

Appeal Decision

Site visit made on 12 December 2016

by Susan Ashworth BA (Hons) BPL MRTPI

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

Decision date: 23rd December 2016

Appeal Ref: APP/C5690/W/16/3156325
222-222A Trundleys Road, London SE8 5JE

- 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 Mr Gary Hopkins & Mr De Kock Van Zyl against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/15/094457, dated 12 November 2015, was refused by notice dated 8 April 2016.
 - The development proposed is demolition of the existing buildings and construction of a new 2-3 storey residential building plus basement storey comprising a total of 7 self-contained residential units (2 x 1 bed and 5 x 2 bed) with associated outdoor amenity space, landscaping and cycle storage.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal is accompanied by revised drawings, including some which were submitted during the application process. The drawings include revisions to the external appearance of the building, changes to floor to ceiling heights and an alteration to the mix of units.
3. I cannot be certain that the Council has had adequate opportunity to assess these revisions or that interested parties have had the opportunity to comment upon them. I do not consider that the amendments proposed are insubstantial. Thus, in the interests of fairness, I have considered the appeal on the basis of the plans against which the Council determined the application.

Main Issues

4. The main issues in this case are:
 - whether the proposal would provide a satisfactory standard of living accommodation having particular regard to space, outlook and privacy;
 - the effect of the development on the living conditions of adjoining residents with particular regard to privacy and noise and disturbance;
 - the effect of the development on the character and appearance of the area.
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Reasons

Whether the proposal would achieve a satisfactory standard of accommodation

5. The appeal site comprises 222 Trundleys Road, a two storey end of terrace house and, attached to that, 222A Trundleys Road, a single storey building also in residential use. The site, which is bound at the rear by a substantial railway embankment, lies within a predominantly residential area and is opposite a park. The proposal is for the demolition of the existing buildings and the redevelopment of the site with a block of 7 self-contained flats. The proposed building would be some 3-4 storeys in height, including a basement level.
6. Policy DM 32 of the Council's Development Management Local Plan 2014, in line with the provisions of the London Plan, expects, amongst other things, that all new residential development provides a satisfactory level of privacy, outlook and natural lighting for both its future occupiers and its neighbours, and responds positively to the site specific constraints and opportunities.
7. The main parties agree that two of the units, units 2 and 3, fall short of the minimum floor area required for a 2 bed/ 3 person unit. I recognise that this is due to restricted circulation space around the stairs, but nevertheless, there is no justification before me as to why the standards cannot be met in a new-build development.
8. Proposed Units 1-4 would be duplex apartments, with living, dining and kitchen spaces at basement level and bedrooms above. The units would each have a dual aspect with windows to both the front and rear of the building on both floors. However, outlook from the basement windows would be directly towards retaining walls, which would be around 5m high, from a very limited distance, above and beyond which would be the railway embankment. Although the appellants' daylight and sunlight study concludes there would be adequate light into these rooms, it seems to me that with such a limited outlook they would be oppressive spaces in which to live. The main impact of this would be on the quality of space within the basement living rooms, but ground floor rear bedrooms would also suffer from compromised outlook because of the proximity of the embankment.
9. The external amenity areas for units 1-4 meet the policy requirements in terms of their size in purely mathematical terms. However, the awkward configuration of the spaces to units 1 and 4, their position below ground level and enclosure by substantial retaining walls, would mean that they were very poor quality spaces. I acknowledge that the park opposite the site would provide an opportunity for outdoor recreation but nevertheless this does not justify the absence of good quality private space within the development itself.
10. The proposal would make provision for the storage of 14 bicycles, exceeding the minimum recommended provision of 12 spaces for a development of the size proposed. However, 8 of the spaces would be within an enclosed space that would also accommodate the shared refuse bins. There is no reason why this space would not be lockable and thereby safe. However, it seems to me that it would be an unpleasant place to store valued items, and thereby less

useable. In addition the limited and awkward configuration of the space may mean that easy access to both the bins and the bicycles may be compromised.

11. I have taken into account the Council's concerns about overlooking into the rear bedroom window of unit 2 from passing trains. Given the height of the railway line, it is likely that there would be fleeting glimpses into rooms at ground and first floor. However, such glimpses would not give rise to a sustained loss of privacy and moreover, such overlooking is not uncommon in properties backing railway lines. Indeed existing premises in the row have habitable room windows at the rear which are similarly overlooked. I am therefore satisfied that adequate levels of privacy could be achieved.
12. The cumulative impact of the failure to comply with the internal space standard in two of the units, poor outlook and limited outdoor space in the duplex apartments and poor quality cycle storage arrangements is such that overall the development would not provide a satisfactory standard of accommodation. Consequently, in this respect the proposal would be contrary to the provisions of Policy 3.5 of the London Plan, DM Policy 32 and DM Policy 33 of the Council's Development Management Local Plan 2015 (the Local Plan) which seek to achieve, amongst other things, a satisfactory amount of living space, and good outlook and to meet the functional requirements of future residents.

