



Appeal Decision

Site visit made on 10 May 2021

by Chris Couper BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2021

Appeal Ref: APP/C5690/W/20/3263746

242 Brownhill Road, London SE6 1AU

- 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 Reeves against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/19/111183, dated 26 February 2019, was refused by notice dated 27 May 2020.
 - The development proposed is the demolition of the existing derelict workshop and flat and the construction of a two storey building with two 2 bed flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the application was determined, the London Plan 2021 has been adopted ('LP'), and the policies from the London Plan 2016, which were referred to in the Council's decision, are now superceded. The principal parties were given an opportunity to comment on the LP during the appeal.
3. The Council's first reason for refusal refers to the absence of thorough marketing or other evidence to demonstrate that the use of the site as a business is not reasonably feasible. As part of the appeal, the appellant submitted a letter with marketing details from Linays Commercial Limited, dated 16 November 2020. The Council states that as this was not included with the application and requires consultation, it has not had regard to it.
4. However, as that letter responds to this reason for refusal; it was provided early on in the appeal process; and I have no evidence that it was requested at application stage, I have considered it in this appeal.

Main Issues

5. The main issues are:
 - Whether the proposal would provide satisfactory living conditions for the occupants of the proposed flats;
 - The effect of the proposal on the living conditions at the ground floor flat to the rear of 244 Brownhill Road, with particular regard to outlook; and
 - The effect of the proposal on the local economy in terms of the supply of business premises.

Reasons

Living conditions of future occupants

6. DM Policy 32 of the Lewisham Development Management Local Plan 2014 ('LDMLP'), Policy 1 of the Lewisham Core Strategy 2011 ('LCS'), and LP Policy D6 collectively require housing to be of high design quality. Amongst other things, they require accommodation to be of a good size, with a comfortable and functional layout, a good outlook, provide satisfactory privacy, and to have access to private gardens.
7. That approach is reflected in the Mayor of London Housing Supplementary Planning Guidance 2016 ('SPG') which states that dwellings should be functional and fit for purpose.
8. The proposed building would replace a workshop and a flat to the rear of 242 Brownhill Road ('No 242'). Whilst Flat B would have a north-facing rear garden, it would be very enclosed by the tall rear face of No 242, including its outrigger, which would be just over 1 metre from the boundary, and which contains a first floor window. As a consequence, the garden would be significantly overlooked at very close quarters, and it would not provide a suitable, private outdoor space for the flat's occupants.
9. Flat B would also have a patio area, but it would be adjacent to the access drive, a workshop, and the flats' shared entrance. It also includes refuse and bicycle storage. Its amenity value as a private space would therefore be limited.
10. Both flats would have dual aspects. However, given its narrow frontage and deep plan form, the central section of Flat B would receive limited natural light. In particular, its kitchen, which unlike the unit above would not be served by a rooflight, would be set back well into the accommodation. Its only source of natural light would be the distant patio doors, and it would therefore provide a gloomy habitable space for the occupants, with little natural ventilation.
11. However, given the size of the patio doors, with the patio itself beyond, I am satisfied that the outlook from Flat B's living/dining space would be adequate.
12. Turning to Flat A, its Bedroom 2 would have an outlook over a planted roof, with an obscurely glazed privacy screen on the rear boundary to prevent mutual overlooking between it and No 242. Whilst the outlook from here would therefore be constrained, it would nonetheless provide the occupants with an adequate outdoor aspect.
13. Other than a very minor shortfall in Flat A's built-in storage area, the scheme would comply with the minimum floor areas in the DCLG Technical Housing Standards – Nationally Described Space Standard 2015.
14. This scheme was submitted in an attempt to address the concerns raised in a previous proposal for three flats on the site, two of which had single aspects, and which was dismissed at appeal (Ref: APP/C5690/W/18/3218755) ('previous appeal'). Nevertheless, for the above reasons, and having considered this scheme on its merits, the future occupants of Flat B would not experience appropriate living conditions.

15. Although in this densely developed area there may be significant overlooking between some properties, I have not been directed towards any comparable examples to this scheme, and in any event, they would not justify the harm that would be caused here. For the above reasons, the proposal would conflict with LDMLP DM Policy 32, LCS Policy 1, LP Policy D6, and with the SPG.

