would be the location of the proposed cycle hangar, it would need to be. However, the dedicated space for Flat 2 is shown in the submitted drawings as being surrounded by low, open railings; communal use of the rear garden would result in residents of other flats overlooking that space from a short distance, limiting its privacy and, therefore, its usefulness for its intended purpose.
13. The front lightwell (described in paragraph 8) would also be enclosed with low, open railings, such that anyone walking around the front forecourt would be likely to have clear views into the two bedrooms of Flat 1. Residents of Flat 3 would need to pass that way to access the rear garden and cycle hangar as well as, as the scheme is currently configured, the refuse and recycling bins at the front of the property. Moving the bins to the left hand of the forecourt⁵, as suggested by the appellant, would mean the occupiers of Flat 2 having to pass the lightwell at close range to access them. Either arrangement would be likely to lead to the occupiers of those two bedrooms having limited privacy.
14. An alternative suggestion put forward by the appellant in respect of both the lightwell for Flat 1 and the amenity space for Flat 2, is that a condition could be imposed requiring additional screening be installed. However, it is quite possible that providing screening which was taller, more solid, or both, than the open fence currently proposed would have an adverse impact on daylight reaching basement rooms. On the basis of the evidence before me, I cannot therefore be satisfied that such a condition would provide acceptable mitigation.
15. I conclude that, because of its shortcomings in respect of outlook for Flat 1, daylight and privacy for Flats 1 and 2, and private amenity space for Flats 1 and 3, the development would not provide acceptable living conditions for future residents. It would therefore conflict with Policies Q2 and H5 of the LLP, and with Policy D6 of the London Plan 2021. Together, and among other things, these policies seek to ensure that housing development is well-designed, with adequate living and amenity space, and provides a high standard of amenity for all residents.

On-street parking

16. The submitted Design and Access statement indicates that the property has a Public Transport Accessibility Level ("PTAL") of 2; the Council describes this as representing poor public transport connectivity. While the PTAL assessment provides an objective rating of public transport accessibility, in fact the site entrance is only a few metres from a part of Broxholm Road with a PTAL of 4.

⁵ Viewed from the street.

West Norwood and Tulse Hill railway stations are reasonably close by, and numerous bus routes serve Norwood Road; overall, it seems likely that residents of the proposed development would have considerably better access to public transport than a PTAL of 2 would suggest.

17. No parking survey was submitted in respect of the appeal proposal. The Council's officer report noted that "existing (kerb-side) parking stress is high along nearby streets", though no further information was provided. In spite of this, the site is not within a controlled parking zone ("CPZ"), nor have I been made aware of any firm intention to introduce one in the locality.
18. When I visited the site, in mid- to late-afternoon on a June Wednesday, I saw that a small number of on-street spaces were available within Broxholm Road itself where a car could be parked legally, safely and courteously, though there were more nearby on Royal Circus. The timing of my visit was such that many local people may have been away for work or doing a "school run"; there would be likely to have been many fewer spaces available in the evening or during the weekend. Overall, my observations support the view that the area is one with a reasonably high level of demand for on-street parking, though it did not appear to be "bursting at the seams" in this respect.
19. There is no off-street parking within the appeal site at present, nor is any proposed to be created as part of this development. Policy T6 of the LLP sets a maximum residential car parking standard of 0.25 spaces per unit in areas with a PTAL of 2, so no policy conflict arises simply from proposing to provide less than the maximum number of parking spaces. The development would represent an increase of only one (three-bedroom, 6-person) dwelling over the current position and any of those occupiers using a car would need to seek out on-street parking. However, while a point can clearly be reached where even a small increase in parking demand might cause unacceptable disruption to an area, based on everything I have seen, and even in the absence of a parking survey, I am satisfied that situation would not come about because of this scheme.
20. Policy T6 of the London Plan 2021 says that "car-free development should be the starting point for all development proposals in places that are (or are planned to be) well-connected by public transport. Policy T6 of the LLP requires car-free development where a site has a PTAL of 4 or more, or where it is within an existing or planned CPZ.
21. While the proposed development has been described as car-free, given the absence of a CPZ, for the moment that intended status could not be secured. The appellant states that they have agreed to enter into a legal binding agreement which would restrict the ability of future occupiers to obtain parking permits for any future CPZ, but no completed planning obligation which would secure that commitment has been provided. However, the combination of the site's PTAL and the lack of a CPZ – or any stated intention on the Council's part to introduce one in the near future – mean that, while such a measure would prevent parking stress in the area being exacerbated in the future, it is not at present a policy requirement that the development should be car-free. The absence of a planning obligation does not, on this matter, weigh significantly against the appeal proposal (though I return to it in addressing the next main issue).

