

# Appendix 2



# Appeal Decision

Site visit made on 28 October 2022

**by A M Nilsson BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 November 2022**

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**Appeal Ref: APP/C5690/W/22/3296443**

**1-3 Ashby House, Ashby Road, London SE4 1PR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Ashby Road Properties Ltd against the decision of London Borough of Lewisham.
  - The application Ref DC/21/124306, dated 11 November 2021, was refused by notice dated 7 March 2022.
  - The development proposed is the erection of a part single-storey and part two-storey roof extensions to create 3 x new residential homes, and the conversion of an existing studio to create a 3-bed unit, associated cycle and waste storage, and a new green roof.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are 1) whether or not the proposed development preserves or enhances the character and appearance of the Brockley Conservation Area (BCA), and 2) the effect of the proposed development on the living conditions of existing occupants of the appeal building with specific regard to outlook and light.

## Reasons

### *Character and appearance of the BCA*

3. The appeal property is a former office building that has been converted to residential properties. It is set back from the footpath edge and is part single storey and part two storey. It is situated at the junction of Ashby Mews and Ashby Road where in the immediate setting is a variety of building sizes and styles. Ashby Mews, that runs to the rear of the building, is a small-scale commercial/industrial area with workshops and studios in utilitarian buildings, some of which appear to be converted to residential properties.
4. The appeal building also lies between Manor Avenue and Upper Brockley Road. These streets comprise grand three storey terraced properties with long rear gardens. The site sits opposite Royston Court that is a two-storey residential building with roof level accommodation.
5. The appeal site lies within the Brockley Conservation Area (BCA) which is characterised as forming a large Victorian suburb that contains several grand terraces of residential properties with decorative architectural features, set amongst a series of mews that run behind some of the terraces.

6. The proposed development comprises a part single, part two storey roof extension to the existing building. The proposed first floor extension at the front of the building would replicate the design of the existing building in terms of materials, fenestration and detailing. This part of the extension would appear as an infill to the existing building, be no higher than the existing building and although it would increase its overall bulk, I do not find that it would cause harm to the character and appearance of the BCA.
7. The remainder of the extension comprises two distinct forms that adopt similar design approaches utilising profiled zinc cladding. This approach, that includes sloping roofs would depart from that of the host building but would draw cues from the grey windows and surrounds in the host building and the form of the workshop buildings on Ashby Mews. The zinc clad roof extension would, for the most part, be set in from the edges of the building with the result being that it would be legible in its own right and would further warrant departing from the design of the host building.
8. On the Ashby Mews elevation, the roof extension would step down as the building progresses into the mews. The plans show that the extension would be lower than the Royston Court development opposite the site and the descent of the resulting building into the mews would sit comfortably with the buildings in the mews whilst drawing on some of the design features of the mews buildings in terms of materials, colours and form.
9. On the Ashby Road elevation the roof extension creates the most perceptible change to the appearance of the building in relation to its surroundings due to the increase in scale and mass. It would however be seen in the context of the three storey terraces of Manor Avenue and Upper Brockley Road, and opposite Royston Court that has accommodation over three levels.
10. I find that the design approach in this case, whereby a distinct separation from the main body of the host building is proposed, would relieve any potential dominance of the building. This is combined with the set-back from the edge of the building on the Ashby Road elevation, would create an extension that would appear as a softer roof addition as opposed to a potentially more overbearing upward continuation of the existing building in terms of design and siting. The overall scale would remain subservient in the context of the terraced properties either side and would not be out of character within the area as a whole. When combined with the separation from the terraces, I do not consider that the resulting building would visually compete with them.
11. It follows that I do not consider that there would be harm to any of the non-designated heritage assets in the BCA, including Ashby Mews to the rear of the site. Open views to the rear of properties on Manor Avenue and Upper Brockley Road and across their gardens would remain appreciable following the development.
12. I therefore find that the proposed development would not cause harm, and would thereby preserve, the character and appearance of the BCA. It would comply with Policies 15 and 16 of the Lewisham Core Strategy (2011), DM Policies 30, 31, 33 and 36 of the Lewisham Development Management Local Plan (2014) and Policy HC1 of The London Plan (2021). These policies require, amongst other things, that developments conserve the Borough's heritage assets, new development or alterations and extensions to existing buildings are compatible with the special characteristics of the area, its buildings, spaces,

settings and plot coverage, scale, form and materials, and be of high-quality design.

