



Appeal Decision

Site Visit made on 9 August 2021

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2021

Appeal Ref: APP/C5690/W/21/3268348

60 Lowther Hill, London, SE23 1PY

- 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 and Mrs Claire Rose against the decision of the Council of the London Borough of Lewisham.
- The application Ref DC/20/118403, dated 12 September 2020, was refused by notice dated 3 December 2020.
- The development proposed is described as 'demolition of existing dwelling at 60 Lowther Hill SE23 and the construction of a four storey building with roof terrace, comprising 4 x 1 bedroom, 2 x 2 bedroom & 1 x 3 bedroom self contained flats, together with the provision of cycle & bin storage, 2 parking spaces & associated landscaping'.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the development on the living conditions of the neighbouring occupants at No's 62 and 58 Lowther Hill, with particular regard to daylight and outlook.

Reasons

3. The appeal relates to an existing detached two storey dwelling located on the southern side of Lowther Hill, a residential street with properties stepping down from east to west. The site also falls from north to south, with the rear garden markedly lower than the front of the site. The proposal would see the existing dwelling demolished and replaced by a four-storey building comprising seven self-contained residential units.
4. Neighbouring the appeal site to its east is a lower ground floor flat at No 62 Lowther Hill. The bedroom to this flat is served by two windows, one to the front of the property and a secondary window to its side, facing the appeal site. I was able to see these windows during my site visit. They were clearly visible from within the appeal site and in views along the shared boundary. I am therefore satisfied that I saw everything I needed to assess the impact of the proposal on these windows based on their positioning, orientation, and relationship with the proposed development, and having regard to the evidence before me.
5. The appellant's Daylight and Sunlight Report¹ (DSR) considers that the main light source for this neighbouring bedroom is provided by the window to the front of the property, which, despite its lower ground floor positioning, receives more than the

¹ Daylight and sunlight report for the proposed development at 60 Lowther Hill, London SE23 1PY, by Hollis , dated 5 August 2020

BRE² recommended level of daylight. The side window receives significantly less light, well below the BRE standards, and therefore the DSR does not consider this to provide a valuable source of daylight.

6. However, given the orientation of these two windows and their lower ground floor position, the room is unlikely to receive any direct sunlight and its outlook is extremely limited. Accordingly, in combination with these existing conditions, even a slight reduction in light is likely to have a significant adverse effect on the living conditions experienced by the occupants of this room. Therefore, contrary to the findings of the DSR, the side window provides a valuable, albeit limited, source of light in the context of this subterranean residential unit, and which in turn makes a positive contribution to the living conditions of the existing occupants.
7. The side window of the flat at No 62 faces the flank wall of the existing single storey flat-roofed garage at No 60, with a separation distance of less than 1 metre. The proposal would see the existing garage and dwelling replaced by a four-storey high blank elevation, significantly increasing both the scale and massing of built form along the shared boundary. This would not impact the level of daylight entering the room from its front-facing window but would significantly reduce the level of daylight entering the room from its side window. This finding is supported by the results of the Vertical Sky Component Analysis set out in the appellant's DSR, which measures the amount of daylight available from the outside face of a window. Consequently, the proposal would result in a harmful loss of daylight to the occupants of the neighbouring flat, to the detriment of their living conditions.
8. I acknowledge that the DSR concludes overall that the proposal would not significantly affect the daylight and sunlight levels within the bedroom of the neighbouring flat. In this regard, the report states that levels of daylight and sunlight within the bedroom would be in line with BRE standards. However, in combination with the existing living conditions within this bedroom, the loss of daylight would result in poor living conditions for these neighbouring occupants. These standards would not therefore meet the high expectations set out in the national Planning Policy Framework with regard to amenity. Furthermore, the DSR was produced without the benefit of access to the neighbouring bedroom in question and, as a substitute, some results were based on a photograph of the room taken from an Estate Agent's particulars of the property. Therefore, this limits the weight I attach to the findings of the DSR and so it does not alter my view on this matter.
9. The appellant is of the view that a previous Inspector erred in his consideration of a previous appeal³ on the site for a development of a similar scale and with a similar impact on the neighbouring window at No 62. However, in this regard, my assessment of the proposal and subsequent findings are consistent with that of the previous Inspector, and therefore his concerns in this regard were well-founded.
10. I now turn to the matter of outlook. The occupants of the neighbouring properties at No's 62 and 58 currently enjoy an uninterrupted outlook from the rear of their properties and over their shared boundaries with No 60. The proposal would extend beyond the rear building lines of both its immediate neighbours, introducing a four-storey element stepping down to two stories at its lowest point. Despite a generous set back from the shared boundaries with No's 62 and 58, the combined depth and height of the rearward projection would result in an overly assertive feature that

² Building Research Establishment Report - Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice 2nd Edition 2011

³ Appeal Ref. APP/C5690/W/19/3240617

would be unescapably apparent when experienced from the rear private gardens of these neighbouring properties.

11. Whilst there would be no loss of outlook from the neighbouring rear-facing windows, this element of the scheme would be harmfully overbearing on the outlook from the private garden areas immediately to the rear of these neighbouring properties. This would significantly diminish the neighbouring residents' enjoyment of their properties and would therefore be harmful to their living conditions.
12. The ability to provide a larger single-storey extension as permitted development does not change my view in this regard, because a comparable scheme could not be achieved as permitted development. Similarly, I am not persuaded that the two-storey rearward projection would be viewed as a single-storey addition due to it being set at a lower level because it would exceed the height of a single-storey addition when experienced from the neighbouring rear garden areas.
13. For all these reasons, I conclude that the proposed development would significantly harm the living conditions of the neighbouring occupants at No's 62 and 58 Lowther Hill, with particular regard to daylight and outlook. Therefore, the proposal conflicts with Policy 15 of the Core Strategy, Policies 30, 31, and 32 of the Local Plan and the associated policies of the Framework, which together, amongst other things, seek to achieve high standards of design and high standards of amenity for existing and future users.

Other Matters

14. The appeal site is located where it would have access to a range of local services, facilities and sustainable modes of transport. The site has previously been developed and the scheme would make a positive contribution to the local supply of housing in an area with an acknowledged undersupply as identified in the 2020 Housing Delivery Test results. Consequently, there would be positive economic and social benefits accrued through the construction and subsequent occupation of the development and these benefits add weight in favour of the scheme. However, these matters do not collectively outweigh the significant harm to the living conditions of the neighbouring occupants and therefore they do not lead me away from my conclusion.

Conclusion

15. The proposal is contrary to the policies of the development plan and no material considerations of sufficient weight have been advanced to outweigh that conflict. Therefore, I conclude that the appeal should not succeed.

J M Tweddle

INSPECTOR