
Appeal Decision

Site visit made on 28 March 2017

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 21 April 2017

Appeal Ref: APP/C5690/W/16/3160985
138 Sydenham Road, London SE26 5JZ

- 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 A Adil against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/16/095340, dated 29 January 2016, was refused by notice dated 26 September 2016.
 - The development proposed is the demolition of existing building and erection of a part three and part four storey building comprising 130 sq m of A1 & A2 on the ground floor and 7 flats above together with the erection of 2 no. 2 bedroom two storey houses facing Knighton Park Road, with associated refuse, recycling and cycle storage.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the living conditions of the occupiers of No 140 Sydenham Road, with particular reference to privacy; and
 - the character and appearance of the area.

Reasons

Living conditions

3. The neighbouring property at No 140 Sydenham Road is a three storey end of terrace building which has a commercial use at ground floor and a residential use above. The residential use benefits from two terrace areas and an unusually shaped rear garden which 'dog-legs' around the rear of the adjoining terrace properties. I was able to view the appeal site from this garden during my site visit and it was clear that these spaces are well used.
 4. I accept that within a relatively high density urban area there will be a degree of mutual overlooking. However, the rear first floor windows of the proposed terrace dwellings would directly overlook the garden space of No 140, at very close proximity. I have considered the viewing angles shown on the section drawings but, even by retaining the existing boundary wall, a large part of the garden area of No 140 would still be clearly visible from these first floor windows. Indeed it is likely that all of the 'dog-leg' section which extends to
-

the east would be visible. Moreover, a person of reasonable height would also fall within the identified site lines in views closer to the boundary.

5. This level of overlooking would severely compromise the enjoyment of this garden space, which is an important resource within the context of this urban area. In my view, the level of harm arising would be materially greater than any existing overlooking from No 142 Sydenham Road and No 3 Knighton Park Road and would be sufficient in its own right to warrant withholding planning permission. I am also unconvinced that such harm could be satisfactorily resolved by way of condition without unacceptably compromising the quality of the internal bedroom accommodation of the proposed terrace dwellings.
6. I do though accept that by retaining the existing boundary wall to No 140, overlooking would not be possible from the ground floor windows of the terrace dwellings. Moreover, the windows of the proposed flatted accommodation facing No 140 would be high level and those serving the landing areas would obscure glazed, thereby preventing unacceptable overlooking. Due to the internal configuration of the flats, this would be achieved without unacceptably compromising the living conditions of future occupants.
7. Nevertheless, I have found that the proposal would result in significant harm to the living conditions of the occupants of No 140, contrary to DM Policy 32 of the Development Management Local Plan (DMLP), which expects, amongst other matters, that all new residential development provides a satisfactory level of privacy for future residents and their neighbours. Whilst reference is also made in the Council's reason for refusal to Policy 15 of the Core Strategy Development Plan Document (CS), the main design focus of this policy does not directly relate to this main issue. I have therefore given limited weight to it in this regard.

Character and appearance

8. The appeal site is situated in a prominent location on the corner of Sydenham Road and Knighton Park Road, and comprises a number of distinct elements. To Sydenham Road the site presents two adjoining single storey, flat roofed commercial units. Behind which is a two storey hipped roof building with a number of storage buildings joined to the rear. All buildings would be demolished as part of the appeal proposal. Whilst I have noted the objections to this, the Council has confirmed that the buildings are not listed or locally listed, nor do they fall within a conservation area. Moreover, I do not consider they are of sufficient quality or make sufficient contribution to the street scene to warrant protection from demolition.
9. In terms of context, the appeal site neighbours a terrace of three storey properties. There is also a row of three storey terrace properties directly opposite the site on Sydenham Road. On the opposite corner to Knighton Park Road is the Hexagon building, which is four storeys in height and adjoins what appears to be a residential block that is also four storeys. Further along Sydenham Road, in both directions from the appeal site, are a number of three and four storey buildings.
10. The appeal proposal would in part be three storeys in height with a flat roofed, recessed fourth storey above. The three storey element would match the eaves height of the adjoining terrace whilst the top of the fourth storey would be little higher than its ridgeline. This marginal increase in scale, as a focal

point for a corner building, would not be inappropriate and in any case the fourth storey would be significantly set back from the edge of the third storey, thereby minimising its overall scale. Moreover, the proposal would be materially smaller than the Hexagon building both in its scale and massing, whilst its curved corner footprint would reflect the design of that building.

11. I accept that the proposed design would contrast with the neighbouring terrace. However, there is already some variety to the built form in this area and when viewed within the context of the strong horizontal form and flat roof of the Hexagon building, the proposal would not look out of place. I am also satisfied that any concerns relating to the design of the commercial frontages and lighting are capable of being resolved by way of condition.
12. The flat roof element of the proposal would return for the majority of the length of the site to Knighton Park Road but would then drop down to two storeys in height with a pitched roof and a scale and design to complement the adjacent terrace dwellings. Whilst the proposed bay windows would project marginally in front of the main building line of the existing terrace, this would not be particularly noticeable in the context of the terrace as a whole and any harm arising would not be sufficient to warrant withholding planning permission. Overall, this element of the proposal would provide a reasonable visual and physical transition from the more commercial scale of Sydenham Road to the more domestic two storey scale of Knighton Park Road.
13. I therefore conclude on this second main issue that the proposal would not be harmful to the character and appearance of the area and in this regard would not be contrary to DM Policy 30 of the DMLP or Policy 15 of the CS, which require, amongst other matters, development proposals to attain high standards of design.

Other matters

14. As anticipated by the Framework, the proposal would boost housing supply in a sustainable location. These are therefore matters which weigh significantly in favour of the proposal. However, the effect on the living conditions of the occupants of No 140 would outweigh the benefits I have identified such that the proposal would not, in overall terms, meet the social objectives of sustainable development. Accordingly, the proposal would not amount to sustainable development, having regard to the advice at paragraphs 7 of the Framework. Not being sustainable development, it follows that no such presumption, as anticipated by paragraph 14 of the Framework, applies.

Conclusion

15. Although I have found that the proposal would not be harmful to the character and appearance of the area, I have found that the proposal would cause unacceptable harm to the living conditions of the occupants of the neighbouring property at No 140. For this reason, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Richard S Jones

INSPECTOR