
Appeal Decision

Site visit made on 9 September 2016

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 27 October 2016

Appeal Ref: APP/N5660/W/16/3149820

Garage, Avenue Park Road, Tulse Hill, London SE27 9BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Nicholas Maslen against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 15/05554/FUL is dated 29 September 2015.
 - The development proposed is demolition of existing garage with the erection of a new 2 storey single dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The appeal is against the failure of the Council to determine the application ref 15/05554/FUL within the prescribed time period. However, the Council appears to have made a decision under delegated procedures on 6 June 2016 that they would have refused permission on the grounds set out in the main issues below.
3. The application form gives the address of the appeal site as 'Garage, Avenue Park Road...', whereas the planning officer's report gives it as 'Garage rear of 12 and 12A Thurlow Park Road London SE27'. As the site is accessed from Avenue Park Road, and its location does not appear to be in question, I have used the address on the application form.
4. The description of the proposal varies between the application form and the subsequent documents. I have used the description from the appeal form as it describes the proposal more clearly.
5. The Council's second reason for refusal relates to affordable housing contributions. However, the Council is no pursuing this reason for refusal. I have framed the main issues accordingly.

Main Issues

6. The main issues are:
 - Whether the proposal would provide adequate living conditions for future occupants, with particular reference to outlook and outdoor space;
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- The effect of the proposal on the living conditions of neighbouring residents, with particular reference to outlook and noise and disturbance;
- The effect of the proposal on the character and appearance of the surrounding area, and;
- The effect of the proposal on car parking provision and highway safety in the area.

Reasons

Living conditions

7. The appeal site comprises a single storey garage which is located within a predominantly residential area. The proposal would replace the garage with a two storey dwelling. The principle of residential development in this location is considered to be acceptable.
8. The new dwelling would be set back from the pavement by approximately 3.6m in order to allow space for a garden, which would be fenced at the front. Outlook from the upper windows to the east and south would be unimpeded. Partial views would be achieved over the fence from the east-facing ground floor windows, and so the outlook in this direction would be acceptable.
9. To the southern side elevation, higher level windows would be provided to the ground floor areas. Whilst these would admit natural light, any outlook from them would be significantly curtailed by the close proximity of the tall boundary wall to the south. There would be no outlook to the north or west from inside the proposed dwelling. I therefore conclude that the overall outlook from the development would be so limited as to be materially harmful to the living conditions of future occupants.
10. Policy H5(b) of the Lambeth Local Plan (LP, September 2015) requires a minimum of 30sqm of private amenity space per house. The proposed outdoor amenity space would comprise the front garden, approximately 20.3sqm, and the rear first floor balcony, approximately 11.57sqm. However, the quality of the space must also be taken into account.
11. The front garden area would be of limited utility due to the proximity to the road and the lack of privacy. The rear balcony would be acceptable in terms of its size and shape. However, in order to maintain privacy, it would be screened on the north and west, thus limiting outlook and creating a space that would feel enclosed and unsatisfactory. On the southern elevation, a glass balustrade would increase the natural light and sunlight to the area, but again, outlook in this direction would be limited by the presence of the neighbouring property to the south. I therefore find that, although the combined outdoor areas would meet the policy requirement, the insufficient quality of the spaces would unacceptably harm the living conditions of future occupants.
12. My attention has been drawn to the outdoor space provision for the flat development opposite the appeal site, which was granted planning permission in 2014¹. However, I do not have before me sufficient information in respect of this case to be certain of the circumstances in which this proposal was found to

¹ 14/00129/FUL

- be acceptable. In any case, I have considered the appeal proposal on its own merits.
13. The Council also raises concerns over the effect of the proposal on the outlook of neighbours at 12 and 12A Thurlow Park Road. The existing single storey garage is approximately 3.5m high, and the development would have a ridge height of approximately 6.2m. Due to the changes in ground levels between the appeal site and the neighbours, the roof would be readily visible from the neighbouring properties.
 14. Due to the proposed set-back of the new dwelling from the pavement and the separation distance between it and the end of the garden of No 12A, I consider that the effect of the proposal on the outlook of the occupants of that property would not be so harmful as to warrant the withholding of planning permission.
 15. However, the side elevation of the development would adjoin the back boundary of the garden of No 12, and the new roof would be visible at close quarters. Although the angle of the roof pitch would mitigate its visual impact to some degree, the development would still curtail the existing outlook from the garden. In view of the limited outdoor space available at this property, I find that the increased sense of enclosure would be unacceptably oppressive to those occupants using the garden at No 12.
 16. Neighbours have also raised concerns about the effect on the proposal with regard to noise and disturbance. The proposed roof terrace would be large enough to be used comfortably by the occupants of the new dwelling. I am therefore concerned that the aural privacy of the nearest neighbours at 12 and 14 Thurlow Park Road would be materially harmed, as conversations at normal sound levels would carry over the short distance involved. I accept that a certain level of noise from neighbours is to be expected in a built up urban area. However, the proposal would give rise to a marked intensification of the use of a space that is currently uninhabitable.
 17. Taking all these factors in combination, I conclude that the living conditions of future occupants of the development, and of neighbouring residents at 12 and 14 Thurlow Park Road would be unacceptably harmed by the proposal. It would therefore conflict with LP Policy H5, and also with LP Policy Q2 which, amongst other things, seeks to ensure that adequate outlook will be provided, and also seeks to protect amenity from adjoining sites.

Character and appearance

18. The surrounding area is characterised by two and three storey dwellings. There is a mix of different materials, and no predominant design approach. The existing flat-roofed garage is a modern structure which is utilitarian in appearance and is of little architectural merit. Whilst it is an ancillary building, it does not have a clear visual or spatial relationship to any of the neighbouring properties. In my view, its replacement with a suitably designed development would be acceptable in principle.
19. The development would create a small two storey building of domestic appearance on the site of the demolished garage. It would have a gabled wall facing the road, and a dormer window would be set into the pitched roof. I note that the Council has objected to the dormer window. However, on my visit, I noted a number of box dormers on nearby buildings. I saw that brick is

also used in the area. I therefore find that these elements of the design would not appear out of place within these surroundings.

20. I consider the design of the proposed development to be acceptable in its context. It would not harm the character or appearance of the area, and would thus accord with LP Policy Q7, which sets out urban design requirements for new development.

Parking provision and highway safety

21. The PTAL score in this location is 6a, which is considered 'excellent'. The Council therefore requires that the new unit should be secured as permit-free, which could be achieved by way of a section 106 agreement. The appellant appears to be in agreement with this requirement.
22. In the event that the scheme was otherwise to be found acceptable, I am therefore satisfied that a suitable restriction could be put in place by a legal agreement. I conclude that there would be no conflict with LP Policy T6, insofar as it supports planning applications which do not have unacceptable transport impacts, or LP Policy T7, which sets out parking requirements for new development.

Other matters

23. The proposed use of previously developed land would represent the effective use of the plot, as sought by the National Planning Policy Framework. The development would contribute a dwelling to the housing supply, and would give rise to associated economic and social benefits, all of which are to be given weight. However, these collective benefits would not outweigh the harm I have identified above.

Conclusion

24. Despite my finding that the development would not harm the character or appearance of the area, or parking provision or highway safety, it would unacceptably harm the living conditions of neighbours and future occupants. Taking all other matters into consideration, I therefore conclude that the appeal should be dismissed.

Elaine Gray

INSPECTOR