



Appeal Decision

Site visit made on 27 November 2020

by Michael J Muston BA(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2020.

Appeal Ref: APP/C5690/W/20/3250710

27 Longton Avenue, London SE26 6RE

- 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 Smart of Tengu Ltd against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/18/108799, dated 3 September 2018, was refused by notice dated 13 December 2019.
 - The development proposed is the demolition of the existing single detached family dwelling and the construction of a flat roofed, 4-storey building that would accommodate 8 three bedroom self-contained maisonettes.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area, with particular regard to the significance of 27 Longton Avenue, a locally listed building, as a non-designated heritage asset.

Reasons

3. The building on the appeal site at 27 Longton Avenue was included on the list of locally listed buildings in early 2020. The Glossary at Annex 2 to the National Planning Policy Framework (the Framework) makes it clear that this does not alter the definition of this building as a non-designated heritage asset.
4. The effect of proposed development on a non-designated heritage asset is dealt with in Paragraph 135 of the Framework. It states that "*The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*"
5. DM Policy 30(3) of Lewisham's Development Management Local Plan (2014) (LP) encourages the retention and refurbishment of existing buildings that make a positive contribution to the environment, and says that their values and significance as a heritage asset will be assessed as part of any development proposal. DM Policy 37 says that the Council will "*protect the local distinctiveness of the borough by sustaining and enhancing the*

significance of non-designated heritage assets”, and “resist the demolition of locally listed buildings”.

6. The dwelling on the appeal site is highly distinctive, and comprises a two storey house of ‘butterfly’ design. Whilst it has been extended in an unsympathetic manner at the rear, it contributes significantly to the street scene and is of considerable architectural interest.
7. An earlier proposal for essentially the same development was refused and was dismissed at appeal in 2018 (APP/C5690/W/17/3187141). I agree with conclusions of the Inspector in that appeal that *“the demolition of this building would remove a distinctive architectural building that would be a loss to the borough”,* that the dwelling is *“of some significance and contributes to the townscape character of this location”,* that *“the significance of the building weighs in favour of its retention”,* and that *“ this property should be retained, unless other evidence indicates otherwise.”*
8. Since that appeal was dismissed, the appellant has submitted an application to the Council to ascertain whether prior approval for demolition of the building on the site was required under Schedule 2, Part 11 of the Town and Country Planning (General Permitted Development) Order 2015. The Council confirmed that the details of method of demolition are acceptable and that prior approval for the proposed demolition of the dwelling is not required (Ref DC/20/115593).
9. It is clear from this approval that the appellant could now go ahead and demolish the building. Indeed, he stated in several places in his grounds of appeal, submitted in April 2020, that demolition will now take place. The fact that the appellant took the trouble to obtain a prior approval, that he has said that he will now proceed to demolish the building, and that its existence has prevented him from gaining planning permission, are all factors that suggest that the building will be demolished, even if this appeal is dismissed.
10. However, despite the numerous references in the grounds of appeal to the fact that demolition would now happen, the building still stood at the time of my site visit, and I have not been provided with any evidence to suggest that steps towards that demolition (for example the letting of a contract) have taken place. The demolition of the building in any event remains as a ‘fallback’ position, were this appeal to be dismissed. However, the fact that no steps appear to have been taken to demolish it to date, despite statements that this would happen, significantly reduces my certainty that this is what would follow were I to dismiss this appeal. As a result, the weight that I attach to the ‘fallback’ position in coming to a decision on this appeal is also reduced.
11. The Council has cited DM Policy 2 in its reason for refusal. This policy says that the Council will only grant permission for the loss of housing, including by demolition, in a set of circumstances. These include where an economic viability study confirms that the dwelling cannot be rehabilitated to a satisfactory standard at reasonable cost. The policy does not include an exception for when a proposal would result in a net gain in housing units, other than where it is in line with an agreed plan or strategy. As a result, the proposal is contrary to this policy, unless the submitted viability study results in an exception being shown.

