
Appeal Decision

Site visit made on 17 January 2017

by S J Buckingham BA (Hons) DipTP MSc MRTPI FSA

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

Decision date: 14 February 2017

Appeal Ref: APP/N5660/W/16/3159996

Plot adjacent 1 Deepdene Road, London SE5 8EG

- 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 & Mrs B Henry against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 16/02683/FUL, dated 4 May 2016, was refused by notice dated 14 July 2016.
 - The development proposed is erection of detached dwelling house.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a detached dwelling house at plot adjacent to 1 Deepdene Road, London SE5 8EG in accordance with the terms of the application, Ref 16/02683/FUL, dated 4 May 2016, and the plans submitted with it, subject to the conditions set out in the schedule to this decision.

Preliminary Matter

2. The description of development on the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not been changed, but, nevertheless a different wording was used by the Council in its decision notice. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original description.

Main Issues

3. The main issues are the character and appearance of the area, and the effect on the living conditions of occupants of adjoining dwellings with respect to privacy.

Reasons

Effect on the character and appearance of the area

4. No 1 Deepdene Road is a generous semi-detached house situated in a residential area close to Ruskin Park in Denmark Hill. To its western flank it has a garden area which adjoins the rear boundary of the gardens of Nos 78 to 84 (evens) Ferndene Road and which is accessible on its frontage by a double gate leading on to Deepdene. The appeal proposal is to build a three storey, 2
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bedroom house next to the host dwelling in this flanking garden area. The proposed dwelling would be around half the width of individual houses in the vicinity on the north side of Deepdene Road.

5. Nos 1 and 3 and 5 and 7 Deepdene Road are handed pairs, separated by a small gap, with No 9 attached to No 7. This group of houses has a strong vertical rhythm created by double height polygonal bays, topped with a half-timbered gable. The appeal dwelling would be set away from its boundaries on either side, leaving a small gap to No 1, and would include a polygonal first floor bay with gable, set over a hipped-roofed porch, both of proportions comparable to those seen in the vicinity.
6. The footprint of the appeal dwelling would be narrower than is typical of other houses in the area due to the constraints of the site, but, by referencing typical design elements and detailing, it would follow the vertical rhythm of the group of houses along the north side of Deepdene Road. While smaller in bulk than typical houses in the area, it would nonetheless also respect the prevailing scale in terms of these elements. The proposed house would therefore be capable of being read as a related continuation of the adjacent houses.
7. The pair of small and recently-constructed houses on Deepdene Road facing the appeal site have created a pattern of scaled-down versions of the earlier houses in the area inserted into small plots at the end of earlier groups or terraces. For these reasons I consider that the appeal dwelling would not form a particularly incongruous or out-of-keeping element in the street scene.
8. The appeal dwelling would be slightly set back from the front building line on the north side of Deepdene Road to create a parking space, and would have a garden area to the rear. It would be flanked on both sides by a gap between its boundary and those of adjacent houses. There would also be visible space between the appeal dwelling and houses along Ferndene Road as a result of their gardens. It would therefore have an adequate setting on all sides, and would not, as a result, appear particularly cramped in its plot.
9. The Council has suggested that the proposed dwelling would be exceptionally deep and narrow. While deep in relation to its width, it would project only a small distance beyond the existing rear projection of the host building and other adjacent buildings. Its depth would not, therefore, appear significantly out of keeping with the rear building line of other houses along this side of Deepdene Road. The flank view also would not appear significantly deeper than that of the existing dwelling. The submitted drawings indicate that the width of the house would be sufficiently wide to support its function as a dwelling, and while narrower than typical houses in the vicinity, it would not therefore appear incongruously narrow.
10. The design of the rear elevation would be modern, incorporating large areas of glazing including patio doors, but would not be visible from the street and only partially visible from adjoining rear gardens. It would therefore have a limited effect on the character and appearance of the area.
11. The roof of the appeal building would be stepped down from the roof line and eaves line of No 1, and would have a hipped projection facing rearwards and flat fronted dormer projection on the flank facing Ferndene Road. It would reference the roof shapes of other houses in the vicinity in a scaled-down form and have chimneys, which are a characteristic feature of the area. However,