Adjacent living conditions

16. I observed on my visit that the Ground Floor Flat to the rear of 244 Brownhill Road ('the GFF') has north-facing patio doors serving a living area and which address a small patio next to the boundary with the appeal site. That patio, and the outlook from that living area, is very enclosed by a tall wall on that boundary.
17. The ground floor of the proposed building would extend less far to the rear than the workshop it would replace, and its first floor would be stepped in such that the closest section to the boundary would project only just beyond the GFF. Consequently, and given the current context, the scheme would not appear overly dominant from the GFF, or cause significant harm to its occupants' living conditions.
18. On this issue the scheme would not therefore conflict with LP Policy D3, and LCS Policy 15, which require that development should be sensitive to local context, having regard to neighbouring amenities, and should deliver appropriate outlook, privacy and amenity; nor with the Framework's requirement at paragraph 127 for development to ensure a high standard of amenity. LDMLP DM Policies 30 and 31 focus on local character, and alterations and extensions, and are therefore of limited relevance to this issue.

Local economy

19. The workshop on the site is disused and I observed on my visit that it is in a dilapidated condition, and now no longer appears to be fully watertight. However, in the previous appeal the Inspector found that it had not been adequately demonstrated that continued use of the building for a business purpose was not reasonably feasible.
20. The Marketing Report by A-P-L states that the property was marketed from January 2017, and that this was for B1 uses, although the Council points out that, as referenced in the previous appeal, it was apparently originally marketed for retail storage. The report concludes that there has been very little interest in it.
21. According to the letter from Linays Commercial Limited, additional marketing of the property for commercial purposes was undertaken from June 2019 to March 2020 by means of websites, a letting board on Brownhill Road, and by direct approach to commercial users, but this attracted a similarly poor response.
22. Neither the A-P-L report, nor Linays Commercial's letter includes much specific evidence of marketing, other than photographs of the letting board. However, I have no reason to doubt that the marketing has been undertaken. Given the marketing results, together with the site's location to the rear of secondary retail premises, the poor quality shared access, and the substantial investment that would be required to make the building fit for purpose, I am satisfied that the prospects of the site being used for business purposes are very low.

23. As a result, the scheme would not have a significant effect on the supply of commercial premises, and the building's loss would not harm the local economy. The scheme would not therefore conflict with the requirements of LCS Policy 5 and LDMLP DM Policy 11 which, in general terms, seek to protect business premises and locations in order to provide sustainable local services and to maintain the vitality and variability of the local economy.

Other matters

24. Pedestrian and vehicular access from the site would be down a long drive, flanked by commercial and residential buildings to one side, and which turns a tight corner before emerging through a narrow undercroft onto Brownhill Road. At the time of my visit the drive was congested as a result of parked cars and commercial activities, such that even pedestrian access was constrained.
25. In its consultation response, Lewisham Council's Transport Policy and Development Team state that evidence would be required that emergency and refuse vehicles could access the site, and that there should be segregated and well-lit pedestrian access.
26. From the evidence of my visit, I share those concerns. On the basis of the limited information before me I am not persuaded that safe and convenient vehicular and pedestrian access could necessarily be achieved. My concerns on this matter were shared by the Inspector in the previous appeal who commented at paragraph 10 of his letter that the situation would need to be resolved for any development. However, given my findings regarding living conditions, this issue has not affected the outcome of the appeal.
27. In its favour, the scheme would make a very modest contribution to the supply of housing, for which the LP sets out a pressing need. It would also incorporate various sustainable design features as set out in the Planning Design and Access Statement. In those regards, and owing to the economic and social benefits of development, it finds support from the development plan and the Framework.

Conclusion

28. I have found that whilst the scheme would not impact adjacent occupiers' living conditions to a harmful degree, and it would not harm the local economy, it would result in poor living conditions for its future occupants. The scheme's limited benefits would not outweigh the significant harm that it would cause. It would conflict with the development plan when considered as a whole, and having regard to all other matters raised, the appeal is therefore dismissed.

Chris Couper

INSPECTOR