22. Taking all this together, I conclude that the proposed development would not have an unacceptable effect on demand for on-street parking. There would be no conflict on this matter with Policy T1 of the LLP which, among other things, seeks to promote sustainable travel, including by reducing dependence on the private car, and to reduce road danger. I also find no conflict with Policy T7 of the LLP which, although referred to in the Council's decision notice, relates to servicing of developments rather than the provision (or not) of parking spaces for residents, and was not therefore determinative as far as this main issue is concerned.

Sustainable travel

23. Policy T3 of the LLP seeks to support and encourage cycling and, among other things, requires that a minimum of three years free membership of the Cycle Hire scheme should be made available for all residents in new developments. Policy T6 of the LLP seeks to provide alternatives to private car ownership, and requires that all development schemes should promote and provide car club membership schemes in place of private parking.
24. Having regard to the relevant policies, I am satisfied that car club and cycle hire scheme memberships would be required to mitigate the impact of the development and, indeed, the appellant has indicated a willingness to provide an obligation under Section 106 of the Act to secure them. However, no obligation is before me. The appellant commented that "there is no way we can execute a section 106 without the Council having issued us one", and that "the Council needs to advise what Section 106 needs to be signed we would gladly execute prior to permission or by condition". However, it would have been perfectly possible for the appellant to provide a unilateral undertaking under Section 106 of the Act which would secure the necessary car club and cycle hire memberships for residents, and in my experience they are a common way of dealing with these matters.
25. The Planning Practice Guidance ("the PPG") is clear that no payment of money or other consideration can be required when granting planning permission⁶. The PPG also advises that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases, not least because ensuring that a planning obligation is entered into ahead of any grant of planning permission provides certainty for all parties about what is being agreed. It suggests that "in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at serious risk"⁷, but there is nothing before me to suggest that such "exceptional circumstances" apply in this case.
26. In the absence of a mechanism to secure the provision of car club membership and cycle scheme membership, the development would not adequately promote sustainable means of travel, or mitigate its effects on the surrounding highway and transport networks. It would therefore conflict with Policies T3 and T6 of the LLP, the principal relevant requirements of which I have summarised in paragraph 23 above. There would also be some conflict with Policy D4 of the LLP, which sets out examples of the types of facilities and improvements for which planning obligations will be sought.

⁶ Paragraph: 005 Reference ID: 21a-005-20190723

⁷ Paragraph: 010 Reference ID: 21a-010-20190723

Other Matter

27. The appellant referred to a scheme at No 85 Broxholm Road where no parking survey was submitted but which had been “approved on appeal”. The Council suggested that this related to a 2006 appeal decision⁸ for a proposal where in fact a parking stress survey *had* been submitted, and where the Inspector found that the development would be unlikely to increase parking stress to an unacceptable level. No further details of that appeal scheme (including a description of the development, or the appeal decision) are before me and, given the age of that decision, the development plan policies are different. It therefore cannot weigh significantly in favour of this appeal scheme.

Planning Balance and Conclusion

28. I have found that the proposed development would be unlikely to lead to an unacceptable or harmful increase in demand for on-street parking spaces, and it would provide an additional family-sized dwelling. However, I have found that there would be significant shortcomings in terms of living conditions within the development, and that it would not make adequate provision to promote sustainable means of travel. Furthermore, the absence of evidence to demonstrate that the proposed basement development could be carried out without harmful consequences is a fundamental failing of the scheme.
29. The proposal therefore conflicts with the development plan taken as a whole. There are no material considerations, including those of the National Planning Policy Framework, that indicate the proposal should be determined other than in accordance with the development plan.
30. For the reasons given above the appeal should be dismissed.

M Cryan

Inspector

⁸ PINS Ref: APP/N5660/A/06/2028105