being around half the width of typical roofs on individual houses in the vicinity it would appear truncated on the side facing the host dwelling when viewed face on or in elevational drawings. However, this part of the proposed roof would mainly be viewed from ground level on Deepdene Road or from the rear of houses along Ferndene Road, where it would be largely screened by the rest of the roof, including the dormer and chimneys. This unusual roof shape would not therefore be particularly conspicuous in views of the property.

12. The proposed materials, including brick and render would complement existing traditional materials used in the area. Render is used extensively on upper floors and flank elevations in houses in the vicinity, and the appeal proposal would follow this pattern. The submitted drawings indicated that doors and windows would be of stained timber, rather than aluminium. In any case, while painted timber would be the original material for doors and windows there are now a variety of materials in use. The proposed materials would therefore appear particularly alien in this wider context.
13. As the appeal building would not form a particularly incongruous element in the street scene, I conclude that it would not harm the character or appearance of the area. It would not therefore conflict with Policy Q5 of the Lambeth Local Plan 2015 (the LP) which seeks that the local distinctiveness of Lambeth should be sustained and reinforced through new development, and that proposal would be supported where it is shown that the design of development is a response to positive aspects of the local context. It would not conflict with Policy Q7 of the LP which seeks development of good quality which is visually interesting and which has a bulk, scale/mass, siting, building line and orientation which adequately preserves or enhances the prevailing local character or with Policy Q8 of the LP which seeks good design quality.
14. While Policy Q14(a) of the LP is clear that the Council does not consider gardens to be potential development sites and that it will resist proposals which would result in the loss of biodiversity or soft landscaping, a significant part of the appeal site is hard landscaped, and while wildlife may pass through it, no convincing evidence has been put to me that it greatly supports biodiversity. I do not therefore consider that this part of the policy applies. Policy Q14(b) states that prominent corner or side gardens are not considered appropriate for development. However, as this side garden is not on a corner or, being set between the host building and the rear boundary of adjoining gardens, particularly prominent, I do not consider that this part of the policy applies either. The proposal would not therefore conflict with this policy.

Effect on the living conditions of occupants of adjoining dwellings with respect to privacy

15. While the appeal dwelling would sit a metre from the rear boundary of Nos 78 and 80 Ferndene Road, it would be at the end of their relatively sizeable rear gardens. Although the siting of the building would mean that there was potential for overlooking these gardens, the windows on the flank elevation would be to non-habitable rooms, and obscure glazed. Their retention in this form is, furthermore, a matter which is capable of being secured by condition.
16. The appeal building would have a balcony on its rear elevation at first floor level. However, the submitted drawings indicate that this would be a Juliet balcony, and as a result no greater oblique views into the gardens of nos 78 and 80 Ferndene Road would be afforded than if it were a window. It would

face directly towards the rear of the gardens of houses on Acland Crescent at a distance of some metres, but as there is already some degree of overlooking of these areas from the rear upper floor windows of houses on the north side of Deepdene Road and houses on Ferndene Road, mitigated by screening planting, this would not cause a harmful increase in levels of overlooking.

17. The garden of the appeal site is currently bounded by high fences and screened from other gardens with planting, which would not afford any views through into neighbouring gardens at ground floor level from the large patio doors. Although the land slopes down between the appeal site and the gardens of houses along Ferndene Road, the gradient is not sufficiently steep to allow users of the garden of the appeal building to look over these fences. The proposal would not alter this, and would not therefore have a significantly harmful effect on the privacy of those using these gardens.
18. The appeal proposal would not therefore significantly increase overlooking of the rear gardens of adjacent houses, and would not as a result have a harmful effect on the privacy of the occupiers of those houses. It would not therefore conflict with Policy Q2 of the LP, which states that development will be supported if acceptable standards of privacy are provided without a diminution of the design quality.

