

Appeal Decision

Site visit made on 17 January 2017

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 13 February 2017

Appeal Ref: APP/C5690/W/16/3158248

79 Culverley Road, Lewisham, Greater London SE6 2LD

- 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 Ms P Clark against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/16/095849, dated 4 March 2016, was refused by notice dated 24 May 2016.
 - The development proposed is the conversion of a 2 storey semi-detached house into 4 self-contained flats comprising of 1 x 4 bedroom ground floor flat, 2 x 1 bedroom flat to the first and loft floor and 1 x 1 person studio flat to the first floor, including a single storey rear extension with pitch roof and roof windows and new and replacement windows to the flank and rear of the new and existing building, including brick pavers to the front garden.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The Procedural Guide to Planning Appeals – England (31 July 2015), makes clear that it is the choice of the Council whether or not to submit a statement of case or to treat the questionnaire and supporting documents as its representations. In this case the Council has chosen the latter, which includes its delegated report. In doing so, this does not amount to an acceptance by default of the appellant's case or 'no contest to the appeal' and does not mean the appeal must 'be automatically allowed'. Indeed, the Council's position remains that it was correct in refusing the planning application.

Main Issues

3. The main issues are:
 - the effect of the development on the Borough's housing stock;
 - whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to outlook and the provision of internal living space; and
 - the effect of the development on the living conditions of neighbouring occupiers with particular reference to outlook.
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Reasons

Housing stock

4. The appeal relates to a two storey semi-detached house with additional accommodation within the roof space. It is proposed to convert this existing single dwelling into four self-contained flats.
5. The aim of DM¹ Policy 3 is to appropriately manage the future subdivision of single family houses into self-contained flats, in order to ensure that new dwellings provide a high standard of amenity, and to promote and retain housing choice in the borough. The policy states that the Council will refuse planning permission for the conversion of a single family house into flats except where environmental conditions mean that the single family house is not suitable for family accommodation due to being adjacent to noise generating or other environmentally unfriendly uses or because of a lack of external amenity space suitable for family use.
6. In this regard, the appeal site is situated within an established residential area and is surrounded by other residential properties. There are no non-conforming noise generating or other environmentally unfriendly uses within its vicinity. Although I note that there are two schools along the road, I have no evidence to suggest that either would result in any material harm in terms of noise. Moreover, the appeal site also benefits from a good sized rear garden, which is entirely suitable for family use.
7. The conversion of the existing single family dwelling into four flats would therefore be in clear and direct conflict with the first part of DM Policy 3. As a consequence, despite its size, it would not attract support from the second part of this policy. Moreover, for the reasons set out below, it would also fail the third and final part of the policy, in that the conversion would not meet the housing standards of DM Policy 32.
8. I accept that the level of internal accommodation is significant and that in the current circumstances it is under-occupied. However, I have no evidence to demonstrate that there is a lack of demand for family accommodation of this size, despite the appellant's assertions to the contrary. Indeed, whilst there may be a demand for further flats, the justification to DM Policy 3 explains that the evidence in the Lewisham Strategic Housing Market Assessment shows that the main need for housing in Lewisham is for family housing and that the further conversion of houses into flats should be limited.
9. I accept that the conversion of the existing dwelling house would provide a mix of accommodation and increase the number of residential units, however, this would be at the cost of losing a single family home. The loss of choice for such accommodation would also be contrary to London Plan Policy 3.8 which states that Londoners should have 'a genuine choice of homes that they can afford and which meet their requirements for different sizes and types of dwellings in the highest quality environments.' DM Policy 3 is intended to provide that choice by ensuring that conversions of single family houses into flats does not further reduce the provision of this type of housing. This is consistent with paragraph 50 of the National Planning Policy Framework (the Framework) which states that local planning authorities should plan for a mix of housing

¹ Lewisham Local Development Framework Development Management Local Plan

and create sustainable, inclusive and mixed communities. Therefore, even accepting, without evidence to confirm, that this is predominantly a 'flatted area', this is not sufficient reason to increase the concentration of the same, given the above stated aims.

