



Appeal Decision

Site Visit made on 15 June 2021

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2021

Appeal Ref: APP/C5690/W/20/3260247

50 St. German's Road, Forest Hill, London SE23 1RX

- 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 Ms Jacqueline Hussein against the decision of London Borough of Lewisham.
 - The application Ref DC/20/115750, dated 12 February 2020, was refused by notice dated 24 April 2020.
 - The development proposed is the change of use in principle of 50 St. German's Road, SE23 1RX, from a single family dwelling (use class C3), into a private primary school, (use class D1), in order to extend the much needed existing educational facilities in the area.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the Council refused planning permission the London Plan 2021 (LP) has been adopted. The Council has confirmed that the adopted LP Policies that it relies on are D3, D4, D13, T5 and T6. Both the appellant and the Council have been given the opportunity to make further comments on the change to planning policy that has occurred.
3. The appellant makes reference to the purpose of the application being to establish the principle of the change of use of the appeal property to a D1 use only. There are however associated proposals to extend the building before me and matters have been raised within the reasons for refusal that cannot be separated out from whether the proposed use is acceptable in principle. I therefore assess the appeal on the basis of the full proposals that are before me and against the reasons for refusal that were given by the Council.

Main Issues

4. The main issues are:
 - (i) The principle of the loss of existing housing
 - (ii) The effect of the proposed development on the living conditions of the occupiers of adjacent dwellings, with particular reference to outlook, overlooking and noise and disturbance
 - (iii) The effect of the proposal on the surrounding highway network and whether adequate refuse storage, cycle parking and car parking would be provided

- (iv) The effect of the proposed development on the character and appearance of the area

Reasons

Loss of housing

5. Policy 1 of the Core Strategy 2011 (CS) seeks to increase housing supply in the borough and to prevent a net loss in housing. Policy DM2 of the Development Management Local Plan 2014 (DMLP) specifically refers to preventing the loss of existing housing and sets out criteria that must be met in order to satisfy the policy. Policy DM42 of the DMLP requires consideration of the acceptability of the loss of the existing use, with regard to proposals that come forward for nurseries and children.
6. It is suggested that there is a need for education facilities as a result of population growth, however no specific evidence has been provided with respect to the locality in which the appeal site is found. It is also noted that some residential accommodation would be retained at the property, however the submissions indicate that this would be for use by a resident caretaker.
7. There is therefore nothing before me to suggest how the proposal may comply with any of the criteria set out in part 1 of Policy DM2. I can, therefore, not conclude that the proposal would accord with that policy where it seeks to prevent the loss of existing housing unless such a loss has been justified, or with Policy DM42 where consideration of the acceptability of the loss of the existing use is required.

Living conditions

8. At the time of my site visit there was only limited access available to the rear garden area, due to the presence of dense and overgrown vegetation. However, I was able to observe that the rear elevation of the flats at 52 St German's Road has numerous windows and balconies on it and that there appears to be an area of outdoor amenity space to the rear of that property.
9. The proposed extension would extend from the rear of the appeal property at three storeys in height and this element of the proposal would project a substantial distance along the common boundary with No 52. Its presence and overall massing would cause significant harm to the outlook from the windows and balconies of those flats which are set at an equivalent or lower level than that of the proposed extension. There would also be harm caused to the outlook from the rear amenity space.
10. The prevailing use in the surrounding area is residential, with the exception of the nursery which is located at 48 St German's Road and which is under the same ownership as the appeal site. Some noise from the nursery was audible during my visit. There is a potential that noise and disturbance could arise to the occupiers of the adjacent dwellings from the proposed development. However, no substantive evidence has been provided to demonstrate what the likely impact would be in that respect.
11. The garden of the appeal property slopes down towards the rear boundary, meaning that the decked area proposed would be likely to be elevated over the fences of the adjoining properties, potentially allowing overlooking onto these spaces. It was not possible to make an assessment of this for the reasons

outlined, however it is an additional concern that would arise as a result of the proposed development.

12. I therefore conclude that the proposed extension would cause significant harm to the living conditions of the occupiers of the adjacent dwellings at No 52 through a loss of outlook, with a further potential impact arising from overlooking. Furthermore, there has been inadequate evidence provided to allow for an assessment of the likely impact from noise and disturbance. Consequently, the proposal fails to accord with Policy D13 of the LP, Policy 15 of the CS and Policies DM26, DM31 and DM42 of the DMLP, where they seek to protect living conditions. There would also be a conflict with Paragraph 127 of the National Planning Policy Framework (The Framework).

Highway network

13. There is no substantive evidence before me to demonstrate the level of parking stress that is experienced on St German's Road throughout the day. At the time of my site visit there was limited parking availability in the areas closest to the appeal site, but greater availability elsewhere along St German's Road.
14. The peak number of movements associated with the proposed use would be likely to be when pupils are dropped off and collected. There is however nothing before me to suggest what this number would be, how they are likely to arrive and leave and how movements to and from the appeal site could be managed.
15. In conclusion, there is inadequate evidence to demonstrate that the proposal would not cause harm to the surrounding highway network, and therefore whether it would accord with Policy T6 of the LP, Policy 14 of the CS and Policies DM29 and DM42 of the DMLP. The same also applies with regard to Paragraphs 108 and 110 of The Framework.
16. Whilst the reason for refusal also refers to the absence of cycle parking or refuse storage, these matters, and the compliance with the relevant development plan policies, could have been addressed by way of a planning condition, if the proposal was acceptable in other regards.

Character and appearance

17. The proposal includes an extension of a substantial size, but it would be well designed with a glazed separation between the existing and new and a roof to match that of the current dwelling. Furthermore, it would be located to the rear of the appeal property. From St German's Road the front elevation would remain and, although the extension would not be subservient to the existing dwelling, it would represent a reasonable design solution for the use that is intended.
18. I therefore conclude that there would not be harm to the character and appearance of the surrounding area and overall the proposal would accord with Policies D3 and D4 of the LP, Policy 15 of the CS and Policies DM30 and DM31 of the DMLP, where they seek to protect character and appearance. There would also be no conflict with The Framework where it seeks to achieve well-designed places.

Conclusion

19. Although I find that there would be no conflict with the development plan where it seeks to protect character and appearance, the proposal would fail to accord with the development plan where it seeks to retain existing dwellings, to safeguard the living conditions of nearby occupiers and to protect the highway network. For these reasons, the proposed development fails to accord with the development plan, taken as a whole.
20. In conclusion, there are no material considerations that indicate that a decision should be made other than in accordance with the development plan and I conclude that the appeal should be dismissed.

Graham Wright

INSPECTOR