Other matters

19. I have considered the concerns of neighbours of the appeal site about the effect of the proposal on levels of sunlight and daylight reaching their gardens. Drawings have been submitted showing shadow paths, and, while they have also expressed concerns over the dates of these drawings and the numbering shown for houses along Ferndene Road, given the position and orientation of houses in the area and the appeal dwelling, I see no reason to doubt the information they convey. The drawings show a limited increase in overshadowing of the rear elevations and gardens of Nos 78, 80 and 82 Ferndene Road in the early mornings. No 84 Ferndene Road would not be affected, and it is not likely that levels of light reaching any solar panels in this group of houses, being at roof level, would be affected either. The appeal proposal would not therefore harm the living conditions of occupiers of these houses in this respect.
20. The appeal proposal would extend the built form of houses along Deepdene Road by a relatively small number of metres closer to houses along Ferndene Road, and separated from them by the depth of their rear gardens. It would otherwise replicate the appearance of the current flank elevation of No 1 Deepdene Road. As a result it would not form a significantly overbearing element in the outlook from the rear of these houses. Nor, as a house in a predominantly residential area, would it be likely to have a harmful impact on the occupiers of those properties in respect of noise.
21. The gap between the appeal dwelling and No 1 would be no smaller than gaps between other houses in the same part of Deepdene Road. The windows on the flank of No 1 are small, obscured, and belong to non-habitable rooms. There would, as a result, be no significant harm to outlook from this house.
22. The appeal proposal would provide an off-street parking space for one car. It would not therefore be likely to add significantly to parking pressure in the area. The appeal proposal shows part of the parking space set under the

- proposed open porch rather than the creation of a car port, so fears along those lines are ill founded.
23. The rear garden area of the host dwelling would be subdivided, but otherwise retained in similar form. The evidence provided confirms that existing mature trees in the garden would not be affected. As a reasonably generous garden area would be retained to the rear of the proposed dwelling, there would not be likely to be a significant effect on the movement of wildlife through or between gardens.
24. The front part of the appeal site is currently a hardstanding used for car parking, and the extent of external hard surfacing would not significantly increase as a result of the appeal proposal. In any case, adequate provision for surface water drainage is a matter which is capable of being secured by condition.
25. It has been pointed out that the gap between the proposed building and the host building is not sufficiently wide to allow access to a bicycle or wheelchair. However the gap between the two is agreed by the main parties to be around 1m, and it appears to me that this would be sufficiently wide to allow the passage of a bicycle or wheelchair.
26. Any noise and disturbance relating to construction would only be temporary.
27. Representations were made to the effect that the rights of the adjoining occupier, Rebecca Osborne, under the Human Rights Act 1998, Article 1 of the First Protocol, would be violated if the appeal were allowed. I do not consider this argument to be well-founded, because I have found that the proposed development would not cause unacceptable harm to the living conditions of Rebecca Osborne. The degree of interference that would be caused would be insufficient to give rise to a violation of rights under Article 1 of the First Protocol.
28. A previous planning appeal (Ref. T/APP/N5660/A/93/223604/P4) is referred to by neighbours, but a copy of this has not been put before me. In any case, as it dates from 1993 it significantly pre-dates current planning policy, and the presumption in favour of sustainable development, and under these circumstances does not cause me to alter my decision.

