



Appeal Decision

Site visit made on 25 June 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2019

Appeal Ref: APP/H5960/W/19/3226535

Land at rear of 46 and 48 Longley Road, London SW17 9LL

- 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 Shaahin Ismail Malida against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref 2018/4762, dated 15 October 2018, was refused by notice dated 10 December 2018.
 - The development proposed is the construction of a block of 5 terraced houses at the rear of no.46 and no.48 Longley Road.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. An arboricultural survey¹ has been submitted in support of the appeal. I have taken this into account in my decision.
3. An amended layout plan has also been submitted with the appeal. Layout plan 17027/PA001 'Alternative layout' February 2019 shows the proposed dwellings relocated to the rear-most part of the site. However, this represents a fundamental change and could result in new impacts that have not been subject to consultation and public scrutiny. Therefore, I have been unable to take this revision into account.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area and rear garden setting, including the non-designated heritage asset at 46 Langley Road,
 - the effect of the proposed dwellings on the living conditions of adjoining occupiers, especially with regard to privacy and outlook for the occupiers of No's 48 and 50a Longley Road and in terms of privacy for No 42 Longley Road,
 - the effect of the proposal on trees within and adjacent to the site, and
 - the effect of the proposed dwellings on matters relating to flooding.

¹ Arboricultural Report, Tim Moya Associates - April 2019

Reasons

Character and appearance

5. The appeal site consists of two parcels of land to the rear of No's 46 and 48. The rear garden of No 46 is overgrown, includes a small garage to the rear but otherwise presents an open aspect. The rear garden of No 48 includes two storage sheds within its rear-most part which are surrounded by various items of equipment and detritus. Both gardens are on a slight gradient with the Graveney River beyond the rear boundary wall. They have limited tree cover and despite the presence of outbuildings present an open aspect and sense of spaciousness to the surrounding area. The wider area includes dwellings that have been erected in adjacent rear gardens including No's 42, 50a and 52a, but the area remains largely open. Consequently, the appeal site makes a positive contribution towards the open character and appearance of the area.
6. The proposal would be located within two existing rear gardens. Policy DMH4 of the Wandsworth Local Plan – Development Management Policies Document 2016 (WLP), seeks to promote new housing whilst excluding development of rear gardens. Policy 3.5 of the London Plan 2016 (LP) supports the presumption against development on residential gardens where it is locally justified. The Council's Supplementary Planning Document for Housing² illustrates that its housing targets can be met without relying on garden land. Therefore, although the Framework is a significant material consideration, and promotes an effective use of land in meeting the needs for homes, it would not outweigh policy DMH4 in this instance.
7. Furthermore, the proposal relates to a row of 5 three-storey terraced dwellings, which effectively cover the width of the site. These would not relate well to the prevailing character of the area. The proposal would be an anomalous form due to its scale and location, being within a back-land location. It would therefore result in a substantial increase in built form in a location which is currently open. The effect would be to erode the spacious character of the rear gardens and surrounding area. The dwellings in adjacent rear gardens of No's 42, 50A and 52A are out of keeping with the prevailing character. They illustrate the harm that can be caused by piecemeal development on a verdant setting such as this. Furthermore, they appear to pre-date current planning policies and were therefore determined in a different policy context. Moreover, two recent appeal decisions³ were dismissed partly due to the harmful effect of development on the open character of the rear gardens.
8. No 46 is a locally listed building, the conservatory roof has recently been removed but the building is otherwise intact. The Framework considers the effect of development on heritage assets and requires decision makers to make a balanced judgement, having regard to the scale of any harm or loss, and the significance of the heritage asset. The applicant is required to describe the significance of any heritage assets affected, including any contribution made by their setting. However, in this case the appellant has not identified the significance of No 46. Furthermore, I do not concur with the appellant that the building would be preserved simply because development would occur to the rear of the plot. Notwithstanding the lack of evidential information concerning the asset's significance, the proposal would substantially harm the character

² Wandsworth Local Plan 'Housing' Supplementary Planning Document 2016

³ Planning Appeal Decisions: APP/H5960/W/18/3193168 and ../3204926

and appearance of the building due to its scale and proximity. This would harm the current outlook over the currently spacious and open setting to the rear.

9. Therefore, and in summary of the above issues, the proposal would be demonstrably harmful to the character and appearance of the locally listed building, the rear gardens and the wider surrounding area.
10. Consequently, the proposal would be contrary to policies 7.4, 7.6 and 7.8 of the LP which seek development to add to the positive elements of an area, make a positive contribution and sustain and enhance heritage assets. Also, the proposed dwellings would be contrary to policies PL1 and IS3 of the Wandsworth Local Plan - Core Strategy (2016) which seek to achieve attractive neighbourhoods and for development to contribute positively to the local environment. Furthermore, the proposal would not accord with policies DMS1, DMS2 and DMH4a of the WLP which seek development that contributes positively to the local character, sustain the significance of a heritage asset and to exclude residential development from gardens. The proposal would also fail to accord with the Council's Housing Design Guidance (2016) which seeks residential development to achieve the highest possible standards of design. Furthermore, the proposal would be contrary to the Framework which seeks development that would be sympathetic to the local character.

