



Appeal Decision

Site visit made on 11 June 2021

By Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2021

Appeal Ref: APP/Y5420/W/20/3260934

35 High Level Drive, Sydenham, London SE26 6XT

- 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 Murlo Dawson against the decision of the London Borough of Lewisham Council.
 - The application Ref DC/20/116294, dated 26 March 2020, was refused by notice dated 22 May 2020.
 - The development proposed is the demolition of existing garage and erection of a two-storey single family dwelling house with off-street parking for one car.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Subsequent to Lewisham Council's (the Council) refusal of the application Ref DC/20/116294, the Mayor of London adopted a new London Plan and the Government published a revised National Planning Policy Framework. Therefore, in line with Planning Practice Guidance, my consideration of the issues of this appeal has been on the basis of the National Planning Policy Framework (2021) (the Framework), the policies of the Lewisham Core Strategy (2011) (the CS), the Lewisham Development Management Local Plan (2014) (the DMLP) and the London Plan (2021) (the London Plan). Both the Council and the appellant have confirmed that this is not prejudicial to their respective cases.
3. I have considered the amended plans submitted with the appeal¹, however, I find that, although the proposed amendments are individually relatively minor, they would collectively still materially alter the nature of the proposed development originally consulted on. I have therefore considered the appeal on the basis of the plans originally submitted and before the Council when it made its decision.

Main Issue

4. The main issue in this appeal is the effect of the proposed development on the character and appearance of the local area; and whether the appeal proposal constitutes inappropriate development of a residential garden.

Reasons

¹ Drawing Ref: 0339-203A, 0339-204A, 0339-205A, 0339-206A, 0339-207A, 0339-208A, 0339-209A, 0339-210A, 0339-211A, 0339-212A, 0339-213A, 0339-214A and 0339-215A

5. The appeal site is a fenced off rear section of the original rear garden of 59 Longton Avenue (No.59), partly occupied by a detached single storey garage. Longton Avenue is characterised by its substantial detached and semi-detached houses that face on to Sydenham Wells Park. These have generous front gardens and particularly long rear gardens that slope upwards away from the houses, including No.59.
6. The appellant argues that, as the appeal site was separated and fenced from the rest of the original garden at No.59 in 2015 and is separately titled with the Land Registry, it does not form part of the residential curtilage of No 59. However, in this regard I concur with the inspector in an earlier appeal², referred to me by both the appellant and the Council, which relates to the appeal site. The inspector for this appeal concluded that the separation of the garden is a recent occurrence, and the appeal site incorporates a double garage and access associated with the host dwelling. Notwithstanding that the appellant considers the appeal site to be surplus to requirements in relation to No.59, I likewise conclude that the appeal site does not constitute previously developed brownfield land, or an infill site as defined in Policy 33 of the DMLP, but is part of the residential garden to the host building at No.59.
7. The appeal site is located at the corner of High Level Drive and Vigilant Close. These streets form part of the boundary between the perimeter form residential typology of Longton Avenue, as identified in the Lewisham Character Study, of which the appeal site forms part, and the High Level Estate, which is an area of free form modern housing, including tower blocks and smaller houses with private gardens set in generous areas of landscaping.
8. The appeal proposal is for a detached two storey house with a single parking space, to replace the existing garage on the site, with the rest of the site forming a surrounding garden with tall fencing on the street frontages.
9. I acknowledge that, by proposing a single flat roofed dwelling with obscured glazing, the appellant has sought to respond to comments made in the earlier appeal decision referred to above. However, the proposal would, due to its detached nature sitting within a residential garden setting, appear as a stand-alone development, which would not reflect the established and recognised residential typology of the properties on Longton Avenue.
10. The proposed development would also add built urban form and enclosure to the perimeter of the High Level Estate. This would detract from the estate's character as a free form of development surrounded by landscaping and trees, including many of significant size and apparent maturity, which gives the area a spacious and verdant character and appearance.
11. For these reasons the proposal would appear as an incongruous development, in the context of its proposed location between both the neighbouring development typologies of Longton Avenue and High Level Estate identified above.
12. The appellant has drawn my attention to Policy H2 of the London Plan, which encourages housing development on small sites, including residential garages. However, this policy also establishes that good design and access to public transport are significant factors to be considered, with a PTAL rating of 3-6. In

² Appeal Ref: APP/C5690/W/16/3160800

this instance, the incongruous appearance of the proposal within the context of neighbouring development that I have identified, combined with the appeal site's PTAL rating of 1b, indicating poor access to public transport, are factors that I have afforded significant weight.

13. I find that the concerns raised with regard to a lack of active frontage could be fundamentally overcome by a reduction of the height of the proposed perimeter fencing. I do not find that this approach would result in undue overlooking to an extent that would lead to a loss of privacy for occupiers of neighbouring dwellings. I have, therefore, considered the application of a suitable condition to any approval in this regard. However, as I find that although this would resolve one issue, it would not resolve the fundamental issues identified above and would not, therefore, make an otherwise unacceptable development acceptable, as set out in paragraph 55 of the Framework and Planning Practice Guidance.
14. For the reasons given above, the proposed development would result in significant harm to the character and appearance of the local area. The proposal would not, therefore, accord with Objective 10 and Policy 15 of the CS which seek development which takes account of its local context, and would conflict with Policies DM30, DM32 and DM33 of the DMLP, Policy D3 and H2 of the London Plan and paragraph 71 and 130 of the Framework. These collectively seek to resist inappropriate development of residential gardens and to achieve development of a high quality of design in areas with good access to public transport, which respects local character, compliment the qualities of the surrounding areas with a positive relationship to site specific constraints and the existing townscape.

Conclusion

15. For the reasons given above and with the presumption in favour of sustainable development and Paragraph 11 of the Framework in mind, I conclude that the appeal should be dismissed.

Victor Callister

INSPECTOR