10. Moreover, the policy justification to DM Policy 3 states that the Council has ensured through the Strategic Site Allocations in the Core Strategy and the smaller other allocations in the Site Allocations Local Plan and Lewisham Town Centre Local Plan that the projected housing growth for Lewisham can be accommodated without the need for the further conversion of single family houses into flats and the consequent loss of high quality family accommodation. I have been provided with no evidence to suggest this position has changed.
11. Also, I do not agree that the property is unsuitable or impractical for single family occupation. Indeed, this is a suburban style street which in my view would be attractive to families, not least because of the presence of two primary schools along it.
12. I acknowledge that the ground floor flat would meet the minimum space standards for a four bedroom, seven person single storey dwelling as set out in the technical housing standards², and therefore would provide flatted family accommodation. However, the proposal would still result in the loss a larger family house, which DM Policy 3 specifically seeks to resist.
13. Moreover, the attractiveness of the proposed flat to families would be diminished by the cramped and disproportionately small combined kitchen, dining and lounge space. Whilst minimum standards are met for the size of the bedrooms, three out of the four would have poor levels of outlook and would not provide acceptable living conditions for future occupants. I am also unconvinced of the value of the proposed private terrace which would be north facing and confined on all sides by the surrounding built form. Even though the garden would be retained, this would be for shared use, which in my view would likely make it less attractive to families. Therefore, the ground floor flat would not provide a comparable level of family accommodation. This would not be swayed by the ability to turn a wheelchair in a number of the rooms, which could be achieved if the property is retained as a single house.
14. For these reasons the proposal would not meet criteria 'b' of paragraph 8 of the Core Strategy³ Policy 1 which seeks an appropriate mix of dwellings within a development, having regard to the previous or existing use of the building, which in this case is a family dwelling which DM Policy 3 seeks to retain as a valuable housing resource.
15. Whilst it could be argued that the loss of one dwelling would have little overall impact, this is an argument that could be repeated time and again. The cumulative impact arising from a number of individual family dwellings being lost would seriously undermine the Council's objectives and prejudice the ability of the Council to provide sufficient housing stock of the right type to meet its requirements and to provide sustainable communities. Such policies need to be applied consistently in order for the strategy to have the best

² Department for Communities and Local Government Technical housing standards – national described space standard March 2015.

³ Lewisham Local Development Framework Core Strategy Development Plan Document

chance of being delivered. Therefore, whilst I sympathise with the appellant's wish to remain in the family home, this would not justify taking a decision in clear conflict with adopted development plan policy.

16. I therefore conclude that the proposal would result in the loss of a valuable housing resource that contributes to the delivery of housing choice in Lewisham, contrary to: DM Policies 3 and 32; Core Strategy Policy 1; Policy 3.8 of the London Plan and paragraph 50 of the Framework.
17. In further consideration of the replacement provision, DM Policy 32 states that single person dwellings will not be supported other than in exceptional circumstances and that developments will be required to have an exceptional design quality and be in highly accessible locations.
18. In this regard, the Council state that the site has a Public Transport Access Level (PTAL) of 4, which indicates a good level of access to the public transport network, rather than very good or excellent. This reflects the suburban character of Culverley Road which would not in my view comprise a highly accessible location. Furthermore, even though the studio flat would benefit from a good standard of outlook, it would not achieve even the minimum space standard for such accommodation. Overall therefore, this does not indicate that exceptional design quality would be achieved. The proposal would not therefore meet the exceptional circumstances of this policy.
19. I have noted the submission made by the appellant relating to the benefits of providing a studio flat, however, the justification to DM Policy 32 explains that small studio flats intended for single person occupation are not considered to provide long term, sustainable solutions to housing need and I find no reason to take a contrary position. Moreover, I have no evidence that this form of accommodation would be attainable for a person on a low income or that its provision would likely free up a family home for a lodger or for downsizing.
20. I therefore find no justification for the DM Policy 32 to be flexibly applied in this case and even if I were to do so, the other development plan policy conflicts identified above and below would remain.

