



Appeal Decision

Site visit made on 17 May 2022

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 July 2022

Appeal Ref: APP/C5690/W/21/3284885

227 Bellingham Road, Catford, London SE6 1EQ

- 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 Malcolm Tyler against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/21/122286, dated 11 June 2021, was refused by notice dated 11 August 2021.
 - The development proposed is described as the demolition of existing single storey garage & erection of new single storey (with habitable basement) 1 bedroom 2 person dwelling, bin, cycle storage & associated landscaping works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. While light and arboricultural assessment reports were not submitted at the application stage, such reports have been submitted with the appeal. As the Council and interested parties have been given the opportunity to comment on these reports, as part of this appeal process, I do not consider that any party will be unfairly disadvantaged by my consideration of these reports in making my decision.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area including trees;
 - Whether the proposed development would provide adequate living conditions for future occupiers, with particular reference to privacy, light and outlook; and
 - The effect of the proposed development on living conditions of neighbouring occupants with particular reference to outlook.

Reasons

Character and Appearance

4. 227 Bellingham Road comprises a 2-storey semi-detached property facing onto Bellingham Road. No 227 is laid out in a traditional manner with a rear garden and to the far end of this existing garden, beyond a fence, a modest sized flat roof single storey garage is situated.

5. The immediate area is predominantly residential featuring two-storey semi-detached and terraced dwellings. To one side of the appeal site is 225 Bellingham Road and to the other side the footpath of Penderry Rise runs alongside the appeal site. Greenside Close runs along the rear of the appeal site. Modest outbuildings exist to the rear of some dwellings in this part of Bellingham Road which back onto Greenside Close.
6. The Council confirm that the appeal site forms part of a perimeter block as identified in the London Borough of Lewisham Characterisation Study 2019 (the CS). The CS identifies perimeter blocks as broadly having buildings facing the street with back gardens behind, set within a regular street pattern. The designation as a perimeter block is not disputed by the appellant.
7. The dwellings and gardens which front onto this part of Bellingham Road have similar plot depths and layouts. This regular street pattern makes a positive contribution to the character and appearance of the area. At my site visit I saw no examples of rear gardens which have been developed to accommodate separate dwellings in this immediate area and no specific examples have been brought to my attention.
8. The proposal is to demolish the existing single storey garage at No 227 and erect a dwelling to the rear of the appeal site. The proposed dwelling would extend up to both the side and rear boundaries of the existing plot. It would be single storey (above ground) with further basement accommodation. Its footprint and height would be greater than the existing garage.
9. The erection of a prominent dwelling in this rear garden would materially disrupt the regular street pattern of dwellings with back gardens behind, particularly as the appeal site fronts onto three different roads. While the materials have been designed to match the existing wall, its dimensions, detailed design and the levels of activity that would be associated with the proposed dwelling mean that it would not sit sympathetically within the street scene or read as an ancillary outbuilding. This interruption to the street pattern would be harmful to the character and appearance of the perimeter block which is typical of the area.
10. In reaching my decision, I note Paragraph C, DM Policy 33, of the Lewisham Local Development Framework Development Management Local Plan adopted 26 November 2014 (the DMLP). This policy states that the development of back gardens for separate dwellings in perimeter form residential typologies identified in the CS will not be granted planning permission.
11. There is some dispute between the parties about the status of the land on which the proposed dwelling would be sited. The Council consider it to form part of the back garden of No 227. The appellant considers the land to be physically separated from the back garden of No 227 and to have a garage and storage use. The appellant has submitted some evidence supporting this contention.
12. While a fence may have been erected across the appeal site at some point in the past, this does not necessarily mean that its land use status as back garden has changed. The evidence before me about a separate garage and storage use is limited and I have not been made aware of any planning history or lawful use certificates relevant to the use of the land. I also note that the appellants evidence, in this regard, is challenged by interested parties.

13. Therefore, I cannot say with any degree of certainty that the use of the affected part of the appeal site has changed from use as a back garden. The justification for DM Policy 33 of the DMLP is to prevent developments on back gardens as they are likely to have a negative impact on the design integrity of the street scene and I have found harm as set out above.
14. Even if the status of the affected part of the appeal site has changed from garden land and paragraph C of DM Policy 33 is not relevant, more generally the policy also requires development to be of the highest design quality and to be sensitive to the existing streetscape.
15. A number of trees are positioned to the rear of the neighbouring property No 225 adjacent to the appeal site boundary. Despite being somewhat overgrown, these trees both alone and in combination with other trees in the wider street scene contribute positively towards the character and appearance of the area.
16. The appeal is supported by an arboricultural assessment which identifies two individual trees and one group of trees within the garden of No 225. The Council has not challenged the accuracy, findings or recommendations of the assessment. While the report identifies the trees as category C trees, nevertheless they contribute toward a verdant environment and their removal would erode this positive setting.
17. The arboricultural assessment confirms the trees immediately adjacent to the site of the proposed development are in an acceptable condition with no significant defects observed. However, the assessment also acknowledges that the trees have not been maintained and have become overgrown and unsustainable in their current form.
18. Trees T1 and T2 are identified as requiring removal due to their proximity to the proposed development and the assessment states that removal is justified by the unsustainable and poor unmanaged form of these existing trees. Mitigation planting in No 225's garden is proposed to offset the loss of the existing trees.
19. While I find the loss of Trees T1 and T2 and their replacement with mitigation planting to be acceptable, I have not been provided with evidence that the land on which the trees to be removed and replaced are located is in the ownership or control of the appellant. I also note that an interested party states that permission would not be given to access land at No 225. I therefore cannot be satisfied that the trees would be appropriately removed and replaced. In the absence of this, the proposed development would result in the loss of trees which positively contribute to the character and appearance of the area.
20. Accordingly, the proposed development would have a harmful effect on the character and appearance of the area including trees. I therefore find conflict with the relevant provisions of DM Policies 25 and 33 of the DMLP, Policy G7 of the London Plan March 2021 (the London Plan) and paragraphs 71 and 130 of the National Planning Policy Framework (the Framework) which, amongst other things, seek to ensure that development is sympathetic to the character and appearance of the area and that existing trees of value are retained.

