



Appeal Decision

Site visit made on 11 February 2019

by N Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th July 2019

Appeal Ref: APP/C5690/W/18/3211146

Land to rear of Vale Lodge, Perry Vale, Forest Hill, London, SE23 2LG

- 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 Better Properties Ltd against the decision of London Borough of Lewisham.
 - The application Ref DC/18/105335, dated 1 January 2018, was refused by notice dated 12 March 2018.
 - The development proposed is described as the construction of a part two/part four storey building plus basement, incorporating terraces, comprising 1, one bedroom self-contained flat, 3, two-bedroom self-contained flats, 5, three bedroom houses and 9 garages at basement level on former garage land at rear of Vale Lodge, Perry Vale SE23, together with associated landscaping, amenity space and provision of a refuse/recycling store and cycle spaces.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - The effect of the development on local car parking availability, with regard to the former use of the site for garaging;
 - The effect of the development on the character and appearance of the area;
 - Whether the proposed development would provide suitable living conditions for the future occupiers, with regard to outlook and light;
 - The effect of the development on existing trees; and
 - The effect of the development on biodiversity at the site.

Reasons

Car parking

3. The appeal site was formerly used as garaging associated with the flats at Vale Lodge. Those garages have now been demolished. The Appellant describes that only a proportion of the 16 garages that were at the site were used for car parking by residents. They also describe that additional car parking spaces are available elsewhere at the site.

4. A number of residents have raised concerns relating to the loss of this on-site parking capacity and it was clear to me on my visit, that was carried out late morning, that on-street car parking on nearby roads is well utilised. That the access to the site is opposite a school would likely result in additional parking pressures at school drop off and collection times.
5. The Appellant describes that a parking stress survey has been undertaken but it is not before me and in the circumstances that I have described, I cannot be satisfied in the absence of evidence to the contrary, that the displacement of car parking capacity from the appeal site on to the highway would not result in problematic on-street parking conditions.
6. The Appellant has identified the general thrust of planning policy towards a lesser reliance on the private car through avoiding overprovision of parking spaces. It is less appropriate to apply that approach retrospectively to existing parking capacity where people may already own cars and will need to look for alternative places to park them where existing provision is removed.
7. Whilst it is not reflected in its reason for refusal, the Council also describes concerns relating to the layout and design of the parking provision for the proposed units. I am satisfied, that as with arrangements for refuse storage, such matters could likely be addressed through planning conditions in the event that this appeal was allowed.
8. The Council is also concerned that the width of the access would not allow for two-way vehicular movements together with a pedestrian footpath. I note, however, that a passing area would be provided and that the number of movements to and from the site would likely be fewer than when the 16 garages that were at the site were used for parking.
9. In the absence of evidence to demonstrate that on-street or alternative capacity could properly accommodate parking capacity displaced by the appeal development, and given that existing on-street parking appeared to me to be at a premium, I must conclude that the effect of the development on local car parking availability would be unacceptable in conflict with Core Strategy Policy 14 of the Lewisham Core Strategy Development Plan Document 2011 (CS), DM Policy 29 of the Lewisham Development Management Local Plan 2014 (DMLP) and Policy 6.13 of the London Plan 2016 which seek, amongst other requirements, to ensure that appropriate parking numbers are provided and that stress upon on-street parking capacity is avoided.

Character and appearance

10. The appeal site is located within and adjacent to fairly substantial communal gardens. This context results in an open and green character around the site that is enhanced by the presence of mature trees.
11. The scale of the proposed building, with a large and prominent four-storey element would introduce a dominating urban form into that context, and even though the building would be smaller overall than Vale Lodge and five storey buildings within the local area, it would not, in my view, be sufficiently subordinate in scale, given its location away from the road frontage and the open context within which it would be located.

12. The four-storey element of the building in particular, would fundamentally alter the character of the site and its context and whilst materials could be controlled by condition, they could not mitigate that harmful impact.
13. I conclude that the effect of the development on the character and appearance of the area would be unacceptable, in conflict with Core Strategy Policy 15 of the CS and DM Policy 30, DM Policy 32 and DM Policy 33 of the DMLP, which seek a high quality of design and that development is appropriate to its context, including for 'back land' sites, that the Council defines as including garaging.

