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## Appeal Decision

Site visit made on 27 February 2017

**by Jonathan Price BA(Hons) DMS DipTP MRTPI**

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

**Decision date: 27<sup>th</sup> April 2017**

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**Appeal Ref: APP/C5690/W/16/3164610**

**Land rear of 13 Calmont Road, Bromley BR1 4BY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Sterling Rose Development Limited against the Council of the London Borough of Lewisham.
- The application Ref DC/16/098248, is dated 12 September 2016.
- The development proposed is construction of a single storey building on the land to the rear of 13 Calmont Road fronting onto Ambleside to provide a two bedroom bungalow, retention of an existing crossover and 1 car parking space.

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**This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 27 March 2017.**

### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Sterling Rose Development Limited against the Council of the London Borough of Lewisham. This application is the subject of a separate Decision.

### Preliminary Matter

3. The proposal was the subject of a Council resolution to refuse planning permission based on the recommendations in the officer report. The appeal was made in advance of the issue of the notice of refusal of planning permission. However, the officer report sets out the recommended reason for refusal that would have comprised the reason for the Council's decision had this been issued.

### Main Issue

4. Consequently, the main issue in this case is the effect this proposal would have on the character and appearance of the area.

### Reasons

5. The appeal site comprises land to the rear of 13 Calmont Road, which is a semi-detached house similar to the others along this straight building line of quite spacious homes which face onto playing fields. At some point in time the original houses standing between No 13 and the next house to the north-west
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- at No 7 have been removed to provide the road access serving the higher density housing development at Ambleside, located to the rear of the frontage housing along Calmont Road.
6. The entrance to Ambleside consequently runs alongside the rear gardens to Nos 7 and 13 providing a frontage onto this street, directly in the case of the former and beyond a strip of public open space in the case of the latter. A small white-rendered, flat-roofed house named The Acorns has been built in the land fronting Ambleside at the rear of No7, which the Council had allowed in March 2011 (reference DC/10/76122).
  7. The Acorns is an incongruous-looking bungalow which bears no relation to either the frontage housing along Calmont Road or that in Ambleside. It detracts from the degree of openness and separation between these two contrasting areas of housing that is otherwise provided by the undeveloped long back gardens to the Calmont Road houses.
  8. This proposal is essentially for a matching form of dwelling to The Acorns on a site on the opposite side of the road, which has been provided by the fencing off of the rear part of the garden to No 13. The fact that the appeal site has been fenced in and sold separately to No 13 does not alter its planning status as garden land in my view.
  9. I can quite appreciate the support from local residents, and the local Councillor, for this proposal, as this would provide a mean to remedy the appearance of a site in a rather untidy state, which has encouraged fly-tipping and comprises something of an eye-sore. The evidence suggests that this was partly the reason the Council had permitted The Acorns. However, there are other remedies the Council might take to address these concerns and the condition of the site lends little material weight in support of this proposal.
  10. Since permission was granted for The Acorns planning policy has moved on. The Government published the National Planning Policy Framework (the Framework) in March 2012. The Council adopted the Development Management Local Plan in November 2014<sup>1</sup> (DMLP) and its policies are up-to-date and consistent with the aims of the Framework and so can be given substantial weight in this decision.
  11. The Framework does not preclude the development of back garden land. However, paragraph 53 states that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would harm the local area. Furthermore, private residential gardens in built-up areas are excluded from the Government's definition of previously-developed land and so the Framework's encouragement for the effective use of brownfield land would not apply to this proposal.
  12. The commonly understood definition of infill development is that which would occupy a small gap in an otherwise built-up frontage. This proposal would occupy quite a wide gap where there is no comparable contiguous built frontage either side and so would not be supported as a clear example of an infill development. Consideration has been given to developments recently permitted by the Council at 10 Lawrie Park Avenue<sup>2</sup> and at 34 Peak Hill

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<sup>1</sup> Lewisham Local Development Framework Development Management Local Plan – adopted 26 November 2014.

<sup>2</sup> Reference DC/16/097415

Gardens<sup>3</sup>. However, both these cases are much clearer examples of infill development and provide little weight in support of this proposal, which should be decided on its own merits.

13. The development of this back garden site would result in a cramped and incongruous form of housing bearing little relationship with, and detracting from the openness between, the semi-detached housing along Calmont Road and the higher density housing in Ambleside, and would compound the harm caused to the character and appearance of the area resulting from The Acorns opposite.
14. As a consequence this proposal would conflict with DMLP Policy 33, which restricts the development of back gardens for separate dwellings in perimeter form residential typologies identified in the Lewisham Character Study, which this area represents. The dwelling would be incompatible with the character of the surrounding urban typology with would not satisfy DMLP Policy 30.
15. The proposal would also conflict with the Council's 2011 Core Strategy<sup>4</sup> (CS) in falling within one of the Borough's Areas of Stability and Managed Change, where CS Spatial Policy 5 seeks to ensure that any new development protects or enhances the quality of Lewisham's character. The proposal would not meet the aims of CS Policy 15 which require all development to be sensitive to local context and respond to local character.

## **Conclusion**

16. The proposal would conflict with the Council's development plan policies which are consistent with the aims of the Framework to always seek to secure high quality design and to take account of the different roles and character of different areas. There is no permission to sub-divide the back garden to No 13, where the dwelling proposed would be harmfully out of keeping with the prevailing residential character of the area. Consequently, having taken into consideration all other matters raised, I conclude that the appeal should be dismissed and planning permission refused.

*Jonathan Price*

INSPECTOR

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<sup>3</sup> Reference DC/16/098714

<sup>4</sup> Lewisham Local Development Framework Core Strategy Development Plan Document – adopted June 2011.