

Appeal Decisions

Site visit made on 18 October 2016

by Nick Palmer BA (Hons) BPI MRTPI

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

Decision date: 21 November 2016

Appeal A Ref: APP/C5690/W/16/3154512

19B Marischal Road, Lewisham, London SE13 5LE

- 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 Swanage Limited against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/16/095422, dated 3 February 2016, was refused by notice dated 10 May 2016.
 - The development proposed is demolition of the existing building and the erection of a three storey building containing 6 flats together with landscaping and the provision of secure cycle and refuse stores.
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Appeal B Ref: APP/C5690/W/16/3154555

19B Marischal Road, Lewisham, London SE13 5LE

- 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 Swanage Limited against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/16/095420, dated 3 February 2016, was refused by notice dated 11 July 2016.
 - The development proposed is demolition of the existing building and the erection of a three storey building containing 5 flats together with landscaping and the provision of secure cycle and refuse stores.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. As set out above there are two appeals relating to the same site. Although I have considered each proposal on its individual merits, to avoid duplication I have dealt with the two schemes together in this document.
 4. The Council issued its decision on the appeal A proposal before its decision on the appeal B scheme. In the intervening period amended plans were submitted to the Council in respect of the latter and those plans formed the basis of the Council's decision on that proposal. Plans showing the same amendments but in respect of the appeal A proposal have been submitted with that appeal.
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While the detailed amendments were not before the Council when it made its decision on the appeal A application they have been considered in relation to the other application I see no reason why any party would be prejudiced by my taking those plans into account.

Application for costs

5. An application for costs was made by Swanage Limited against the Council of the London Borough of Lewisham in respect of appeal B. This application is the subject of a separate Decision.

Main Issues

6. The Council's first reason for refusal in appeal A concerns alleged overdevelopment of the site and the officer's report explains the effects of this in more detail. The reason given in appeal B concerns harm to the living conditions of nearby occupiers as well as overdevelopment. Taking into account the Council's views as given in the officer's reports I consider the main issues in both appeals to be:
 - i) the effect of the proposals on the character and appearance of the area; and
 - ii) the effect of the proposals on the living conditions of adjacent occupants.
7. A further main issue in appeal A is whether the proposed studio flat would be an acceptable form of accommodation in terms of planning policy requirements.

Reasons

Character and Appearance

8. The appeal site is a vacant former gymnasium which is close to the centre of Lewisham. On one side is a row of shop units within a two storey terrace although I saw on my visit that only a small number of the units are occupied as shops. The immediately adjacent property is in use as two flats. On the other side of the site there is a vehicle repair garage where there is an implemented permission for a block of 5 flats. Beyond the garage the road is residential in character. To the rear of the site the back gardens of houses on Belmont Hill are within the Belmont Conservation Area. Some of those houses including those directly to the rear of the site are listed at grade II.
9. The existing frontage building on the appeal site is of two storeys but adjoining this to the rear is a single storey building with a pitched roof of corrugated sheeting which extends to the full width of the site and almost as far as the rear boundary. This adjoins the rear garden of the adjacent property at N^o 17.
10. The existing building has a limited effect in terms of its enclosure of the adjacent garden because its roof slopes away from the boundary. The proposals in both appeals would be substantially higher than the existing building and although the upper storeys would be set in from the boundary they would greatly increase the sense of enclosure of the adjacent garden. In appeal A the three storey part of the development would project approximately 12m to the rear of the adjacent flats while in appeal B this projection would be about 6m. The first floor projection in both cases would also be substantial and for these reasons the scale and mass of the proposals would have a dominant

effect in relation to the modest scale of the building at N^o 17. The approved development on the garage site would be of similar scale to the proposals but this would be separated from the terrace by the buildings on the appeal site and so would not have such a direct effect.