Conditions

29. I have had regard to the conditions suggested by the Council, and the requirements of the National Planning Policy Framework. For clarity, a condition is attached requiring implementation in accordance with the approved plans.
30. To ensure that the satisfactory attention is given to security and community safety, a condition is added requiring construction of the building to "Secured by Design" standards.
31. Certain details that are important to secure an adequate standard of design, and in the interests of protecting the character and appearance of the area, are reserved by conditions; they are the materials to be used on external faces of the building, windows and doors, and the roof. Equally, details of hard landscaping, including boundary treatments and refuse and recycling storage, are important in the interests of protecting the character and appearance of the

- area, and ensuring adequate arrangements for the handling of refuse and recycling, and I have accordingly applied a condition reserving details of these.
32. However, the appeal proposal does not include significant areas of soft landscaping except the rear garden of the proposed dwelling, and I consider that it would not be reasonable to control details of planting or retention of planting in this area. I have, accordingly, not conditioned soft landscaping.
33. A condition is added relating to the implementation of a scheme of sustainable drainage, in the interests of ensuring that the development does not increase the risk of flooding. A condition is added to secure the provision and retention of spaces for bicycle parking, to ensure that adequate provision is made, in order to promote sustainable modes of transport.
34. I have added a condition requiring the submission of a Construction Method Statement, in order to protect the living conditions of the occupiers of adjacent dwellings. Also in order to protect the living conditions of the occupiers of adjacent dwellings I have added a condition requiring the implementation and retention of obscured glazing to windows on the west flank elevation of the approved dwelling. As, however, the balcony shown on the approved plans is a Juliet balcony, and would not project beyond the plane of the rear elevation of the approved dwelling, I do not consider that it is reasonable to require the installation of a privacy screen. I have accordingly not applied such a condition.
35. A condition is added requiring compliance with the Building Regulations Optional requirement M4(2) in relation to accessible and adaptable dwellings in order to secure appropriate access for disabled people.

Conclusion

36. For the reasons given above and taking into account matters raised, I conclude that the appeal should be allowed.

S J Buckingham

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Block Plan, 14-029/SD/04 B, 14-029/SD/03 A, 14-029/SD/01 P, 14-029/PP/001, 14-029/SD/05 B.
- 3) Prior to the occupation of the dwelling, it shall be constructed to "Secured by Design" standards, to details which have first been submitted to and approved in writing by the local planning authority, and it shall adhere to these standards thereafter.
- 4) No development shall commence until samples and a schedule of materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Notwithstanding indications of materials given on the approved plans, development shall be carried out in accordance with these approved details.
- 5) No development shall take place until details of the design of windows and doors, including drawings at a scale of 1:50, and of the roof elevation, including drawings at a scale of 1:20, have been submitted to and approved in writing by the local planning authority. Notwithstanding indications on these matters given in the approved plans, the development shall be carried out in accordance with these approved details.
- 6) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) means of enclosure and boundary treatments;
 - ii) hard surfacing materials;
 - iii) external lighting;
 - iv) minor artefacts and structures;
 - v) refuse and recycling storage, including details of how future occupiers of the scheme will manoeuvre refuse and recycling to the street for collection;
 - vi) external lighting
 - vii) existing and proposed functional services above and below ground;
 - viii) an implementation programme, including phasing of work where relevant.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

- 7) The dwelling hereby permitted shall not be occupied until a sustainable drainage system shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The submitted details shall include:

- i) Measures to delay and control the surface water discharged from the site and the measures to prevent pollution of the receiving groundwater and/or surface waters;
- ii) Measures to minimise the use of potable water through water collections facilities to capture excess rainwater; and,
- iii) Measures for rain and grey water to be recycled and re-used in the development.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 8) The dwelling hereby approved shall not be occupied until space has been laid out within the site for 2 bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.
- 9) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the phasing of construction;
 - ii) the parking of vehicles of site operatives and visitors;
 - iii) measures to control the deposit of mud and debris on the public highway; and
 - iv) delivery and construction working hours.
- 10) The building hereby permitted shall not be occupied until the windows on the west elevation have been fitted with obscured glazing, and once installed the obscured glazing shall be retained thereafter.
- 11) The dwelling shall not be occupied until the Building Regulations Optional requirement M4(2) in relation to "accessible and adaptable dwellings" has been complied with.