Living conditions

11. The proposed dwellings would face the rear elevation of No 48 which consists of 8 flats. This property includes a substantial two-storey rear extension, with the ground floor set at a half basement level in comparison to its garden. The proposal would result in a separation distance of around 15 m. Future occupiers would consequently overlook the neighbouring rear windows over a limited and insufficient distance, resulting in a substantial loss of privacy. Furthermore, the outlook from the rear of No 48 would be demonstrably compromised by the height and mass of the proposal. Subsequently, the scale and proximity of the proposal would have a substantially harmful effect on the living conditions of occupiers of No 48. This proximity, combined with the variance in levels, would significantly harm the living conditions of occupiers of No 48 in terms of loss of privacy and outlook.
12. The neighbouring dwellings and gardens of No's 42 and 50a, are adjacent to the side boundaries of the site. The proposed rear elevation and balcony would provide high and intrusive views into the adjacent rear gardens, which screening would be unable to adequately prevent. Therefore, the occupiers of both No's 42 and 50a would suffer significant harm to their living conditions through a loss of privacy due to overlooking. Furthermore, the proposal would be demonstrably overbearing to the side garden and outlook of occupiers of No 50a due to its proximity and scale. The total width of their plot has no real bearing on the effect of the proposal on the side garden and entrance area.
13. The proposed boundary tree planting would be largely ineffective to screen the development especially in its early years. Also, the proposed screening would be close to the frontage of proposed dwellings and habitable room windows which would jeopardise its long-term retention. Consequently, for the same reason a condition to prevent the removal of the tree screen would not be reasonable. As such due to its proximity and the absence of robust long-term screening, the proposal would result in substantial harm to the living conditions

of occupiers of No 48, through both overlooking and effecting outlook by reason of being overbearing.

14. The proposal would be contrary to policy DMS1(c) of the WLP which requires, amongst other things, for development to not harm the amenity of nearby properties through being overbearing, resulting in an unsatisfactory outlook or harming privacy. Furthermore, the proposal would not accord with the Council's Housing design guidance, which seeks development to maintain a reasonable level of privacy.

Tree Issues

15. The site contains limited tree cover. The tree survey submitted in evidence shows trees T1 and T2, adjacent to the boundary of No 42, proposed to be retained. Tree T1 (walnut) would be cut back to the boundary and trees T8, T9 and T10 would be removed. Tree T2 is a Category B (eucalyptus), the rest are a low-quality combination of Category 'C' and 'U' trees. Therefore, the survey illustrates that the effect on tree cover would not be a constraint to development. Also, this indicates that the limited effect of construction could have been properly controlled by the use of conditions. Moreover, the recommendations of the tree survey have been agreed by the Council and this issue has therefore been satisfied.
16. As such the proposal would accord with policy DMO5 of the WLP, which seeks to resist the loss of trees which have amenity value.

Flooding

17. The river to the rear of the site is within a Medium/High Risk Flood Zone (Zone 2/3). The appellant's evidence includes an Environment Agency (EA) response that shows the site is in flood zone 1⁴. However, EA later confirmed to the Council that the site is partially within flood zone 3 and a flood risk assessment is therefore required. Whilst I sympathise that the appellant appears to have received contradictory advice, I note that the original flood map shows the flood zone reaching into the rearmost part of the site. Furthermore, a condition would not adequately address this requirement as any flood prevention solution may have a fundamental impact on the footprint, location and slab height of any dwellings.
18. Therefore, the proposal would not accord with policy DMS 5 of the WLP, which seeks the submission of a Flood Risk Assessment for all development proposed in flood zones 2, 3a and 3b.

Other Matters

19. Aside from the alternative layout described above, the appellant has also offered to relocate the proposed dwellings away from the side boundaries. However, revised plans have not been submitted showing these details. In any event, it would be inappropriate to consider such a revision as this also has not been subject to public scrutiny.
20. The existing appearance of the rear garden of No 48 has been affected by the storage of materials, but this is of insufficient visual harm to concur that the site has had a fundamental change to its character. Moreover, the appearance

⁴ Environment Agency query correspondence 6 Feb 2019

of the current site is less harmful than the harm that I have found by the proposal to the character and appearance of the area. Furthermore, despite the site consisting of two large rear gardens these are similar in character to many gardens in the local area and are not therefore considered to be disproportionately large.

21. The Draft London Plan has just completed its Examination stage and the Examiners' findings are awaited. As such I have only afforded limited weight to its current consideration of housing growth figures. In any event, five further dwellings would only make a very limited contribution towards housing supply in the area and this benefit would be outweighed by the identified harm.

Conclusion

22. The Framework seeks to significantly boost the supply of housing. The proposal would result in the provision of 5 dwellings within an urban environment with good access to public transport. Furthermore, the proposal would not be harmful to identified arboricultural interests. However, the harm to the character and appearance of the area, to living conditions of adjacent occupiers and to flood related interests are substantial and weigh heavily against the proposal. No other material considerations have been identified that would outweigh the conflict found with the development plan.
23. For the above reasons, and having had to regard to all submitted matters, the appeal is dismissed.

Ben Plenty

INSPECTOR