12. However, the LP states under the aims of this policy that, to ensure that Lewisham's existing housing stock is maintained and adequately replaced, an applicant will need to clearly justify any housing loss. It further makes clear in the justification that this policy seeks to build on Policy 1 of the Council's Core Strategy, that "*development should result in no net loss of housing*". The appeal proposal would result in a net gain of seven units. As a result, whilst it would be contrary to DM Policy 2, for the reasons I set out above, it would not conflict with the aims of that policy, which is to ensure no net loss of housing. I therefore attach little weight to the conflict with DM Policy 2.
13. The requirement for an economic viability study to justify the loss of the dwelling on site appears to have come from DM Policy 2. However, it is also helpful in assessing whether or not the demolition of a locally listed building should be permitted. The appellant submitted a viability report to the Council dated November 2018. This suggests that the costs associated with bringing the building up to a state where it could be sold on the open market, and then selling it, would be in the region of £787,500. The resale value is estimated to be around £1,100,000.
14. In coming to a conclusion that the refurbishment of the property is not viable, the appellant's study has added to the total costs of the development the purchase price of the house of £1,025,000 and site acquisition costs of £86,200. This all results in a projected overall loss of £798,700.
15. The Council appointed consultants to consider the results of this appraisal. Their argument is that the appellant's study's approach is fundamentally wrong. They argue that a calculation of site value should "*reflect the costs associated with the wants of repair, the anticipated value on completion and the Development Management policies mentioned above which seek to protect the property and to have due regard to the Inspector's recent decision concerning the potential for demolishing the property*". Using this approach, they argue that the costs involved in refurbishing and selling the property are significantly less than its resale value, which therefore shows that the retention and refurbishment of No 27 is viable.
16. The section in the National Planning Practice Guidance dealing with viability says that "*where viability assessment is used to inform decision making under no circumstances will the price paid for land be a relevant justification for failing to accord with relevant policies in the plan*". The "*relevant policies in the plan*" referred to would more commonly be policies seeking levels of affordable housing, contributions towards local playspace etc. In this case, the relevant policies are ones that seek the retention of the building. This has a much more dramatic impact on the assessment. However, it has to be right that the demolition of a heritage asset should not be permitted solely on the basis that a developer paid a high price for the site some time ago.
17. The appellant argues that the Council's consultants did not undertake an internal inspection of the property before drawing their conclusions. However, they have agreed with the appellant's suggested costs of refurbishing the dwelling of £567,000, so I do not believe that this has affected their conclusions. I accept that, if the appellant believes that the cost of refurbishing and selling on No 27 are prohibitive, then this may increase the likelihood of the building being demolished, even if this appeal is dismissed. However, the fact that this has not yet happened means that, taking into

account the two viability reports, I attach moderate weight to the likelihood of the 'fallback' position taking place if I dismiss the appeal.

18. As I set out above, the building on site is of considerable architectural interest, and contributes to the street scene and more widely to the Area of Special Character in which it sits. The Framework requires me to have regard to the scale of any harm or loss resulting from the proposal and the significance of the heritage asset. I consider that the existing building is a non-designated asset of moderate significance, and that the scale of harm resulting from the proposal to demolish it would be very substantial. Overall, I attach significant weight to the harm to the non-designated heritage asset and the conflict with DM Policies 30 and 37, and very limited weight to the conflict with DM Policy 2.
19. In favour of the appeal scheme, the proposal would result in a net gain of seven dwellings in an urban area, which is a benefit of the scheme to which I attach moderate weight. I also attach moderate weight to the existence of the 'fallback' position of the house being able to be demolished even I dismiss the appeal, for reasons set out above. Overall, I consider that the harm caused by the proposal would outweigh the benefits of allowing it to proceed. I accordingly conclude that the proposed development would have an adverse effect on the character and appearance of the area, with particular regard to the significance of 27 Longton Avenue as a non-designated heritage asset, contrary to DM Policies 30 and 37 of the LP.
20. For the reasons given above, I conclude that the appeal should be dismissed.

Michael J Muston

INSPECTOR