
Appeal Decision

Site visit made on 18 July 2017

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 8th August 2017

Appeal Ref: APP/C5690/W/17/3169700

R/O 11 Orchard Drive, Blackheath, London SE3 0QP

- 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 Ian and Caroline Harjette against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/16/097072, dated 7 June 2016, was refused by notice dated 18 August 2016
 - The development proposed is demolition of existing garage and erection of a 2 bedroom house comprising basement and ground floor including car and cycle parking and garden.
-

Decision

1. The appeal is dismissed.

Procedural Matter

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 changed but, nevertheless, a different wording has been entered. 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 application.

Main Issues

3. The main issues are:
 - Whether the proposal is acceptable in principle and the effect of the proposal on the character and appearance of the Blackheath Conservation Area ('BCA').
 - Whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to light, overshadowing and external space.

Reasons

Background

4. The proposal before me follows the refusal of a similar application and the subsequent dismissal of related appeals in September 2009¹. Whilst each case

¹ APP/C5690/A/09/2103661.

must be determined on its own merits I have had regard to these previous decisions in the determination of this appeal.

Principle and conservation area

5. The appeal site is formed by a roughly rectangular piece of land at the foot of the rear garden of No. 11 Orchard Road that contains a double garage. No. 11 is a 2 storey corner dwelling, with the imposing flank wall of its narrow and long rear garden bordering the footway on the northern side of Eliot Place. The road slopes down considerably from the junction of Orchard Drive and Eliot Place towards Eliot Vale where the existing double garage is accessed from and because it stands forward of the principle elevation of neighbouring houses further along Eliot Vale it is conspicuous within the streetscene.
6. The appellant refers to the appeal site being previously developed land ('PDL'). However, historic mapping would seem to suggest that the garage building was not constructed until the 1950's and the appeal site is part of the original garden to the property. In any event, the National Planning Policy Framework ('the Framework') is clear that the definition of PDL excludes land in built up areas such as private residential gardens. It would therefore amount to the re-development of back garden land, for development plan purposes.
7. Part C of Policy 33 of the Lewisham Local Development Framework Development Management Local Plan 2014 ('LP') seeks to resist the development of back gardens for separate dwellings. This theme is continued in Policy DM30 which states that new development in side or rear gardens will not generally be acceptable in order to maintain the characteristic residential quality of the typology. Consequently, the effect on character and appearance is central to the determination of this appeal.
8. This part of the BCA has a suburban residential character, typified by residential areas of individually distinctive character, reflecting the sequence of development the area has undergone. The appeal site is identified in the Lewisham Character Study as a 'Villa' typology and falls within sub area 1e of the Blackheath Conservation Area Appraisal.
9. The mainly Edwardian detached houses are separated from the highway by front gardens set back from the highway and behind walls, railings and fencing. Open and well vegetated rear and front gardens, in combination with the presence of mature trees positively contributes to the character and appearance of this attractive suburban area. The evidence before me and my site visit suggest that given there is some variety in architecture, this is an area where the *'the diversity of character and retention of spatial qualities in the conservation area which, in the London context, makes Blackheath such a valuable area and worthy of protection'*.
10. The proposal would be sited further toward No. 11 and closer to the street than the existing garage. The combination of the raised level of Eliot Vale, the siting and because it would present a clearly defined and legible residential frontage to the street, would clearly result in a more conspicuous building.
11. Whilst I acknowledge the attempt by the appellant in terms of the design approach and despite the use of brickwork, the eye would also be unacceptably drawn to the form of the roof, its zinc covering and use of vertical oak cladding which would not reflect the simple form and appearance of the existing garage.

This adds to my concerns regarding the visual effects and to my mind, it would appear as incongruous addition to the streetscene in this suburban setting. Furthermore, Baizdon Road slopes up toward Eliot Place and I share the view of the previous Inspector that the introduction of such a building would be harmful given the very attractive upward vista of sky and trees which lends greatly to the openness and leafiness of the area as a whole.