11. The listed houses on Belmont Hill would be a minimum of 30 metres away from the proposals. Whereas the proposals would be out of scale with the immediately adjacent buildings on Marischal Road they would not be unduly dominant in relation to the listed buildings or the Conservation Area because of the degree of separation. I saw that there are trees in the rear gardens of the Belmont Hill Houses which provide additional visual screening and would reduce the visual impact of the proposals from that direction. For these reasons I concur with the Council's view that neither the settings of the adjacent listed buildings nor the setting of the Conservation Area would be adversely affected. The proposals would accord with policy 7.8 of the London Plan (2011/2015), policy 16 of the Core Strategy (CS)¹ and policy DM36 of the Development Management Local Plan (DMLP)² in terms of the protection of heritage assets.
12. The close proximity of the site to Lewisham town centre together with excellent accessibility by public transport would indicate that a high density of development may be acceptable in locational terms but this does not override the need to consider the effect on the character and appearance of the area. The appellant has drawn attention to a number of approved developments in the area but the circumstances of each site vary and those other examples do not alter my findings on this main issue.
13. For the reasons given I find that both proposals would unacceptably harm the character and appearance of the area. A number of development plan policies require consideration of local context, including the height, scale and mass of existing buildings as part of a requirement for high quality design. Policies 3.5 and 7.4 of the London Plan, policy 15 of the CS, policies DM30 and DM33 of the DMLP and policy LTC6 of the Lewisham Town Centre Local Plan (LTCLP)³ have such requirements. For the reasons given neither proposal would accord with those policy requirements.

Living conditions of adjacent occupants

14. The adjacent flats have rear facing habitable room windows. The windows are positioned some distance away from the boundary and given that the upper floors of the proposals would be set in from the boundary they would not immediately impinge upon the outlook from those windows. Nonetheless the proposals would be visible at an angle from them. They would also be particularly overbearing when seen from the adjacent garden. Taken together these effects would be unacceptably oppressive and for these reasons the proposals in both appeals would adversely affect the living conditions of adjacent occupants.
15. The proposals would not accord with policies DM32 and DM33 of the DMLP, policy 7.6 of the London Plan or policy LTC6 of the LTCLP which require new

¹ Lewisham Core Strategy (2011)

² Lewisham Development Management Local Plan (2014)

³ Lewisham Town Centre Local Plan (2014)

residential development to be attractive and neighbourly, to avoid harm to amenity, to provide enhancement and a satisfactory outlook for its neighbours.

16. Although not forming part of the Council's reasons for refusal, neighbours have objected to the proposals on the grounds of loss of privacy and light as well as light spillage. The rear facing elevation would be a sufficient distance away from the properties on Belmont Hill to maintain privacy. The windows to the side facing the adjacent garden would be obscure glazed as would the side panels to the terraces. The appellant has provided a sunlight and daylight assessment which demonstrates that there would be no adverse impact in terms of loss of light to adjacent properties. It is unlikely that there would be any adverse effect on neighbours' living conditions arising from light spillage. However my findings on these matters do not alter my conclusion on this main issue.

Studio flat

17. Policy DM32 of the DMLP does not support single person dwellings other than in exceptional circumstances. In such circumstances they should be of exceptional design quality and in highly accessible locations. Paragraph 2.247 of the DMLP explains that flexible and adaptable housing design reduces the need to move from home to home and allows for the sustainable development of communities.
18. The proposed flat 6 in appeal A would provide a small open-plan unit of 37 sq m floor space. This would accord with the minimum gross internal area for a single person flat in the London Plan as reproduced in Table 2.3 of the DMLP. However if the unit were to be occupied by two people it would fall short of the 50 sq m required by the standards.
19. The site is in a highly accessible location in close proximity to the town centre and with good public transport services. However no evidence of any exceptional circumstances to justify the proposed studio flat has been put forward. For this reason the studio flat would not accord with policy DM32 of the DMLP. The London Plan standards which reflect the nationally described space standard⁴ allow for single person units but the Council has taken a particular approach to ensure the provision of housing that is flexible and allows for changing needs.
20. For these reasons I find that the proposed studio flat in appeal A has not been demonstrated to be an acceptable form of accommodation in terms of planning policy requirements.

Other Matters

21. The property has been marketed for commercial use without success and as an empty building it may detract from the area. The proposals would be of benefit in terms of redeveloping the property and providing new housing. However no evidence has been put forward regarding any shortfall in housing supply. This limits the weight that I can give in favour of the proposals and in both cases the positive aspects are clearly outweighed by the harms that I have found.

⁴ Department for Communities and Local Government: Technical housing standards – nationally described space standard

Conclusions

22. For the reasons given I conclude that both appeals should be dismissed.

Nick Palmer

INSPECTOR