



Appeal Decision

Site visit made on 5 February 2025

by **C Butcher BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13th March 2025

Appeal Ref: APP/X5210/W/24/3355163

Boydell Court, St John's Wood Park, London NW8 6NH

- 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 Sony Douer (SD Investments and Management) against the decision of the Council of the London Borough of Camden.
 - The application Ref is 2023/3169/P.
 - The development proposed is the construction of a new 2 storey, 3 bedroom dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: (i) the effect of the proposed development on the character and appearance of the area; and (ii) the effect of the proposed development on the living conditions of future occupiers, as well as the occupiers of the flats within Block D, with particular regard to ceiling height, outlook, the amount of private garden space and air quality.

Reasons

Character and Appearance

3. The appeal site is an area of grass which forms part of the wider Boydell Court development. The proposal would involve the provision of a new two storey dwelling.
4. The site is relatively small and contained. As such, the proposed dwelling would be situated very close to Block D which is a tall block of flats of nine to eleven storeys in height. Given the size of Block D in comparison to the dwelling, their proximity to each other, and the constrained nature of the appeal site, it seems inevitable to me that the proposal would appear as a highly cramped form of development which would look contrived, incongruous and out of place. This would represent clear and obvious harm. Indeed, the fact that it would be two storeys in height means that it would be easily visible from the street, and therefore, the harm would be significantly greater than any arising from the previously approved single storey workshop.
5. The dwelling would comprise of brick work with stone detailing and a flat roof. While it is likely that it would not be a particularly attractive building, I do not find that its appearance would necessarily lead to harm when considered in isolation. Furthermore, while the dwelling would be sited slightly further forward than other

buildings in the immediate vicinity, there are examples in the wider locality of buildings situated close to the road and so I also find no harm in this regard.

6. Nevertheless, for the reasons given, I conclude that the proposed development would harm the character and appearance of the area. As such, it would conflict with Policies D1 and D3 of the Camden Local Plan 2017 (the LP), the relevant aspects of which seek to ensure that development is well designed and that it preserves local character.

Living Conditions

7. Policy D6 of the London Plan requires that new dwellings have a minimum floor to ceiling height of 2.5 metres for at least 75 per cent of the gross internal area. The proposed dwelling in this instance would have floor to ceiling heights of 2.45 metres on both storeys. While I have no doubt that the minimum standards could be met, I must make my decision based on the plans before me. As such, relying on a condition to require that the standard be achieved would be inappropriate. Nevertheless, due to the fact that the deficit is only minor, any feeling of enclosure would be limited.
8. Policy D6 also requires that a minimum amount of private outdoor space be provided for each dwelling. The approved plans before me do not show that there would be any private outdoor space. The appellant has set out that suitable space could be provided through the formal sub-division of the land. However, even if this were the case, the outdoor space would be heavily overlooked from numerous windows within Block D. As such, the lack of a suitable private outdoor space would constitute harm. The fact that the relevant windows within Block D do not serve primary living spaces does not reduce this harm.
9. With regards to outlook, the proposed dwelling would be situated very close to the northern elevation of Block D. I acknowledge that the primary outlook from the flats within that part of the building is looking southwards, and that the proposed dwelling would have a 'kink' to increase the gap between the elevations. However, the kitchen windows would still look out at the blank southern elevation of the proposed dwelling. In my view, it is highly likely that this would result in some sense of enclosure for the occupiers of the ground floor flat, and to a lesser extent the occupiers of the first floor flat. Given that the affected rooms are not primary living spaces, the harm would likely be limited.
10. With regards to air quality, the appellant has provided an Air Quality Assessment (AQA), produced by Anderson Acoustics in October 2024. The AQA concludes that the site is suitable for residential development from an air quality perspective, although it recommends the installation of a mechanical ventilation system with heat recovery to take account of the emissions from the nearby ventilation shaft for the Jubilee Line. I note that the Council has raised various technical concerns about the content of the AQA. However, having considered the report, including the methodology used and the conclusions reached, I am satisfied that I have sufficient certainty to conclude that the principle of residential development in this location is acceptable. If there are any deficiencies with the detail of the AQA, then these could be rectified by imposing a suitably worded condition. I therefore do not find harm in this regard.
11. I also note that the appellant has provided a Daylight and Sunlight Assessment (T16 Design, September 2024). The Council is satisfied that this report

successfully addresses their concerns about the affect of the development on neighbouring properties. As such, it is no longer a matter in dispute, and based on the findings of the assessment, I have no reason to disagree.

12. Nevertheless, due to the identified harm in relation to ceiling heights, outdoor space and outlook, the proposal would result in harm to living conditions. It would therefore conflict with the relevant aspects of LP Policies A1, H6 and D1 which seek to ensure that development is well designed, and that it provides suitable living conditions for all. It would also conflict with London Plan Policy D6 in terms of ceiling heights and outdoor space requirements. I do not find conflict with LP Policies C1 or CC4 regarding air quality.

Other Matters

13. The lack of a planning obligation to address matters relating to an affordable housing contribution, car free development and a construction management plan formed additional reasons for refusal. However, I note that there is now a finalised obligation covering these matters which has been signed by both of the main parties. As such, these issues are no longer in dispute. Based on the evidence before me, the obligation appears to be necessary to make the development acceptable in planning terms.

Conclusion

14. The latest Housing Delivery Test results were published in December 2024. They identify that the supply of homes in the Borough in recent years has been significantly below the identified requirement. I have no evidence before me to suggest that this position is likely improve in the short-term.
15. As a result of the shortfall, policies related to the location and supply of housing are deemed to be out of date. In such circumstances, Paragraph 11d and footnote 8 of the National Planning Policy Framework (the Framework) require that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
16. In this instance, the benefits of the proposal include the provision of a single new home that would assist in meeting need in the area, make efficient use of land, provide support for local facilities, and create jobs during the construction phase. A contribution towards affordable housing has also been secured. Despite the level of shortfall in housing delivery, which leads me to attribute increased weight to the benefits, I still only afford limited weight to them overall given that they are relatively minor in nature.
17. I have concluded that there would be material harm to the character and appearance of the area and to the living conditions of the future occupiers of the proposed development and those of neighbouring properties. The support for the principle of development within the Framework is countered by the importance it places on the provision of development that preserves character and appearance and living conditions.
18. In this instance, the combined harm to both would be significant and enduring. As a result, when assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits.

Consequently, for the reasons given, the proposed development conflicts with the development plan as a whole, and there are no other considerations, including the provisions of the Framework, that outweigh the identified harm. The appeal is therefore dismissed.

C Butcher

INSPECTOR