12. Moreover, there is a spatial as well as visual aspect given the distinctive plot sizes and coverage and the resultant spatial qualities of the area. The introduction of a residential dwelling replacing what is essentially an incidental adjunct to the main dwelling would bear no reflection to the pattern, siting, size or form of houses within this part of the BCA. This would be incongruent to the existing spatial pattern of development within this sub group area.
13. I acknowledge that in design terms it is not always essential to replicate the traditional design or appearance of a building or area and contemporary design can develop a further layer of townscape which complements, rather than competes with the past. However, to the extent that the proposal would represent a further and incongruous intrusion of new development into this area that would not be in keeping with the spatial pattern of development, in such a context I do not consider that it would therefore represent a high quality of design that would enhance the character and appearance of the BCA.
14. For these reasons the proposal would fail to preserve or enhance the character and appearance of the BCA. It would conflict with Policies DM30, DM33 and DM36 of the LP, Policy 15 of the Lewisham Local Development Framework Development Plan Document Core Strategy 2011 ('CS') and Policy 7.4 of The London Plan March 2016. Amongst other things, these policies require a high standard of design, ensure development conserves and enhances the borough's heritage assets and requires that planning permission should not be granted where new development is incompatible with the special characteristics of the area, its buildings, spaces, settings and plot coverage, amongst other things.
15. In the context of the Framework, the proposal would cause less than substantial harm to significance of the BCA. On the evidence before me, the limited public benefits of one additional dwelling would not outweigh this harm.

Living conditions

16. The Council's second reason for refusal relates to a failure to demonstrate an adequate standard of amenity for future occupiers in terms of light, specifically direct access to sunlight and day light. Furthermore, that the external space would not be private, would be overshadowed and would fail to include space suitable for children's play.
17. The bedrooms would be within a basement and served by a light well above a small courtyard that has access into both bedrooms. Accordingly, there would be sufficient day light to these bedrooms and this would accord with the target criteria set out within BS 8206-2 and the Building Research Establishment 'Site Layout Planning for Daylight and Sunlight – a guide to good practice'.
18. The appellant's overshadowing assessment² concludes that there would be no overshadowing of the garden area and on the evidence before me and having visited the site I have no reason to disagree with this assessment. Although the

² JAW Sustainability dated 15 February 2017

Council object to the lack of assessment for the light well, they have not provided me with any alternative assessment and I am also mindful that the BRE Guidance does not consider bedrooms as 'sun important' rooms.

19. In terms of external space, the proposal would result in a 2 bedroom dwelling and even though I have not been provided with any adopted standard, Policy DM32 of the LP is clear that such development provided with a readily accessible, secure, private and useable external space.
20. The total garden area is stated as being 54sqm³, a figure not disputed by the Council. There are windows in the side elevation of the upper floors of No. 10 Eliot Vale which would overlook the space and whilst views would be limited there would be a propensity for overlooking of the garden area and therefore this space would not be private. Whilst overlooking of a part of the rear garden of No. 11 already occurs, this would be to the only private amenity space.
21. I am mindful that Plumstead Common is within a very short distance from the appeal site and could provide additional and accessible open space for the occupiers of the proposal, should they wish to use it. Nevertheless, what would appear to be a high boundary treatment enclosing the space, along with the close proximity of No. 10 would make that space somewhat oppressive. In combination with the perception of being overlooked from both No. 11 and No. 10 Eliot Drive this would not result in a readily private and useable external space, with limited space for children's play.
22. For these reasons, although the proposal would provide acceptable living conditions for existing and future occupiers in terms of light and overshadowing, the living conditions of future occupiers in terms of amenity external amenity space would not be acceptable. It would therefore conflict with Policy DM32 of the LP insofar as it requires residential development to provide a satisfactory level of privacy and provide readily, accessible, secure, private and useable external space, including space suitable for children's play.

Other Matters

23. I have been referred to a number of precedents which the appellant contends are similar to the appeal proposal before me. On the evidence before me, the 2 examples given in 2010⁴ and 2011⁵ pre-date the LP and appear to relate to substantially different forms and designs of development. I have also not been provided with the full details of the other 3 referred to by the appellant⁶.
24. In any event, it is important that each case is determined on its own merits and in this particular case, which inevitably raises matters of subjective judgement I do not consider that the precedents are directly comparable to the proposal before me. Consequently they do not alter my views in relation to the main issues.

Conclusion

25. For the reasons set out above, although there would be compliance with some aspects of the development plan, the proposal would conflict with the development plan, when read as a whole and the Framework. Material

³ Drawing Lp_001

⁴ Appeal ref: APP/C5690/A/10/2126144.

⁵ LE/151/1/TP.

⁶ AAvA precedent pages pdf.

considerations do not indicate that a decision should be made other than in accordance with the development plan and having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR