The Planning Inspectorate

Appeal Decision

Site visit made on 28 March 2017

by R C Kirby BA(Hons) DipTP MRTPI

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

Decision date: 23 May 2017

Appeal Ref: APP/N5660/W/16/3162694
1A Dorset Road, London SW8 1EF

- 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 NW3 Capital Ltd against the Council of the London Borough of Lambeth.
- The application Ref 16/04959/FUL, is dated 19 August 2016.
- The development proposed is the erection of four dwellings with basements and mansard roofs.

Decision

1. The appeal is dismissed.

Procedural Matter

2. This appeal follows the failure of the Council to determine the planning application within the prescribed period. The Council has indicated that had it determined the application it would have refused planning permission.

Background and Main Issues

3. Planning permission has been granted for the redevelopment of the site with 4 single storey dwelling houses with basements (Ref 16/03110/FUL). The appellant is seeking to add mansard roofs over part of the approved units which would provide an additional bedroom with en-suite to each property. A terraced area would also be provided to units 2, 3 and 4.

4. The principle of development upon the site has been established with the granting of the 2016 planning permission which has been implemented. Accordingly, the main issues in this case are the effect of the mansard roofs on:

   - the character and appearance of the area, and
   - the living conditions of nearby occupiers, having particular regard to outlook and the effect on sunlight.

Reasons

5. The appeal site is a roughly rectangular shaped piece of land located to the rear of 3 storey terraced properties fronting Dorset Road, Heyford Avenue and Old South Lambeth Road. The neighbouring properties have short rear gardens, and have windows on their rear elevations on each of the 3 floors.

The appellant has provided photographs within the design and access statement which indicate that there was a 2 storey workshop building upon the site with a side lean to. This building had been demolished prior to my site visit.

Character and Appearance

6. Policy Q7 of the Lambeth Local Plan (LLP) states that new development will generally be supported where, amongst other matters, it has a bulk, scale, mass and siting which adequately preserves or enhances the prevailing local character. LLP Policy Q14 relates to a number of situations including the redevelopment of previously developed backland sites and states that building forms and heights should remain subordinate to the built context and any increase in height (in relation to existing development on the site) should not have any adverse impact.

7. The appeal proposal would have a greater site coverage that the previous building upon the site and would be of a greater scale and mass. The new dwellings would however be lower in height than neighbouring development and would be subordinate in scale. Whilst the proposed roof form would not reflect that of neighbouring development, I observed on my visit that there are mansard roofs present in the wider area, including on the opposite side of Dorset Road. Given this, and the discreet location of the appeal site between existing buildings, I am satisfied that the design of the proposal would not be harmful to the character and appearance of the wider area. There would be no conflict with the character objectives of LLP Policies Q7 or Q14. Furthermore, there would be no conflict with the design quality and construction detailing objectives of LLP Policy Q8.

Living Conditions

8. LLP Policy Q2 supports development where, amongst other matters visual amenity from adjoining sites is not unacceptably compromised; adequate outlooks are provided; undue sense of enclosure is avoided and levels of daylight and sunlight to adjoining properties are not unacceptably impacted.

9. The Council has calculated that the built form of the new dwellings would be 1 metre from the rear boundaries of neighbouring properties in Heyford Avenue, which it is understood are flats. The highest part of the roof would be further away than this as it has been designed to slope away from neighbouring properties.

10. The mansard roofs would extend along the entire width of the rear boundary of Nos 10, 12, 20 and 22 Heyford Avenue. They would also partially extend along the rear boundary of Nos 8, 14 and 24. They would be of a height and bulk that would result in a prominent, dominant feature when viewed from the rear rooms and gardens of these properties. The resultant building would be overbearing and harmful to the current, largely open outlook afforded to these properties, making the rear rooms and gardens less pleasant to use. Furthermore, the proposal would have a significant enclosing effect to the rear garden area and rooms to Nos 10, 12, 20 and 22 as a result of the scale of the roofs and proximity to these properties. The enclosing effect would be less for Nos 8, 14 and 24 because the location of the dwellings, relative to these properties would ensure that a partly open outlook from one side would be retained.

11. Concern has been raised about the impact of the scheme on sunlight to nearby properties. The new dwellings are located to the south and west of properties in Heyford Avenue; to the east of Heyford Terrace in Old South Lambeth Road and to the north of properties in Dorset Road. A Daylight and Sunlight Assessment (DSA) was submitted with the planning application which included an assessment of the effect of the proposal on natural light reaching nearby residential properties. The Council acknowledge that the proposal would not have an adverse effect upon daylight and sunlight reaching the internal rooms of neighbouring properties. Whilst noting neighbouring occupiers' concerns in respect of this matter, I have no substantive evidence before me to reach a different conclusion to the Council in this regard.

12. However, the DSA did not include an assessment of the effect of the proposal on sunlight reaching the rear gardens of neighbouring properties. Given the orientation and distance of the new dwellings relative to Heyford Terrace and Dorset Road, it is unlikely that the scheme would have an adverse effect upon the sunlight within the rear gardens of neighbouring properties.

13. Neighbouring properties in Heyford Avenue are located to the north and east of the new buildings. It is therefore likely that the proposal would have an effect upon the availability of sunlight within the rear gardens of these properties, which in turn could affect the living conditions of neighbouring occupiers. The appellant's diagram and assertion that a person within the garden area at No 14 Heyford Avenue would experience good levels of sunlight at eye level in March and June, fails to adequately address this matter. Whilst the rear amenity area to these properties is likely to serve a flat, rather than a house, and may be a yard, rather than a garden, I have no reason to doubt that the occupiers who use these outdoor spaces value it any less. Indeed it is clear from the representations made that local people value the light and outdoor space in the locality.

14. In light of my findings, I conclude that the proposal would have a significant harmful effect on the living conditions of the occupiers of nearby properties in Heyford Avenue in terms of harm to outlook. Furthermore, I am not satisfied that the scheme would not have an adverse impact on the availability of sunlight within the rear gardens of neighbouring properties. This adds to my concern about the effect of the scheme on the living conditions of nearby occupiers. I acknowledge that this is a city centre location where higher densities are supported by planning policies. However, the development plan and national planning policy contained in the National Planning Policy Framework (the Framework) also make it clear that good standards of amenity should be provided to existing and future occupants of neighbouring land and buildings. The proposal would not achieve this and this results in conflict with the amenity objectives of LLP Policy Q2 and the Framework.

Other Matters

15. A unilateral Undertaking(UU) dated 30 November 29016 was submitted with the appeal which would restrict the intended future occupiers from applying for a residents parking permit unless they were the holders of a disabled person's purple badge. As I dismissing the scheme, it is not necessary for me to consider the UU further.

16. I note the appellant's submissions about the benefits of the scheme, including the provision of family sized units, biodiversity enhancements and safety and

security measures that would be incorporated into the scheme. However, these matters do not significantly and demonstrably outweigh the harm that I have identified to the living conditions of nearby occupiers.

Conclusion

17. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

R C Kirby

INSPECTOR