



## Appeal Decision

Site Visit made on 12 October 2021

**by R E Jones BSc (Hons) DipTP MRTPI**

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

**Decision date: 25 November 2021**

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**Appeal Ref: APP/C5690/W/21/3273257**

**Land to the rear of 29 Ladywell Road, Lewisham, London SE13 7UT**

- 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 Miss Lotta Nyman against the decision of London Borough of Lewisham.
  - The application Ref DC/20/117753, dated 31 July 2020, was refused by notice dated 22 October 2020.
  - The development proposed is demolition of two garages and erection of a one storey house with room in the roof and basement and associated landscaping.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. A parking survey has accompanied the appeal. This information was not before the Council when it determined the application. Nonetheless, the details submitted do not alter the proposal, whilst the Council have had an opportunity to provide comments. I have therefore assessed the appeal on the basis of the additional information.
3. The Council's refusal notice refers to the effect on a non-designated heritage asset. However, I have not been referred to this elsewhere in the submitted evidence. In the absence of any further details, I have proceeded to assess the proposal in the context of the Council's other concerns relating to the setting of the Grade II listed former Ladywell Baths and the St Mary's Conservation Area.
4. Between the determination of the planning application and the appeal coming before me, the new London Plan<sup>1</sup> and a revised Framework<sup>2</sup> were published. The Council has subsequently indicated that Policies D1, D6, H2, H3, HC1, T4 and T6 of the new Plan are relevant to this appeal. The views of the appellant have been sought on these and I have had regard to their comments in my findings. Similarly, both main parties have had an opportunity to comment on the revised Framework.

### Main Issues

5. The main issues are:
  - Whether the proposed development would preserve or enhance the character of appearance of the St Mary's Conservation Area (CA) and the setting of the Grade II listed building known as the former Ladywell Baths;

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<sup>1</sup> The London Plan 2021

<sup>2</sup> National Planning Policy Framework (2021)

- The effect of the proposed development on the living conditions of the occupiers of No 29 Ladywell Road, with particular reference to outlook; and
- The effect of the proposed development on highway safety with particular regard to parking conditions in the vicinity.

## **Reasons**

### *The significance of the CA and nearby listed building*

6. The CA's significant features include the Grade II listed St Mary's Church, a group of Edwardian civic buildings along Ladywell Road and the uniform Victorian terrace housing lining Ladywell Road and Church Grove.
7. In the case of Church Grove, I noted during my site visit, that it contained two lines of painted terrace properties, with distinctive sash windows, marginally set back from the road. The intervening space between the houses and the street, is occupied by attractive front gardens containing trees and shrubs that are either enclosed by low walls, fencing or hedgerow. The symmetry and uniform alignment of the terraces along with the neatly arranged front boundaries and gardens make an important contribution to the CA's significance.
8. The appeal site comprises a small parcel of vacant land and a single storey garage building with a frontage onto Church Grove. It is located in the intervening space between the rear garden of No 29 Ladywell Road (No 29) and the end of terrace dwelling, No 20 Church Grove (No 20). The garage building has a modest scale and low-key appearance that is consistent with other buildings located along a rear service lane behind the dwellings fronting Ladywell Road.
9. In the context of the CA, the appeal site does not have the same attractive appearance as the nearby terrace dwellings. Yet, the partially vacant land along with the garage's low profile and utilitarian appearance, help to reveal and open up views of the attractive terrace, when observed from Church Grove and its junction with Ladywell Road further to the south. Accordingly, the appeal site makes a small albeit important contribution to the significance of the CA.
10. Located a short distance to the south and fronting Ladywell Road is the Grade II listed former Ladywell Baths. This is a distinctive red-brick Gothic Revival building with a round tower sitting between two unsymmetrical bays on the front elevation. The building's significance is derived in part from its striking frontage and the historical role it played as a civic building of cultural importance to the local community.
11. Church Grove forms part of the listed building's wider setting and from here looking south towards its frontage, the flank walls of the end terrace dwellings at Nos 27 and 29 Ladywell Road along with the street's boundary structures, help to frame a large portion of the listed building's frontage. Given the close proximity of the existing garage building at the appeal site to the edge of the footway, the appeal site forms part of that collective built interface with the road that helps to frame and reveal the listed building's historical importance from Church Grove. On this basis the appeal site makes a small albeit valued contribution to the setting of the listed building from Church Grove, and accordingly its significance.