Living conditions

14. The Appellant's Arboricultural Report identifies that the proximity of retained trees to the proposed development would result in shading in the morning and the evening. It says that this could be addressed by measures including cutting the trees back to the boundary and by 'appropriate room choices'. The proposed floor plans display the locations of the tree canopies after they have been cut back to the boundaries and they show that a number of bedrooms on the ground and first floors and living rooms with their terraces on the second floor would be within close proximity to retained trees and their canopies.
15. This relationship is demonstrated further by a number of the section/elevation drawings (although in some cases, the trees shown on those drawings appear not to be drawn in their 'cut-back' condition).
16. The relationship between these habitable rooms (which in most cases are served by only one window facing in one direction) and the retained trees would limit outlook from them and reduce light to those rooms. No technical evidence is before me (for example, a Sunlight and Daylight Study) to demonstrate that this would not be the case and other than in the case of non-habitable study rooms at first floor, it does not appear to be that the advice of the Arboriculturist to locate rooms appropriately given the context provided by the retained trees has been adequately followed.
17. Overall, I am not satisfied that all of the habitable rooms in the dwellings would receive adequate levels of light or outlook because of their relationship with retained trees. I therefore find that the development would not provide suitable living conditions for the future occupiers, with regard to outlook and light. It would conflict with the relevant requirements of DM Policy 32 of the DMLP which expects new development to provide an acceptable standard of living accommodation.

Trees

18. There are a number of mature trees near to the boundary of the appeal site. These make a positive contribution towards the character of the area and it is proposed that for the most part, existing trees would be retained. Given their proximity to the site, and that in a number of cases, the canopies overhang the site, works would be carried out to the trees as a result of the development, mostly in the form of canopy reduction.
19. I have before me an Arboricultural Impact Report and Method Statement that describes that mitigation measures could protect the long-term health of these trees. I have no reason to dispute the conclusions reached by this report and in

the event that this appeal was allowed, appropriate protection measures could be secured by condition.

20. The Appellant has proposed a scheme of replacement planting to compensate for the two trees that would be removed from the site. The Council has not indicated that it finds these proposals to be unacceptable, in themselves, and I am satisfied that they too could be controlled by condition.
21. On that basis, I am satisfied that the development would not cause harm to existing trees and that the proposal would be consistent with DM Policy 25 of the DMLP, which seeks, amongst other requirements, to protect existing trees.

Biodiversity

22. I have an Ecology Report before me. Whilst it does not appear to have been before the Council when it made its decision, it has had an opportunity to review it and does not challenge its contents.
23. The Report describes that there are no protected species at the site and proposes measures that could be put in place to protect potential nesting birds and to secure biodiversity enhancements at the site.
24. I am satisfied that these measures could be secured by condition in the event that this appeal was allowed and that as a result, the development would have an acceptable effect on biodiversity at the site and would be consistent with DM Policy 24 of the DMLP, which seeks to protect biodiversity.

Other Matters

25. Neighbours of the site have raised various concerns, including that site levels are misrepresented by the plans, that refuse would not be properly managed and that the appeal scheme does not represent an improvement against previous submissions to the Council. Given the conclusions that I have reached on the main issues, I have not considered these additional matters where they are not also raised by the Council.
26. I have carefully considered the benefits of the scheme described by the Appellant, including the sustainable location of the site and the meaningful contribution that would be made by the appeal development to local housing provision on a small site. These benefits do not, though, outweigh the harm that I have found.

Conclusions

27. In conclusion, there is not enough evidence before me to demonstrate that the highways impact of the development would be acceptable, and I have found that harm would be caused to the character and appearance of the area and that the quality of accommodation provided would not be acceptable. Whilst I have found that the proposal would not cause harm to existing trees or to biodiversity, those factors do not outweigh my overall findings.
28. For these reasons, I conclude that the appeal should be dismissed.

N Smith

INSPECTOR