



Appeal Decision

Site visit made on 13 January 2021

by M Shrigley BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th February 2021

Appeal Ref: APP/C5690/W/20/3258118

Garages to rear of 3-7 Cheseman Street, London SE26 4RA

- 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 Errol Farrier against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/19/115150, dated 17 December 2019, was refused by notice dated 15 May 2020.
 - The development proposed is for the demolition of the existing garages and the construction of a two-storey building with amenity space to provide 4, one-bedroom self-contained dwellings together with the provision of cycle parking spaces, refuse and recycling stores.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I note that there is an additional '7' in the address quoted on the submitted planning application form. I have corrected this in the banner to the address given on the appeal form and the Decision Notice as those details are not in dispute.
3. The two reasons for refusal in contention include the effect of the development on existing occupiers as well as future occupiers of the scheme. I note that the wording of the Decision Notice does overlap these issues in some areas. In the interests of clarity, I have dealt with these matters separately.

Main Issues

4. The main issues are (i) the effect of the development on the living conditions of the occupiers of no's 3 and 5 Cheseman Street as well as 144-146 Dartmouth Road with regard to outlook and privacy (ii) whether resultant living conditions would be acceptable for future occupiers of the development having regard to internal space provision and sunlight.

Reasons

Living conditions of neighbouring occupiers

5. I appreciate that the development would be built at a lower slab level than surrounding properties. Even so, the new building would have a considerable footprint and a height of 6 metres. It would only be approximately 0.8 metres from the rear garden boundaries of 3 and 5 Cheseman Street. The height and

overall mass of the development in such close proximity to the boundaries of those properties would be a noticeable change. Particularly when neighbouring residents are using their gardens. The appeal building would be taller than the garages. As a result, the change would be visually overbearing and domineering to the outlook presently enjoyed by neighbouring occupiers. I accept that overshadowing would not be a significant issue. But the development would still have an unduly intrusive impact.

6. The first-floor patio doors and outdoor amenity space of Flat 3 would directly overlook the rear facing windows of properties 144-146 Dartmouth Road. The effect would be invasive. The presence of these features would reduce the existing privacy levels of neighbouring occupiers by an unacceptable degree.
7. Furthermore, Flat 2 proposed on the appeal plans has a dual aspect bedroom with a window which faces towards 146 Dartmouth Road approximately 3 metres from the shared southern boundary. I accept that the intervening boundary and the proposed slab level of the building would restrict views to the ground floor windows of 146. However, some overlooking of the upper floor windows of the dwelling would still be possible. For that reason, this element of the scheme would also result in a reduction in neighbouring privacy.
8. I acknowledge the plan amendment proposed by the appellant to take away the window and to allow a modified footprint. But allowing the amendment would prejudice interested third parties. I note that a previous scheme may have had similar attributes, but the suggested change would still need to be consulted upon locally. Moreover, the use of obscure glazing for the units would lead to poor levels of outlook.
9. I also acknowledge the appellant's references of alleged inconsistencies in the decision leading to this appeal compared to the scheme approved under reference DC/19/111589, where overlooking was not considered to be an issue. However, the design of the approved building is single storey whereas the design of the appeal building is two-storey and it results in a different impact. Therefore, I give the comparison made no significant weight.
10. Thus, I find that the development would result in an overbearing impact as well as eroding the privacy levels of neighbouring residents. It would conflict with Policy 15 of the Core Strategy Development Plan Document (2011) which seeks to ensure that development is sensitive to local context.
11. I have had regard to Policy 31 of the Development Management Local Plan (2014) and the Council's Alterations and Extensions Supplementary Planning Document 2019 (SPD) also referred to in the Decision Notice. I am conscious that Policy 31 and the SPD provide some useful context toward the acceptability of local building separation distances. Nonetheless, they specifically relate to alterations and extensions to existing buildings rather than a completely new building. Therefore, I do not find direct conflict with those.

Living conditions of future occupiers of the development

12. The combined living/dining/amenity space area of 'Flat 3' would have a lack of privacy as it would be overlooked by taller existing properties facing towards it. The lower slab level of the appeal building would magnify this effect. I have considered a planning condition for obscure glazing. But imposition of that

- would negatively reduce the outlook of a main habitable room. It would also appear odd on a principal façade of the building.
13. Moreover, the main living accommodation of 'Flat 4' has bi-folding doors that access onto a north facing balcony. As such, the main living accommodation of its layout would receive no direct sunlight. The appellant notes this would not meet BRE guidance without alteration. I accept that the additional angled roof lights referred to in the evidence could potentially overcome this issue. Nonetheless, allowing the change as a suggested plan amendment would impact on the exterior appearance of the building. As a result, it would require further local consultation. Thus, based on the appeal plans that have been determined during the planning application period Flat 4 would not provide adequate internal sunlight levels.
14. It is disputed by parties whether 'Flat's 2 and 4' shown on the appeal drawings would have enough internal storage space. I have considered the points put forward by the appellant including paragraph 10 of the Technical Housing Standards (2015). I accept that when including the built-in wardrobe space shown in the floor plans it would enable both flats to have enough internal storage space. This would exceed the 1.5m² requirement and therefore would not count against the scheme. However, it does not overcome the other harm I have identified.
15. Accordingly, I find that future occupiers of the development would not have adequate levels of privacy or sunlight. The development would conflict with Policy 15 of the Core Strategy Development Plan Document (2011) which seeks to ensure that development is sensitive to local context; Policies 30 and 32 criterion 1 point (b) of the Lewisham Development Management Local Plan (2014) which combined seek high standards of design which provides a satisfactory level of privacy and outlook of future residents; Policies 3.5; 7.4; and 7.6 of the London Plan (2016) which combined seek: housing development of the highest quality internally and externally; that the function of the development is compatible to surrounding buildings; and that harm to amenity is avoided. It would also conflict with Paragraph 127 criterion f) of the National Planning Policy Framework (Framework) which seeks a high standard of amenity for existing and future users of development.

Other Matters

16. I have carefully considered the appellant's points that: the redevelopment of the site could lead to a visual improvement; a boost to new housing provision within the locality; and the re-use of previously developed land in a sustainable location as tangible benefits. Nevertheless, the extant scheme approved under LPA reference DC/19/111589 for two dwellings would also make use of the land. Therefore, I attribute modest weight to those benefits and the potential net increase of two additional units.
17. There are also criticisms of the Council's communication in relation to several points of negotiation in dealing with the case, but the alleged behaviour of the Council is not an issue before me.

Planning Balance and Conclusion

18. I have found there would be conflict with the Council's development plan as well as the content of the Framework. The benefits of providing additional

housing involving previously developed land in this location would not outweigh the harm arising to the living conditions of existing neighbouring occupiers or future occupiers of the scheme. There are no other material considerations which lead me to the conclusion that the development plan should not be followed.

19. For the above reasons the appeal does not succeed.

Matthew Shrigley

INSPECTOR