Living Conditions - Future Occupiers

21. The proposed dwelling would be sited close to the rear elevations of Nos 225 and 227. This limited separation would enable clear and unobstructed views

from the first-floor rear facing windows of both these adjoining properties onto the terrace area and clear glazed window serving the living area of the proposed development. This overlooking would be materially harmful to the future occupiers of the proposed dwelling.

22. The proposed plans show that the bedroom would be sited below ground level and the sole source of light and outlook would be provided by glazed doors opening onto a lower terrace. The appeal is supported by a Daylight and Sunlight Report and the Council has not challenged its methodology or results. The report states that the proposed dwelling would achieve compliance with the Building Research Establishment recommendations, providing future occupiers with adequate levels of natural light. In the absence of conflicting evidence, I find the levels of natural light to be provided for future occupiers be acceptable.
23. Although the proposed glazed door serving the basement bedroom would be of generous proportions, views from the bedroom would be principally onto the walls of the lower terrace which would be sited very close to the glazed doors. Consequently, the outlook from the bedroom would be very restricted with limited open views of the sky and land beyond the tight confines of the lower terrace. The lack of adequate outlook from the bedroom would result in an oppressively confined form of accommodation for future occupiers of the proposed dwelling.
24. Although I have found light levels to be acceptable, the proposed development would fail to provide adequate living conditions for future occupiers with particular reference to privacy and outlook. This is notwithstanding that it appears to meet internal space standards. It is therefore contrary to the relevant provisions of Policy 15 of the Lewisham Local Development Framework Core Strategy Development Plan Document adopted June 2011 (the Core Strategy), DM Policies 30 and 32 of the DMLP, Policy D6 of the London Plan, paragraph 130 of the Framework and relevant guidance in the Mayor of London Housing Supplementary Planning Guidance 2016. These, amongst other things, address the need for high quality housing design and to respect the amenity of future occupiers.
25. The Appellant suggests that DM Policy 30 of the DMLP is not relevant as it makes no reference to standards of accommodation. While it does appear to focus on urban design and local character, even if I set DM Policy 30 aside, I note that DM Policy 32 of the DMLP requires development to be neighbourly. Accordingly, this does not change my findings on this main issue.

Living Conditions - Neighbouring Occupiers

26. The proposed dwelling would span the width of the appeal site and would be taller than the existing garage. However, it still maintains a reasonable separation distance to Nos 225 and 227. Given the retained garden proportions and single storey scale of the proposed dwelling, I find its design and siting would not be harmful to the existing levels of outlook experienced by the occupiers of Nos 225 and 227.
27. The Council has raised concern about the site coverage, the proximity of the proposed dwelling to number 227 and potential for general disturbance between the neighbours. However, given the relative scale and position of the dwellings and garden areas, and the provision of a brick wall between the two,

I do not consider it likely that future occupiers of the proposed dwelling would create unreasonable disturbance for existing neighbouring occupiers.

28. The proposed development would not have an adverse effect on the living conditions for neighbouring occupiers. The proposed development is therefore in accordance with the relevant provisions of Policy 15 of the Core Strategy, DM Policy 32 of the DMLP, Policy D6 of the London Plan and paragraph 130 of the Framework insofar as they relate to the effect of development on existing occupiers. These policies, amongst other things, address the need for high quality housing design and to respect the amenity of neighbouring occupants.

Other Matters

29. I have been provided with a copy of an allowed appeal decision relating to Land West of Jutland Road (Ref APP/C5690/W/19/3233626) and a copy of a decision notice for a more recent amendment to that permission (Ref DC/21/121017).
30. However, the appellant has not provided me with any comparative analysis of the Jutland Road appeal and site and how it is relevant to the current appeal. From the available evidence it seems to me that the two schemes are not directly comparable in that they are in different locations and the Jutland Road Inspector made no reference to perimeter blocks in their decision. Consequently, this previous appeal decision has limited bearing on my findings, and I attach limited weight to it.
31. The proposed development would provide one dwelling which would make a limited contribution to meeting housing need in the area. It would also provide some limited social and economic benefits. However, these limited benefits would not outweigh the harm that I have identified to the character and appearance of the area and to the living conditions of future occupiers of the proposed dwelling.

Conclusion

32. The proposed development conflicts with the development plan when read as a whole for the reasons I have given, and I consider there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

N Praine

INSPECTOR