
Appeal Decision

Site visit made on 7 August 2025

by **P Burley BA (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 September 2025

Appeal Ref: APP/C5690/W/25/3367301

Land adjacent to Vale Lodge, Perry Vale, London SE23 2PB

- 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 Better Properties Ltd against the decision of the Council of the London Borough of Lewisham.
 - The application Ref is DC/24/136242.
 - The development proposed is the construction of new 4-storey building providing 6 no flats on land adjacent to Vale Lodge, Perry Vale SE23, together with associated landscaping, amenity space and provision of a refuse / recycling store & cycle spaces.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal application was determined, the Council has adopted a new local plan – the Lewisham Local Plan (July 2025) (LLP). Before determining this appeal I sought the views of the main parties in respect of this change in circumstances.
3. The appellant noted that the new policies that it considers to be applicable to the appeal scheme (LLP Policies QD1, QD6 and QD8) do not fundamentally alter the approach taken in their statement of case.
4. In respect of affordable housing, the appellant stated that the current policy (LLP Policy HO3) was not adopted at the time that the appeal application was refused and, therefore, that my assessment should focus on the plan that was in force at that time. The appellant also noted that applicants are entitled to have their proposals judged against the framework known and in place at the time of submission and that while now adopted, only limited weight can properly be given to the LLP, as to apply it retrospectively would undermine certainty and fairness in the planning process.
5. As a matter of law, however, I must base my decision on the development plan that is in force at the time of my decision. I cannot have regard to development plan policy which is no longer in force, even if it was the basis upon which the appeal application was determined. Accordingly, I have based my decision on the current development plan which includes the Lewisham Local Plan (July 2025).

Main Issues

6. The main issues are:

- whether the appeal scheme would optimise residential provision, including affordable housing, on the appeal site; and
- the effect of the appeal scheme on the character and appearance of the area.

Reasons

Whether the appeal scheme would optimise residential provision, including affordable housing, on the appeal site

7. Policy QD6, which is noted in the LLP as relating to the plan's strategic aim of delivering "*housing tailored to the community with genuinely affordable homes*", states that development proposals must use a design-led approach to make the best use of land and optimise the capacity of a site.
8. The supporting text to the policy explains that the optimum capacity is not the maximum capacity or density and that the optimum capacity of a site should be informed by the nature and mix of uses proposed. It says that residential-led schemes will generally be supported where density levels are appropriate to the local context and they deliver high-quality and genuinely affordable housing.
9. LLP Policy HO1 says that the Council will work positively and proactively with stakeholders, including development industry partners, to facilitate a significant increase in the delivery of new homes to help meet Lewisham's housing needs. The supporting text to that policy says that development proposals must respond to local need by securing a mix of dwelling sizes, particularly family-sized units (i.e. 3+ bedrooms); that minor development proposals of fewer than 10 units incorporating family-sized units will be considered favourably; and that to help secure inclusive and mixed neighbourhoods and communities, the Council will resist development proposals that will result in an overconcentration of 1- or 2-bed units on a site. In addition, LLP Policy QD8 says that development proposals for housing must meet, and wherever possible seek to exceed, the housing standards set out in the London Plan (2021) (LP).
10. Thus, I find that there is support in the LLP for the mix of dwelling sizes that has been proposed by the appellant. Although the number of dwellings may not have been maximised, the appeal scheme optimises the potential of this site by delivering a mix of different sizes of dwellings, including 3-bed dwellings for which there is a particular need.
11. In respect of whether the appeal scheme would deliver high quality and genuinely affordable housing, the development plan against which the application was assessed included a 10-dwelling threshold for affordable housing. However, the local plan that is now in force includes a different threshold. LLP Policy HO3 says that development proposals for new housing delivering between 2 and 9 dwelling units must make provision for affordable housing, that this should be on-site where feasible, and if not a payment *in lieu* should be made. In explaining the need for affordable housing the LLP notes that there are acute issues of overcrowding and homelessness in the borough, that as of May 2019 there were approximately 10,000 households on the housing waiting list, that the gap between incomes and

housing costs is rapidly widening and, as a consequence, there is a significant local need for affordable housing.

12. As noted earlier, I sought the comments of the main parties as to whether the adoption of the LLP after the appeal application was determined gave rise to any different considerations, including specifically Policy HO3. However, in the context of LLP Policy HO3, the appellant did not provide any substantive justification for not including any affordable housing in the appeal scheme.
13. Accordingly, and in respect of the mix of dwelling sizes, I conclude that the appeal scheme complies with LLP Policies HO1, QD1, QD2, QD6 and QD8, and with LP Policies D3 and H10 which together seek high-quality and inclusive design, to facilitate a significant increase in the delivery of new homes, including a range of different unit sizes, and to optimise site capacity. It also generally accords with the provisions of the Mayor of London's Housing Design Standards LPG (2023) and the Optimising Site Capacity: A Design-led Approach LPG (2023) which says that planning decisions should support development that makes efficient use of land.
14. However, in the absence of any affordable housing or a substantive justification for the failure to provide any, the appeal scheme conflicts with LLP Policy HO3.