Living conditions

21. Dealing firstly with future occupiers, DM Policy 32 also expects, amongst other matters, that all new residential development provides a satisfactory level of outlook and meets the functional requirements of future residents. It is stated that the standards in the London Plan will be used to assess whether new housing development provides an appropriate level of residential quality and amenity. This will involve an assessment of whether the proposals provide accommodation that meet the criteria including minimum space standards and provide accommodation of a good size, a good outlook with acceptable shape and layout of rooms, with main habitable rooms receiving direct sunlight and daylight, and adequate privacy.
22. In principle, other than the one bedroom, one person flat, each dwelling would in overall terms meet the minimum standards of DM Policy 32 and that of The London Plan (March 2016) and the technical housing standards. However, DM Policy 32 also states that habitable rooms and kitchens and bathrooms are required to have a minimum floor height of 2.5 metres between finished floor

- level and finished ceiling level. It is stated that space that does not meet this standard will not count towards meeting the internal floor area standards.
23. This is a matter of concern for the proposed attic accommodation because of the likely height constraints arising from the roof pitches. Therefore, in the absence of details to confirm how the floor space figures would be affected, I cannot be certain that even the minimum internal space standards would be achieved for the top floor flat. As such, there is significant potential that the flat, and in particular its lounge, would create cramped and oppressive living accommodation for future occupants.
24. The figures do though confirm that the one bedroom, one person flat would not meet the appropriate minimum floor space standards of 37m². The size of the bedroom for the first floor flat would also fall slightly below the minimum requirements set out in the technical housing standards. Whilst these shortfalls would not be sufficient to warrant withholding planning permission on their own, they do add to my more significant concerns that the sole source of outlook for this first floor bedroom would be dominated by the flank wall of No 81 Culverley Road in a manner which would be overbearing and oppressive. For the same reasons, poor levels of outlook would also be provided for two of the bedrooms on the same side of the house for the ground floor flat, whilst a third bedroom in this unit would face into a shaded, north facing and fully enclosed terrace space. These deficiencies would not be compensated for by the outlook from the kitchen and living room areas because all rooms habitable rooms should have a reasonable outlook. Moreover, as noted, the combined kitchen/dining/living room of the ground floor flat would be undersized and disproportionately small for a four bedroom dwelling.
25. In terms of existing neighbouring residents, the rear of the appeal property includes a two storey outrigger which is replicated in the adjoining property at No 77 Culverley Road, thereby creating a recessed area back to the main wall of the dwelling on either side of the boundary. The proposed rear extension would fill the recess area at the appeal site and thereafter would extend across the full width of the dwelling and project 4m beyond the rear of the outrigger.
26. Therefore, whilst the appellant states that the single storey extension is not excessive in depth and that such dimensions are now quite common on many properties since the introduction of recent amendments to the Prior Approval tolerances, this does not take account of the fact that no built structure exists in the corresponding recess of No 77, adjacent to its outrigger. Therefore, from the two windows in the main rear back wall of No 77, the 4m depth would be in addition to the depth of the outrigger, thereby creating a long unrelieved flank wall for a considerable distance along the common boundary. I accept that a boundary wall could be built to 2m but the height the extension would, at its lowest point, be materially higher and would rise up to twice such a height.
27. Consequently, the height, proximity and depth of the extension, relative to the back windows of No 77, would result in an overbearing and visually harmful form of development that would dominate the outlook from that property.
28. Although I accept that No 77 benefits from a good sized rear garden, views of it from the ground floor windows would be channelled between the relatively narrow space between its outrigger and the proposed extension, thereby creating an oppressive sense of enclosure.

29. The photographs presented by the appellant do not appear to provide comparable schemes in the views looking to the east and west from the site and I do not agree that No 81 Culverley Road establishes the rear building line for the area. In this regard there is a clear distinction between the properties to the east of the appeal site and those to the west, with which the appeal site aligns.
30. I therefore conclude on this main issue that the proposal would be harmful to the living conditions of both existing and future occupants and as such would be contrary to Policy 3.5 of The London Plan, Core Strategy Policy 15, DM Policy 32 and the Lewisham Residential Standards Supplementary Planning Document.

Other matters

31. The site falls within the Culverley Green Conservation Area. Paragraph 132 of the Framework makes clear that great weight should be given to the conservation of designated heritage assets. However, having regard to the positioning of the main external works, I find that the proposal would not materially affect the character or appearance of the Conservation Area and as such would preserve the same.
32. I acknowledge that the Council has not raised undue concern regarding refuse, car parking, cycle storage and noise, however, such absences of such harm are neutral factors in the planning balance and therefore cannot weigh in favour of the appeal proposal.

Conclusion

33. For these reasons, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Richard S Jones

Inspector