### *The effect on the CA and the setting of the listed building*

12. The proposed dwelling's frontage would line up along the back of Church Grove's footway, thus having a more advanced position to the road than the existing garage. The appeal dwelling would also be taller, while having a more prominent

pitched roof set marginally below the roof eaves of No 20, located a short distance to the north. From the junction with Ladywell Road, the taller and more protruding appeal building, would partially block views of the attractive sequence of front gardens along Church Grove's western frontage while visually jarring against the rhythm of the uniform terrace dwellings. As a consequence, the scale and layout of the proposal would have the effect of harmfully eroding the visual interest and setting of this part of Church Road, whilst being at odds with the prevailing pattern of development.

13. The appellant considers that the proposal would have an acceptable low-key design that would be in keeping with the character of the garages to the rear of Ladywell Road, while enhancing the built edge to Church Road and the rear service lane. However, it would be larger in scale and more prominent from Church Road than those other buildings. In addition, its greater built form would unacceptably blunt the relatively open and revealing views of the terrace, particularly from the south.
14. Whilst the harmful effect of the proposal would predominantly be experienced from the south this does not diminish its harm upon the heritage asset. Moreover, I note that the appellant considers that the view of the proposal in context with the terrace along Church Grove would only be fleeting along Ladywell Road. But this would be the main view into the street, through what is a large gap in Ladywell Road. Views from here might be short lived for some passers-by. That said, the proposal's position and height would noticeably blunt and obscure views of the repetitive terrace and attractive front gardens that define the street's built typology.
15. The Officer's report refers to concerns regarding the proposal's impact on the setting of the listed former Ladywell Baths, yet the Council's refusal notice does not refer to any harm in this regard. Despite this omission, I still have a duty under the terms of the Act to assess whether the proposal would preserve or enhance the setting of the listed building.
16. Despite the proposed dwelling's more advanced position to the road than the terraced dwellings to the north, it would still align with the boundary and flank wall of No 29 that borders the entrance to Church Grove. This would continue the built interface along the road that helps to frame the important view out of Church Grove towards the listed building. Therefore, the proposal would preserve its setting and the contribution it makes to the listed building's significance.
17. In concluding on the first main issue, I have found that the setting of the listed former Ladywell Baths would not be harmed. Nevertheless, the proposed development would fail to preserve or enhance the character and appearance of the CA, to the desirability of which the Act requires that special attention is paid.
18. The proposed development would conflict with Policies D1, D6, H2 and HC1 of the London Plan 2021, Policies 15 and 16 of the Core Strategy (2011) and DM Policies 30, 32, 33 and 36 of the Development Management Local Plan (2014). These seek sensitive management of heritage assets by paying special attention to their significance and positively responding to the site context in terms of well-designed dwellings that preserve locally distinctive features such as views, vistas, existing street alignment and layout, which will be expected to enhance or conserve the significance of heritage assets. The proposal also fails to accord with Paragraphs 130, 197 and 202 of the Framework, where they relate to high quality design and heritage requirements.
19. My conclusion on this matter refers to DM Policy 33 of the Development Management Local Plan. This is relevant as it relates to infill development, which is

the case in respect of the appeal proposal. I have not referred to DM Policies 31 and 37, as these relate to alterations and extensions (including accompanying SPD), and non-designated heritage assets.

### *Living Conditions*

20. The flank elevation of the proposed dwelling would be stepped away from the rear boundary wall of No 29 and have a height of around 4.1m to its eaves, and 5.8m to its ridge. The proposal would not be substantial in height, while the roof planes of the structure would taper towards its ridge, thus reducing the building's mass at first floor level.
21. There is some dispute between the main parties regarding the separation distance the flank wall of the proposed dwelling would maintain from the rear elevation of No 29 to the south. The Council have measured the distance at 9m and 12m respectively, between No 29's nearest ground and first floor windows and the flank wall of the proposal. The appellant, however, indicates that those distances would be around 10.9m and 15m.
22. Even if the distances were closer to the Council's measurements, these would still, given the scale of the proposed dwelling, represent acceptable spacing between the two structures, such that there would be no unacceptable enclosing of the rear windows at No 29 to the extent that the outlook of occupiers from them would be harmed. I am also satisfied, given the relatively open aspect No 29's rear garden enjoys and the separation distance the proposal would maintain from the rear boundary, that the outlook from No 29's garden would not be unacceptably harmed.
23. Therefore, the proposed development would not harm the living conditions of No 29 Ladywell Road, with particular reference to outlook. This would be compliant with Policy 15 of the Core Strategy and DM Policy 32 and 33 of the Local Plan, where they seek to ensure that residential amenities are protected. It would also accord with the Framework, where it requires proposals to promote a high standard of amenity for existing occupiers.
24. In my conclusion on this main issue, I have not referred to DM Policy 31 of the Local Plan which was included in the Council's refusal notice. This relates to alterations and extensions to buildings, rather than new build structures, in the case of the appeal proposal. Instead, I have referred to the more relevant DM Policy 33 relating to infill development.
25. The Council consider that the proposal would not accord with Policies of the new London Plan 2021. However, I have not been presented with any that specifically seek to protect neighbouring outlook.