13. The proposed development would also comply with the requirement of the National Planning Policy Framework (2021) (the Framework) that development is of high-quality design, and that heritage assets are conserved in a manner appropriate to their significance, and that when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

*Living conditions – existing occupants*

14. In addition to the residential properties in the surrounding area, the appeal building itself comprises a number of residential properties.
15. Representations have referred to, amongst other things, the impact on daylight, sunlight and outlook of Flat 2 which is a two-bedroom ground floor flat. This property has habitable room windows which overlook Ashby Mews. These are for a kitchen/living/dining room and a bedroom. It is not disputed that levels of daylight, sunlight and outlook to these rooms are not unacceptably harmed by the proposed development. Whilst I have no reason to form a different view, I observed on my site visit that a combination of their orientation, their close proximity to buildings on Ashby Mews, with landscaping directly in front of these windows, there is likely to be less than ideal levels of outlook or particularly high levels of daylight and sunlight for the property as a whole.
16. The second bedroom to the property in terms of daylight, sunlight and outlook, is served solely by two flat rooflights that are recessed into the ceiling of the room. The existing side elevation of the first floor of the appeal building sits immediately adjacent to these rooflights. The proposed development would create two storeys either side of these rooflights, wrapping around them.
17. I accept that the existing outlook from the room is poor, however it nevertheless encompasses a changing sky and would be significantly harmed and worsened by having two storeys either side which would severely curtail the outlook.
18. In considering the impact on levels of daylight and sunlight, the appellant has submitted a Daylight and Sunlight Report<sup>1</sup>. The report states that the two principal assessments that are required to be undertaken in order to assess daylight to existing surrounding buildings are the Vertical Sky Component (VSC) Assessment and the Daylight Distribution (DD) Assessment.
19. For flat 2, or indeed Ashby House generally, no assessment of the VSC has been undertaken. For bedroom 2 of flat 2 the report states that the DD would be reduced to about half and would fail to meet BRE guidelines. The report continues that the bedroom would still be in excess of the Average Daylight Factor (ADF) Assessment, however the report highlights, this is not one of the principal assessments that is required to be undertaken in order to assess daylight to surrounding buildings.
20. In terms of the resulting impact, the appellant draws comparison with a hotel room in a city centre that looks directly onto another tall building opposite,

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<sup>1</sup> Daylight and Sunlight (UK) Limited – 17 November 2021 – Ref 1824/JN

saying that the room becomes brighter as you move towards the window as more sky is seen. The appellant continues that, the rear of the room is not pitch black just because it cannot see the sky directly, instead it benefits from the reflected (indirect) light. The comparison is, however, quite a different scenario to the appeal proposal, and fundamentally relates to a hotel room as opposed to a habitable room in a dwelling. I therefore give the comparison limited weight in the appeal.

21. I acknowledge that the Council took a different view in their assessment of the effect of the proposed development on the living conditions of existing occupants. The Council acknowledged the failure to meet the BRE target but considered that the harm would not warrant refusal of the application given that this is the only transgression. I appreciate that this is the only transgression and relates to one habitable room in one dwelling, however I do not consider that this justifies causing the significant harm I have identified as a matter of planning judgement. This is despite the room achieving an ADF that would meet the BRE guidance. My assessment also acknowledges the current visual amenity of the dwelling as a whole as outlined above. This reinforces the significance of ensuring that other habitable rooms in the property in respect of living conditions, are not significantly harmed.
22. Based on the evidence before me, I therefore find that the proposed development would cause significant harm to the living conditions of occupants of flat 2 in terms of outlook and light. It would therefore be contrary to Policy 15 of the Lewisham Core Strategy (2011), DM Policies 31 and 32 of the Lewisham Development Management Local Plan (2014) and Policies D3 and D6 of The London Plan (2021). These policies require, amongst other things, that developments including extensions; have no significant loss of amenity (including sunlight and daylight) to adjoining houses, provide a satisfactory level of outlook and natural lighting for neighbours, deliver appropriate outlook and amenity, and provide sufficient daylight and sunlight to surrounding housing that is appropriate for its context, whilst avoiding overshadowing.
23. The proposed development would also be contrary to the requirement of the Framework that developments create places with a high standard of amenity for existing and future users.

### **Other Matters**

24. I acknowledge that the appellant has undertaken pre-application discussions with the Council and taken on board comments that were made. Such an approach is commendable and promoted by the Framework, however any contradiction between the Council's informal views prior to determination, and its final decision, is not a reason to allow the appeal.
25. Similarly, the appellants undertaking of consultation with existing residents and interest groups is admirable, although it has neutral weight in the planning balance.

### **Planning Balance and Conclusion**

26. The Government's objective as set out in the Framework is to support sustainable housing growth. The proposed development would result in a small increase in the Council's overall housing number, including a family sized unit, and would be in a sustainable location. It would use the airspace above an

existing residential premises and bring a number of additional residents to the area who would contribute to the local economy. Collectively, I give these matters moderate weight in favour of the proposed development.

27. However, the significant harm that I have identified the proposed development would have on the living conditions of the existing occupants of the appeal building attracts significant weight that outweighs the benefits associated with the proposed development. Furthermore, I am not presented with any substantial evidence that the scheme before me is the sole means of achieving the benefits referred to above.
28. The proposed development would therefore conflict with the development plan and there are no identified other considerations, including the Framework, that outweigh this conflict.
29. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*A M Nilsson*

INSPECTOR