Character and Appearance

15. When I visited the site I saw that it is currently undeveloped. It is enclosed by fencing on its southern and eastern sides and whilst there are gates in this fencing, the site does not appear to be capable of being used (for example as informal open space); the ground level is raised and uneven and there was some evidence of rubbish having been dumped amongst the overgrowth.
16. The appeal site has a varied context. To the east is Vale Lodge, a large, four-storey block of flats from the first half of the twentieth century which is faced in brick and render with tiled mansard roofs. To the south / south-east is Ian Court, a three-storey block of flats from the second half of the twentieth century. It is predominantly faced in a yellow brick and the walls of its inset balconies are white. To the north is a postal delivery office, faced in yellow brick and brown corrugated metal. It sits on higher ground than the appeal site and its roof is at a similar height to the roof of Vale Lodge. To the west is a railway line beyond which is a mixed-use development of up to six storeys which is faced in a variety of materials including brown brick, grey panelling and off-white render.
17. The Council has taken issue with the third floor of the appeal scheme and the use of render, stating that it would appear as top-heavy and out-of-place, and that render can show evidence of weathering over time. It has referred to an appeal decision for a nearby development that was dismissed on design grounds but has not provided me with any details of that proposal.
18. I do not consider the design of the third floor to be discordant. The stepping back of the third floor successfully mediates between the heights of Ian Court and Vale Lodge. The use of render would pick up on the rendered panels on the external walls of the lower floors of the appeal scheme, visually uniting the elevations while also giving the top of the building a more recessive appearance. Whilst some types of render can show signs of weathering, if appropriately specified and maintained it can also be an attractive and durable surfacing material.

19. Overall, I conclude that the bulk, scale, massing and appearance of the appeal scheme is appropriate to its context, that it would not have a harmful effect on the character and appearance of the area and therefore, that it is consistent with LLP Policies QD1 and QD10 and with LP Policies D3 and H2. Together these policies seek high-quality design and development which is appropriate to its context, including on 'back land' / small sites.

Other Matters

Parking and Access

20. The site has a public transport accessibility level of 4 (i.e. good accessibility by public transport) and according to LLP Policy TR4 and LP Policy T6.1, the development should be car free (except for parking for disabled people). In its officer report the Council stated that as there is no controlled parking zone (CPZ) in effect on the adjacent roads directly outside the site, had the application been otherwise acceptable the Council would have sought to enter into a legal agreement with the applicant to restrict parking permits being issued to future occupiers in the event that a CPZ was introduced. Given that the development would be car free, I agree that such an undertaking is necessary. The appellant has not submitted a planning obligation in this regard, however. Therefore, this is a matter to which I attach negative weight, albeit only a small amount given the small number of residential units involved.

Living Conditions of Future Occupiers of the Appeal Scheme

21. The total area of all of the proposed flats would meet the minimum space standards in LLP Policy QD8 and LP Policy D6. One flat is not illustrated as having the required 2m² of built-in storage but would have sufficient space to accommodate it. An objector also raised concern about the single bedroom of Flat 6 which would not accord with the minimum required dimensions for such a space, an observation with which I agree.
22. When I consulted the appellant on the LLP I also asked for their views on a pre-commencement condition requiring revised plans to address this non-compliance. However, the appellant only provided a response in relation to the Council's draft conditions which did not include such a provision. In the absence of agreement to such a condition the appeal scheme would conflict with LLP Policy QD8 and LP Policy D6, albeit to a relatively small extent.

Planning Balance

23. Paragraph 11 d) of the National Planning Policy Framework (the Framework) says that where development plan policies which are most important for determining an application are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. According to footnote 8 of the Framework, policies are considered out-of-date where the Housing Delivery Test (HDT) indicates that the delivery of housing in a local planning authority's area was substantially below (less than 75% of) the housing requirement over the previous three years. The Council's officer report says that the HDT demonstrates that housing completions in the borough have been below that threshold and, as such, paragraph 11 d) of the Framework is engaged.

24. The appeal scheme would deliver six residential units in a sustainable location which would include renewable energy generation measures and biodiversity enhancements. However, there would be no affordable housing – for which there is a clear and significant need – and no substantive justification has been provided for this.
25. Furthermore, no planning obligation has been submitted to restrict the future occupants of the appeal scheme from being issued with off-site parking permits and therefore potential impacts associated with off-site parking by the future occupiers of the appeal scheme have not been mitigated. There also remain unresolved issues in respect of compliance with prevailing residential space standards which would result in unsatisfactory living conditions. Whilst these issues are not determinative, I attach a small amount of negative weight to each of them.
26. Overall, I consider that the adverse impacts of granting planning permission significantly and demonstrably outweigh the benefits of the appeal scheme when assessed against the policies in the Framework taken as a whole. The proposed development would not therefore benefit from the presumption in favour of sustainable development found at paragraph 11 of the Framework.
27. Overall, none of the other considerations material to the proposed development indicate that the appeal decision should be taken otherwise than in accordance with the development plan.

Conclusion

28. For the reasons given above, having regard to the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

P Burley

INSPECTOR