

Appeal Decision

Site visit made on 6 September 2016

by Jason Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27th September 2016

Appeal Ref: APP/C5690/W/16/3150246

2A Gaynesford Road, Forest Hill, London SE23 2UQ

- 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 Kallarview Investments Limited against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/16/095432, dated 5 February 2016, was refused by notice dated 29 April 2016.
 - The development proposed is demolition of the existing garage and construction of a single storey 1 bedroom dwelling with associated cycling parking, refuse storage, outdoor amenity space and landscaping.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on the character and appearance of the area.
 - The effect of the proposal on the living conditions of the occupiers of 49 Church Rise with particular regard to outlook.
 - Whether the proposal would provide satisfactory living conditions for future occupiers with particular regard to outlook and private amenity space.

Reasons

Character and Appearance

3. The appeal site contains a flat roofed garage, adjacent to 2 Gaynesford Road. The site was previously part of the garden of 49 Church Rise and is now bound by close boarded fencing. The site is located within the designated Area of Special Local Character (ASLC) known as 'Christmas Estate' which is an undesignated heritage asset in accordance with the provisions of the National Planning Policy Framework (the Framework).
 4. The significance of the ASLC is largely derived from the historical and aesthetic value of its layout and architecture. Whilst there are some terraces and flats, properties are generally two-storey semi-detached houses with pitched roofs, a pattern which is particularly well preserved on the south side of Gaynesford Road.
-

5. The appeal site has been the subject of a previous unsuccessful appeal decision in 2014 for the demolition of the existing garage and construction of a single storey one bed dwelling (APP/C5690/A/14/2219875). This proposal aims to address the reasons for refusal in the earlier appeal.
6. The existing garage would be demolished. It is proposed to erect a single storey dwelling on the site. In contrast to the previously dismissed scheme, the dwelling would be submerged below street level with a low timber fence and planting to the front.
7. The height of the dwelling would be similar to the existing garage and it would partially retain the footprint of the garage. However, the dwelling would extend the full width of the site up to the rear boundary of 49 Church Rise. Part of the dwelling would also extend the full depth of the site to the boundary with 47 Church Rise. Whilst some external space would be provided, the building would occupy the majority of the plot. It would, as a result, appear unduly cramped.
8. Furthermore, the dwelling would be set forward of the uniform building line on the south side of Gaynesford Road and a significant proportion of the dwelling would be visible above the lower fence proposed. Moreover, the proposal would introduce a single storey flat roof dwelling with a distinct horizontal emphasis, a lack of vernacular detailing and would utilise functionally designed metal framed windows. Consequently, the dwelling would not provide, as suggested, a subordinate feature or an attractive active frontage. Rather it would appear as an intrusive and unduly prominent feature which fails to reflect the character of the Christmas Estate.
9. I note that the proposal would be a site specific response that would result in the removal of the existing garage which, I agree, does not contribute positively to the ASLC. However, the garage is not widely visible within the street scene given the existing fencing. Its removal would be of limited benefit and would not outweigh the harm arising from the proposal.
10. I conclude, therefore, that the proposal would have a harmful effect on the character and appearance of the area. It would conflict with Policy 15 of the Core Strategy 2011¹ (CS) which requires, amongst other things, the highest quality design and the protection or enhancement of the historic environment. The proposal would also conflict with Policies DM30, DM32 and DM33 of the Development Management Local Plan 2014² (DMLP) which requires development to be of a high standard of design that is attractive and neighbourly and which is sensitive to the existing quality of the streetscape and to the setting of heritage assets.
11. The proposal would also conflict with Policy 3.5 of the London Plan 2016³ which states that housing developments should be of the highest quality internally, externally and in relation to their context and the wider environment.

Living Conditions of 49 Church Rise

12. The appeal site is bordered by the gardens of 49 and 51 Church Rise. There are windows which serve habitable rooms in the ground floor elevation of No

¹ Lewisham Local Development Framework Core Strategy Development Plan Document 2011

² Lewisham Local Development Framework Development Management Local Plan 2014

³ The London Plan The Spatial Development Strategy for London Consolidated with Alterations Since 2011, 2016

49 facing the appeal site. The proposed dwelling would adjoin the rear garden of the flats at 49 Church Rise, in contrast to the existing garage which is offset some distance from the boundary.

