
Appeal Decision

Site visit made on 24 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: 21st February, 2017

Appeal Ref: APP/C5690/W/16/3160800

59 Longton Avenue, Sydenham, London, SE26 2RF

- 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 J Dawson against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/16/096718, dated 16 May, 2016 was refused by notice dated 15 July, 2016.
 - The development proposed is erection of 2 units of 3 bedroom, two storey, semi-detached houses with parking spaces and vehicular access.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in 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 has been entered. Neither of the main parties has provided written confirmation that a revised description has been agreed. Accordingly, I have used the one given in the original application.
3. I have considered whether it would be fair to take the amended plans submitted with the appeal (Refs 0240-203A and 0240-204A) into account in determining the appeal. Although the changes shown on these plans are minor, they would materially alter the nature of the proposed development in relation to one of the key concerns of third parties, and I conclude that determining the application on the basis of the amended plans would potentially prejudice the interests of these third parties by depriving them of an opportunity to be consulted on the changed development. I have therefore considered the appeal on the basis of the scheme and plans which were before the Council when it made its decision.

Main Issues

4. The main issue in this case are the effect on the character and appearance of the area; the effect on the living conditions of the occupiers of adjacent properties in respect of privacy; and whether the appeal proposal constitutes inappropriate development of a residential garden.
-

Reasons

The effect on the character and appearance of the area

5. Longton Avenue is a residential street facing Sydenham Wells Park. It is characterised by generous detached and semi-detached houses lining the road, with large front gardens and unusually long gardens rising up the slope to the rear. The appeal site is at the end of the rear garden of No 59, and is adjacent to an area of modern estate housing, including tower blocks and smaller houses with private gardens, all set in generous areas of landscaping. The site is within an area of special character, designated for nature conservation reasons.
6. The appeal proposal is for a pair of semi-detached houses of two storeys plus a roof storey, with small garden spaces to the rear and side. Each would have a parking space to the front. They would step down in response to the sloping ground on which they sit.
7. While the design of the proposed dwellings is a considered one, which attempts to take account of the topography of the appeal site and constraints of its setting, the roof storey and step between them would result in a rather fussy arrangement of built forms, heightened by features such as a chimney stack and front and side dormers, which would contrast with the simpler forms of the early twentieth century houses along Longton Avenue and the very simple, flat roofed structures they would face along High Level Drive. Due to their three storey height and the slope of the ground the proposed dwellings would also stand out in height and bulk in relation to other dwellings in the vicinity. They would therefore form a conspicuously incongruous and harmful element in the adjacent townscape.
8. The setting of the two proposed houses would be in garden spaces which, although they would in total meet space standards, would be broken down into in rather tight spacing to the rear and side and would appear small in relation to the size of the houses. They would therefore be likely to create an appearance of cramped and urbanised development in what is otherwise an open and generously greened area, to its harm. The gardens to the small dwellings along High Level Drive, while modest, sit in a single block, thereby creating a greater sense of space.
9. The propose dwellings would therefore cause harm to the character and appearance of the area, and would as a result conflict with Objective 10 and Policy 15 of the Core Strategy 2011 (the CS) which seek development which is sensitive to its local context, and would conflict with Policy DM30 and Policy DM32 of the Council's Development Management Local Plan 2014 (the DMLP) which seek development of a high quality of design and with a positive relationship to site specific constraints and the existing townscape.
10. Policy DM33 of the DMLP sets out general principles for the development of backland sites which are considered suitable for development. I examine the principle of development on the site below, but find that even were it suitable for development, the appeal proposal would otherwise conflict with this policy where it states that planning permission will not be granted unless the proposed development relates successfully and is sensitive to the existing design quality of the streetscape.

11. While the Framework indicates that planning decisions should not attempt to impose architectural styles or particular tastes, it is nevertheless clear at Paragraph 58 that planning decisions should aim to ensure that developments respond to local character. I conclude that the appeal proposal also conflicts with the requirements of the Framework in this respect.

