



Appeal Decision

Site Visit made on 9 March 2021

by **S Dean MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 March 2021

Appeal Ref: APP/H5960/W/20/3263995

77 Broomwood Road, London, SW11 6JN

- 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 Lavender Property Investments Ltd against the decision of London Borough of Wandsworth.
- The application Ref 2020/1442, dated 22 April 2020, was refused by notice dated 17 June 2020.
- The development proposed is Demolition of existing double garages and erection of a two storey plus basement two bedroom dwelling house (Class C3).

Decision

1. The appeal is dismissed.

Procedural Matter

2. The London Plan 2021 has been published by the Mayor, setting the spatial development strategy for London and is now part of the development plan. The decision notice for the appeal application referred to the London Plan 2016, but only in general terms which have not changed with the publication of the London Plan 2021. The Council Appeal Statement is clear that policies in the Wandsworth Development Management Policies Document 2016 are the most relevant for this appeal. As such, I have not found it necessary to seek the views of the parties on the London Plan 2021.

Main Issues

3. The main issues are the effect of the proposal on i) the character and appearance of the area, and ii) the living conditions of occupiers of neighbouring properties with regard to their privacy.

Reasons

Character and appearance

4. The appeal site, currently occupied by garages, lies to the rear of 77 Broomwood Road (No 77), but faces onto, and is accessed from Gayville Road. Both streets are a mixture of terraced and semi-detached properties, with an attractive, regular rhythm, form, character and appearance. Owing to the street and development pattern in the area, gaps at corners, such as the appeal site are relatively common, albeit their treatment varies. A number of them have garaging, of various forms and appearance, and some have been extended into. These gaps, and the appeal site in particular are fleetingly visible when travelling along Broomwood Road, and the site is plainly visible

from Gayville Road. Despite that, the site, and indeed, the garage which currently occupies it, is not particularly prominent.

5. I also acknowledge that the proposal would be of a contemporary appearance, which, but for its materials, would be strikingly different to the existing houses to either side of it. However, I do not consider that such difference is, in itself, unacceptable or harmful to the character and appearance of the area. As I have noted above, the wider area has a strong character and appearance, and in my opinion, that character and appearance is robust enough not to be harmed by atypical development of a small site such as this one.
6. I do not consider that the proposed dwelling, despite its contemporary appearance would appear to be an overdevelopment of the site, owing to the design which reduces the apparent mass and scale of the proposal at first floor level. The Council has highlighted an appeal decision for a similar proposal in support of their decision. However, that site was in a Conservation Area, and as such, required a different balance to be struck than in this case. In addition, from the extracts quoted, it appears to have been a very different proposal to that before me. As such, it does not alter my conclusions on this proposal.
7. I do not agree with the Council that the location and nature of the site precludes it from development of this nature. Whilst I note the broad presumption in local and national policy against development on gardens, given the existing use and nature of the majority of the appeal site as a garage, I do not consider that applies in this case.
8. At present, the garden area to the rear of No 77 is already somewhat small due to the existing garages. I acknowledge that this space would be slightly reduced following the proposal, it would still be available for the use of the flats and would still offer private outdoor space.
9. Overall then, I am satisfied that the scale, design and location of the proposal would not constitute an overdevelopment of the site, would be an appropriate form of development for the site, and that it would not harm the character or appearance of the area.
10. I therefore consider that the proposal would accord with the development plan, as expressed in Policies DMS1 and DMH4 of the Wandsworth Local Plan Development Management Policies Document, March 2016 (the Local Plan) and the London Plan 2021. These policies seek, amongst other things to set general development principles in order to deliver good design and development of scale, massing, appearance and layout which contributes positively to the character of an area and does not otherwise cause harm. The proposal also accords with guidance in the Wandsworth Local Plan Supplementary Planning Document, Housing, November 2016 (the Housing SPD) which seeks to expand on the relevant policies, providing guidance and further detail.

Living conditions

11. The proposal includes a relatively wide, floor-to-ceiling window at first-floor level, serving the kitchen and dining area, which faces the rear of the site, but in effect looks directly across the rear of adjoining gardens and offers views of the rear of neighbouring properties.
12. I accept that in a dense, urban environment such as this, there are views of rear gardens from neighbouring properties, however, the proposal would

- introduce, and create new, direct views across the garden of the neighbouring property and towards the immediate rear of the house itself.
13. Following their decision on the application, the Council has suggested that this issue could be overcome through the use of a condition requiring that the full-height window facing towards neighbouring gardens be obscurely glazed and fixed shut. Whilst such a condition could limit overlooking, it would not address the perceived overlooking such a window would create. In my opinion the perception of overlooking can be as harmful as direct overlooking.
 14. The original proposal did not include this obscure glazing and the appeal process should not be used to evolve a scheme beyond what was considered by the local planning authority and on which interested people's views were sought. As there were third party objections to the proposal on this issue, I cannot be certain that such a condition would be appropriate, and in my view, to impose it would deprive those who should have been consulted on the changed development, that opportunity. As such, I do not consider it would be appropriate to use such a condition in this case.
 15. I therefore consider that the perception of overlooking which would arise would be unacceptable and would give rise to significant harm to the living conditions of occupiers of adjoining properties with regard to their privacy and perception of the same.
 16. The proposal would therefore conflict with the development plan expressed in Policy DMS1 of the Local Plan which seeks to ensure that new development does not cause harm to the amenity of nearby occupiers, as well as the guidance on the same in the Housing SPD.

Other Matters

17. The appellant has suggested that the support in the National Planning Policy Framework (the Framework) for significantly boosting the supply of homes, including on small sites is a material consideration of significant weight in this appeal. Whilst the Framework, and the support within it is of some weight, I do not consider that it is of sufficient weight to outweigh the harm, and associated development plan conflict I have found.

Conclusion

18. For the reasons given above I conclude that although the proposal is acceptable with regards to the character and appearance of the area, I have found there would be unacceptable harm to living conditions. As such, the proposal is contrary to the development plan, and there are no material considerations of sufficient weight, including the support in the Framework for delivery of housing on small sites and significantly boosting the supply of homes, to indicate that a decision be taken other than in accordance with it. The appeal should therefore be dismissed.

S Dean

INSPECTOR