13. Whilst the dwelling would have a similar height to the garage and would be submerged below the level of the street to prevent overlooking, it would nevertheless project around 0.4m higher than the existing fence and span around 5.3m in width. Moreover, the majority of the existing fence would be replaced by the side elevation of the dwelling. This would result in a significant expanse of unrelieved built form along the rear boundary of No 49. As a result, given the relatively shallow depth of the rear garden, I consider the proposed dwelling would appear bulky and visually intrusive from the rear windows and rear garden of No 49, creating an increased sense of enclosure for neighbouring residents.
14. The appellant argues that the dwelling would be lower than the 2.5m allowed for under permitted development rights for outbuildings adjacent to the boundary. However, such permitted development rights are afforded to development within the curtilage of a dwellinghouse. No 49 is divided into flats and would not, therefore, benefit from those rights. Nor would the appeal site itself as there is no evidence before me to suggest it forms part of any such curtilage. Accordingly, I afford the alleged fallback position little weight.
15. I conclude, therefore, that the proposal would have a harmful effect on the living conditions of the occupiers of 49 Church Rise with particular regard to outlook. It would conflict with Policy 15 of the CS which requires development that is sensitive to local context. The proposal would also conflict with Policies DM30, DM32 and DM33 of the Development Management Local Plan 2014⁴ (DMLP) which require development to create a positive relationship with the existing townscape, provide a satisfactory level of outlook for neighbours and not result in any loss of amenity to adjacent houses and gardens.

Living Conditions of Future Occupiers

16. The proposed dwelling would have a open plan kitchen, living and dining room served by floor to ceiling windows in both the front and rear elevations. The bedroom would also be served by a single window which faces onto the rear garden.
17. Whilst these windows would allow for adequate levels of daylight, the proposed dwelling would be submerged below ground level. Moreover, the windows would look out onto solid timber fencing at a distance of around 2.7m to the rear and 1.6m to the front. The relatively shallow depth of the proposed gardens would mean the windows would be especially close to the existing and proposed boundary treatments. As a result, I consider the proposal would provide a poor level of outlook for future residents.
18. The proposal would provide outdoor amenity space the size of which would exceed the minimum 5m² required by Standard 26 of the London Plan Housing Supplementary Guidance 2012 (SPG). However, the SPG states that the space should be of practical shape and utility and care should be taken to ensure the space offers good amenity.

⁴ Lewisham Local Development Framework Development Management Local Plan 2014

19. The rear garden would be around 5.2m wide and 2.1m deep. Whilst I note it would incorporate a landscaped design, it would be enclosed by a fence between 2.5m and 2.9m in height. This would, in my view, result in a particularly oppressive and enclosed space. Moreover, although hedges would provide some defensible space, the front garden would sit adjacent to, and considerably lower than, the footpath on Gaynesford Road. Whilst I recognise this would offer natural surveillance, given the relatively low fence proposed, I consider the front garden area would be susceptible to harmful levels of overlooking from the public realm which would result in a significant loss of privacy for future occupiers.
20. I conclude, therefore, that the proposal would fail to provide satisfactory living conditions for future occupiers with particular regard to outlook and private amenity space. The proposal would conflict with Policy DM32 of the DMLP which requires development to provide a satisfactory level of outlook for future residents. It would also conflict with Policy 3.5 of the London Plan which require housing development to be of the highest quality and with the guidance set out in the London Plan SPG.

Other Matters

21. I note the dwelling would incorporate sustainable features for energy efficiency, water efficiency and for future adaptability. I have also had regard to the appellant's view that the proposal would comply with several policies contained within the CS, the DMLP and the London Plan which have not been referred to by the Council in their decision notice. Furthermore, I also note the relatively sustainable location of the appeal site and that the proposal would make an, albeit modest, contribution towards boosting the supply of housing in the area.
22. Nevertheless, the benefits of the proposal would be outweighed by the harm I have identified in respect of the character and appearance of the area, the living conditions of the occupiers of 49 Church Rise and the failure to provide adequate living conditions for future occupiers. For the reasons set out in relation to the main issues above, I consider the proposal would fail to accord with the development plan when taken as a whole.
23. The appellant has also referred to several examples of consents granted by the Council for dwellings in the area. However, I have been provided with only limited detail of those cases and cannot therefore be certain that the circumstances in those instances are directly comparable to the appeal proposal. In any event, I have considered this appeal on its own merits.

Conclusion

24. For the reasons given above, and having considered all matters raised, I conclude that the appeal should be dismissed.

Jason Whitfield

INSPECTOR