
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: 29th September 2016

Appeal Ref: APP/C5690/W/16/3149483

137 Lewisham Way, Lewisham, London SE14 6QP

- 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 Kallar Investments Limited against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/16/095534, dated 16 February 2016, was refused by notice dated 13 April 2016.
 - The development proposed is the part change of use of the ground floor and the construction of a 3 storey extension to the rear, to provide 1 x 2 bedroom maisonette and the provision of additional floor space to the first floor flat, together with replacement pavement lights to the front elevation and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal site has been the subject of a previous unsuccessful application for the part change of use of the ground floor and the construction of a 4 storey extension to the rear to provide 1, two bedroom maisonette and the provision of additional floor space to the upper floor flats, together with construction of a lightwell and metal railings to the front elevation and associated landscaping (Ref: DC/15/094008). The application which is subject of this appeal sought to address the reasons for refusal in the earlier application which related to the effect of the proposal on the living conditions of neighbours and the effect on the character and appearance of the area.

Main Issues

3. 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 135 and 139 Lewisham Way with particular regard to daylight and sunlight, and outlook.

Reasons

Character and Appearance

4. The appeal property is a 4 storey, mid-terrace building comprising 3 residential units with a ground floor retail unit. The surrounding area is predominately
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residential comprising a mix of terraced houses and flats. There are, however, several commercial uses in the area including, retail, professional and food and drink uses. Several of the properties have been extended to the rear. Buildings are generally 3-4 storeys in height, though there are variations.

5. The property is bound to the south-east by similar properties in the terrace. On the opposite side of the property is the Flower of Kent public house which sits on the corner of Lewisham Way and Florence Road. Policy DM37 of the Council's Development Management Local Plan¹ (DMLP) states that non-designated heritage assets may be identified during the development management process. The Flower of Kent is considered by the Council to be an undesignated heritage asset. Dating from 1844, it retains several original features and is a relatively unchanged example of a Victorian pub. Although it has been partially extended to the rear, the building is largely well preserved and its simple, vernacular architecture is apparent on approach along Florence Road.
6. The proposal seeks to demolish an existing extension and erect a 3 storey extension to the rear of the property in order to provide a two-bedroom maisonette at lower and ground floor level and to provide additional floor space for the existing first floor flat. It is also proposed to change part of the ground floor area totalling around 1.1m² in size from retail to residential. Pavement lights are also proposed to the front of the property.
7. The Council has raised no concerns regarding the proposed change of use of the ground floor retail element to residential or the proposed replacement pavement lights and associated landscaping to the front of the property. On the evidence before me, I have no reason to come to an alternative view.
8. I note that the proposed extension has been reduced by 1 storey from the previously refused scheme. I also note that it would be lower than the main building and would sit a similar height as the rear additions of the adjacent public house. Furthermore, I have had regard to the fact that it would use matching materials and that some garden space on the ground floor would be retained, with the extension set back from the rear boundary.
9. Nevertheless, the extension would extend the full width of the property and would be 3 storey with a height of around 9.5m. Moreover, it would have a depth of around 3.7m from the original building and would occupy a considerable proportion of the plot. The proposal would therefore result in a substantial increase in the size of the building, significantly altering its original proportions. The extension would not therefore be modest in size and would not appear as a subordinate addition to the host building.
10. Furthermore, the extension would be readily visible within views along Florence Road through the gap to the rear of the adjacent public house. Consequently, I consider that due to the height, massing and scale of the extension, it would appear as an incongruous addition to the host property. It would, in turn, create a dominant feature within the surrounding area and would have a harmful effect on the setting of the adjacent public house.
11. I conclude, therefore, that the proposal would have a harmful effect on the character and appearance of the surrounding area. The proposal would conflict

¹ Lewisham Local Development Framework Development Management Local Plan 2014

with Policies 7.4 and 7.6 of the London Plan 2016² (LP) which require the highest standards of design and architectural quality.

12. The proposal would also conflict with Policy 15 of the Core Strategy 2011³ (CS) which seeks to ensure the highest quality design and the protection of the historic environment. Furthermore, it would conflict with Policies DM30, DM31, DM37 and DM38 of the DMLP which require a high standard of design, extensions which respect the form of original buildings, and development which sustains and enhances the significance of non-designated heritage assets. The proposal would also conflict with guidance set out in the Council's Residential Standards SPD⁴ (SPD).

Living Conditions

13. The appeal property adjoins 139 Lewisham Way which is in residential use. The ground floor of the adjacent building has French doors and a kitchen window in the rear elevation. There are also windows at first, second and third floor on the rear elevation. The property also adjoins 135 Lewisham Way, the Flower of Kent public house, the upper floors of which are occupied by residential accommodation which is served by windows on the rear and side elevations facing the appeal site.
14. The appellant has submitted a Daylight and Sunlight Assessment in support of the appeal. The report assesses the effect of the proposal on the daylight and sunlight levels on 4 windows in the rear of No 139 and 2 windows in the rear elevation of No 135. The assessment concludes that none of the windows are required to be assessed in respect of sunlight as they are not within 90° of due south. It also concludes that the levels of daylight that would be received by the windows in question would not, as a result of the proposal, be below the criteria set out in the BRE Report 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice'.
15. Whilst I note that the assessment has not considered the effect on any windows in the side elevations of the rear of the adjacent properties, I have no substantive evidence from the Council to counter the findings of the appellant's assessment. On that basis, I consider the proposal would be unlikely to result in a significant loss of light for neighbouring residents.
16. Nevertheless, the extension would project around 3.7m along the shared boundary with the garden of No 139 and the boundary with the rear yard of No 135. Moreover, the elevations facing the adjacent properties would contain no windows. This would result in a large expanse of unrelieved built form close to adjacent properties which would appear unduly overbearing from the rear garden and yard areas, as well as the windows in the rear of the neighbouring properties.
17. Furthermore, there is a large extension at No 141 which projects along the shared boundary with No 139. The proposal would increase the existing sense of enclosure resulting from the extension at No 141 currently experienced by occupiers of No 139. As a result, the proposal would result in an unduly overbearing presence of built form which would create an increased sense of enclosure for neighbouring residents either side.

² The London Plan The Spatial Development Strategy for London Consolidated With Alterations Since 2011, 2016

³ Lewisham Local Development Framework Core Strategy Development Plan Document 2011

⁴ Lewisham Residential Standards Supplementary Planning Document 2006

18. I conclude, therefore, that whilst the proposal would not have a harmful effect on the living conditions of neighbouring residents in respect of daylight and sunlight, it would have a significant harmful effect on the living conditions of the occupiers of 135 and 139 Lewisham Way with particular regard to outlook. That is the prevailing consideration. Consequently, the proposal would conflict with Policy 15 of the CS which requires development that is sensitive to local context and Policies DM30 and DM31 of the DMLP which state that proposals should be a site specific design response and that extensions should result in no significant loss of amenity to adjoining houses and their back gardens.

Other Matters

19. I note the relatively sustainable location of the appeal site and that the proposal would result in an increased quality of accommodation for residents of the 3 flats within the appeal property. However, these are not factors which would, in my view, outweigh the harm arising to the character and appearance of the area or the harm upon the living conditions of neighbouring residents with regard to outlook.

Conclusion

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

Jason Whitfield

INSPECTOR