The effect on the living conditions of the occupiers of adjacent properties in respect of privacy

12. The proposed dwellings would directly face the pair of houses at 31 and 32 High Level Drive across a narrow access way. However the front windows at ground floor level would be to non-habitable room, those at first floor level would be secondary windows to a bedroom, and those at second floor level would be lighting the stairwell. They would be obscure glazed, and their retention in that form could be secured by condition. In this respect the propose dwellings would not cause significant harm to neighbouring occupiers.
13. The plans originally submitted, however, show small balconies to the rear and at the second floor of the proposed dwellings, which would give rise to some overlooking of the rear gardens of houses along Longton Avenue, and particularly number 61, thereby harming the privacy of neighbouring occupiers. However, given the length of these gardens, the presence of screening planting, and the fact that they are already overlooked by the windows of the tower block, Shamrock Court, I consider that the additional harm caused would be limited. I accept also that the balconies could be screened to reduce visibility into these gardens, or replaced by windows.
14. Nevertheless, I conclude that there would still be some possibility of additional overlooking, in oblique views at relatively close quarters, and that there would be a perception of overlooking, which would cause some harm to the living conditions of the occupiers of adjacent dwellings. The appeal proposal would therefore conflict with Policy 15 of the CS, which seeks development which addresses any adverse impact on neighbouring amenity, with Policy DM32 of the DMLP which requires new residential development to provide a satisfactory level of privacy for its neighbours, and with the adopted Lewisham Residential Development Standards SPD 2006 which expects developers to demonstrate how the form and layout will provide privacy for neighbours of the proposed development.

Whether the appeal proposal constitutes inappropriate development of a residential garden

15. Although the appeal site is fenced off from the main garden, this separation appears to have happened recently, and the site incorporates a double garage and rear drive to that garage, both associated with the host dwelling. Although surplus to the requirements of the appellant, I conclude that this does not therefore overcome the fact that it is part of the residential garden to the host building.
16. Paragraph 53 of the National Planning Policy Framework (the Framework) advises that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. Policy DM33 of the DMLP was adopted after the Framework, and is consistent with it in acknowledging that there is no longer a presumption in favour of development

on residential gardens. It makes it clear that the development of back gardens for separate dwellings in areas of perimeter form residential typology, such as this, and as identified in the Lewisham Character Study, will be resisted.

17. While the Framework does not rule out consideration of development of garden land on its own merits, the starting place for determining planning applications must be the development plan. It is clear in the justification of Policy DM33, that in this urban typology the built form relies on more or less regular street forms, building facades and garden areas, and that developments on back gardens are likely to have a negative impact on the design integrity of the street scene. In addition to the harm identified above therefore, the appeal proposal would, notwithstanding the quality of its design, conflict with this policy through the intrinsic harm it would create to character and quality of the urban form. It would therefore comprise development in an inappropriate location.
18. While the appeal proposal would mean that the host property would retain most of its rear garden, this does not overcome the harm that I have identified above.
19. The Council is clear that it is on track to meet housing targets through the delivery of more suitable development sites, and I see no reason to doubt this. Any benefits to be derived through the creation of additional housing units would therefore be limited, and would not outweigh the harm identified above.
20. I have had regard to the appeal decisions put before me¹ which conclude on issue of development on garden land, but the circumstances of these cases do not appear to be directly comparable to those of this appeal; there has been no previous grant of permission for houses on this site, the relevant development plan policy in this case was adopted after the publication of the Framework and is in accord with it, and I have, in any case identified other harm to the local area. They do not, therefore, cause me to alter my decision.

Conclusion

21. I conclude therefore for the reasons given above and taking into account matters raised that the appeal should be dismissed.

S J Buckingham

INSPECTOR

¹ APP/D3830/A/13/2195836; APP/N2739/A/12/2188221; APP/E3715/A/13/2195357; and APP/Q1445/A/2196206.