The effect of the development on the living conditions of neighbouring residents

13. The proposed building would be set at an angle to the adjoining property at the rear. Technical evidence before me indicates that there would be no significant loss of sunlight or daylight to the neighbouring dwelling as a result of the proposed development and there is no reason for me to disagree. However, the first floor kitchen window to unit 5 would overlook the garden area to No 220 from close proximity, albeit at an oblique angle, and would thereby have a limited adverse effect on privacy within that space.
14. Given the proximity of the proposed roof terrace to the neighbouring property, and the low height of the parapet wall, overlooking of the neighbouring property from roof level would also be possible. Furthermore as a result of the size of the terrace and its capability of being used by a number of people at any one time, it is likely that there would be some disturbance from noise. I have noted the appellants' willingness to amend the configuration of the roof terrace or to prevent its use as external space entirely. However, without a specific proposal before me, I am unconvinced the reconfiguration of the space could be satisfactorily resolved by condition. A condition preventing the use of the roof as a terrace would be unreasonable and would not meet the tests for conditions set out in the Planning Practice Guidance.
15. Subterranean development can involve more challenging engineering and construction issues than conventional development and I have taken into consideration the concerns of the neighbouring resident about potential structural damage. It seems to me that there is no fundamental reason why the proposed development could not be carried out without harm to the structural integrity of neighbouring properties with careful management. Such a matter could in any event be managed by planning condition.

16. For the above reasons, the proposal would have an adverse effect on the living conditions of the adjoining occupiers through overlooking and disturbance. Consequently, in this respect, the proposal would be contrary to DM Policy 32 and DM Policy 33 of the Local Plan which require, amongst other things, that development would result in a satisfactory level of privacy for its neighbours and no loss of amenity to neighbouring houses or gardens.

The effect of the development on the character and appearance of the area.

17. Properties along this section of Trundleys Road are of a modest domestic scale and appearance and are generally two storeys in height. In the wider area there is a variety in the height of buildings, and I noted at my visit the five storey, Delta Court. Viewed from the road, the section of the proposed building adjoining No 220 would appear as a two storey structure reflecting the form and massing of the adjoining properties. Beyond that the building would rise to three storeys although the difference in height would be only around 2m. As such the three storey element would not be unduly dominating. Windows to the front elevation, although larger than those of neighbouring properties, would be well-proportioned and would align with the neighbouring windows at ground and first floor level. Plot widths would also be reflected. As such the development would continue the rhythm created by the existing terrace. In addition whilst modern materials would be used for the windows and balconies, the walls would be of brickwork, reflective of other properties in the terrace. Consequently I am satisfied that the development would visually relate to the adjacent row.
18. The proposal includes the provision of lightwells to the frontage of the property which, given their size would appear as voids. Nevertheless the lightwells would not be unduly prominent and moreover are not an unusual feature in a Victorian street scene. I acknowledge the Council's concerns that the development would cover a large proportion of the site area. In townscape terms the development would reflect the character of the area, where terraced buildings generally occupy a substantial proportion of their plot. In this respect the development would not appear incongruous.
19. I conclude on this issue that for the above reasons the proposal would not be harmful to the character and appearance of the area. Consequently it would comply with Policies 7.4 and 7.6 of the London Plan, DM Policy 30 and DM Policy 33 of the Local Plan and Policy 15 of the Core Strategy 2011 which seeks in various ways to ensure a high quality of design which reflects its context.

The Planning Balance and Conclusion

20. The proposal would provide a clear benefit in the provision of a net increase of five additional residential units in the Borough. Given the small scale of the development this carries moderate weight. The proposal would also be of benefit to the appearance of the site, and this also carries limited weight in support of the scheme.
21. However, the proposed units would fail to provide the quality of accommodation required by the development plan policies set out. It seems to me that as well as the need to increase the housing stock, the government's aim is to provide a good standard of accommodation for future

occupiers and as such I attach significant weight to the harm caused by the quality of the accommodation. In addition, there would be some limited harm to the living conditions of the neighbouring occupiers through overlooking and noise.

22. Consequently the adverse impacts of the development would significantly and demonstrably outweigh the benefits. Therefore, for the reasons set out and taking all other matters raised into account, the appeal is dismissed.

S Ashworth

INSPECTOR