### *Parking*

26. The footprint of the proposed dwelling would be built over the area currently occupied by the garage building and forecourt. This would remove an area that could accommodate around two off-street parking spaces. The appellant indicates that the site has not been used for parking purposes for some years. Even so, it could still feasibly be used in the future for parking if undeveloped.
27. Parking opportunities in the surrounding area are primarily limited to parking bays for resident permit holders and for those with blue badges. Yellow line restrictions are in place elsewhere. Despite these limitations, the site is located a short walk from bus and train terminals, and this is reflected in its PTAL 6a rating, which

- ranks the location as 'excellent' in terms of its connectivity to public transport options.
28. The proposed dwelling would have two bedrooms. Policy T6 of the London Plan 2021 states that car-free development should be the starting point for all development proposals in places that are well-connected by public transport. Table 10.3 of the Plan states that 1-2 bedroom dwellings of this location would require up to 0.5 spaces per dwelling as a maximum.
  29. The submitted parking survey has followed the Lambeth Methodology and encompasses the streets within 200m of the appeal site. The survey results indicate a very high level of parking along the surrounding streets and, during the survey period only 3 spaces were available before the practical capacity in the area was reached (typically considered to be 85% occupancy).
  30. Taking this into account, the displaced parking spaces at the appeal site, as well as the new parking requirement for the proposal could be catered for on the surrounding streets. Although it is accepted that this would be at the margins of the area's practical capacity to carry any more on-street parking.
  31. That said, future pressure and competition for parking spaces could be alleviated somewhat by the transport choices of residents of the proposed dwelling, as the area's excellent rating in terms of connectivity to public transport would make non-car ownership a possibility for some future occupiers.
  32. Therefore, the submitted evidence does not lead me to believe that the additional parking demand generated by the proposal, would result in unacceptable parking pressure or in harm to the safety or operation of the surrounding highway network.
  33. There are concerns that the appeal proposal would add to parking pressure along Church Grove and surrounding streets in conjunction with recently approved developments. However, I do not have the full details of those cases or the parking provision in those instances. Moreover, I am not certain whether those cases would fall within the search area that related to the parking survey for the appeal scheme. Given this degree of uncertainty I am unable to gauge the cumulative effect those other developments would have, in conjunction with the proposal, on local highway conditions.
  34. Even if I found the proposal's effect on local parking conditions to be unacceptable, I do not have a mechanism before me that would prevent future occupiers from being unable to obtain a parking permit.
  35. Accordingly, I conclude on this main issue that the proposed parking arrangements would not be harmful to on-street parking capacity or to the safe or efficient operation of the highway network in the vicinity of the site. The proposal would comply with Policy 14 of the Core Strategy and Policies T4 and T6 of the London Plan 2021 which seek to ensure the safety of road users and compliance with the maximum residential parking standards.

### **Other Matters**

36. The development of the appeal site would represent an efficient use of land, which is currently under-utilised. However, this would not overcome the concerns I have in respect of the effect on the CA.
37. Letters of support have indicated that the development of a dwelling at the site would lead to improved natural surveillance along Church Grove. Yet, during my site visit I noted that the street is already well overlooked by ground and first floor

windows of dwellings on Church Grove, as well as the rear first floor windows of the end terrace dwellings along Ladywell Road. Accordingly, this matter attracts limited weight.

38. The Council's approval of a dwelling adjacent to No 2 Wearside Road is noted<sup>3</sup>. But this would not be similar to the appeal proposal as it largely follows the alignment of dwellings along that road and therefore does not have the same encroaching impact on the street's character as the scheme I'm assessing.

### **Planning Balance and Conclusion**

39. Notwithstanding the lack of harm I have found in relation to the proposal's effect on neighbouring living conditions and highway safety, it would nonetheless have significant unacceptable effects on the CA.
40. Paragraph 199 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Given my findings above, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
41. I acknowledge that the development would bring a two-bedroom dwelling in a sustainable location close to services and transport connections. This attracts significant weight as a public benefit. However, this would not outweigh the harm identified above to the significance of the heritage asset, the conservation of which the Framework indicates that great weight should be given. I conclude therefore that the proposal would fail to preserve the special character of the CA. This would fail to satisfy the requirements of the Act, paragraph 197 of the Framework and it would not be in accordance with the development plan.
42. For the reasons given I conclude that the appeal should be dismissed.

*R.E Jones*

INSPECTOR

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<sup>3</sup> Approval Ref - DC/20/119172, dated 28 January 2021