

## Appeal Decisions

Hearing Held on 1 November 2022

Accompanied Site visit made on 1 November 2022

**by David Spencer BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 1 December 2022**

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### **Appeal A Ref: APP/C5690/W/22/3293666**

#### **26A Inglemere Road, Forest Hill, London SE23 2BE**

- 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 Lovelace Poku of Sterling Rose Homes against the decision of the Council of the London Borough of Lewisham.
  - The application Ref DC/21/124812, dated 17 December 2021, was refused by notice dated 11 February 2022.
  - The development proposed is demolition of existing outbuilding and erection of one detached dwelling house.
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### **Appeal B Ref: APP/C5690/W/22/3305005**

#### **26A Inglemere Road, Forest Hill, London SE23 2BE**

- 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 Lovelace Poku of Sterling Rose Homes against the decision of the Council of the London Borough of Lewisham.
  - The application Ref DC/22/127160, dated 7 June 2022, was refused by notice dated 4 August 2022.
  - The development proposed is demolition of existing outbuilding and erection of one detached dwelling house.
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#### **Decision – Appeal A**

1. The appeal is dismissed.

#### **Decision – Appeal B**

2. The appeal is dismissed.

#### **Procedural Matters**

3. Both appeals relate to a similar proposal on the same site and can therefore be appropriately dealt with in this single decision. The chief differences between the two schemes are the design and position of the proposed dwelling and the amount of proposed off-street parking provision. As part of the process for the Appeal A scheme the appellant sought through a draft statement of common ground to revise aspects of the scheme through amended plans. In parallel this essentially became the planning application for the Appeal B scheme which was consulted on and determined separately by the Local Planning Authority (LPA). As such it was clarified at the hearing that the Appeal A scheme should be largely determined on the same plans on which the LPA made its decision.

## **Main Issues**

4. For both appeal schemes there is a shared main issue regarding the principle of a dwelling on the appeal site having regard to the character and appearance of the area. In respect of the Appeal A scheme there is a further main issue in relation to the effect on the living conditions of the occupiers of Nos. 69 and 70 Bampton Road with regard to outlook.

## **Reasons**

### *The principle of development having regard to character and appearance*

5. The appeal site is located in a part of Forest Hill characterised by residential development of varying layouts, densities and designs reflecting the history of housing in this part of south London, including post-war re-development and consolidation. The site is a short distance from Forest Hill railway station as well as bus stops on Inglemere Road. It is therefore a sustainable location where in general terms the development plan envisages further housing, including on small sites. These are factors in favour of the appeal proposals, however, other policies of the development plan seek to ensure an appropriate balance between making the most effective use of land whilst also ensuring that new developments add to the overall quality of the area. The most important policies in this regard as they relate to the appeal proposals are DM Policies 30 and 33 of the Lewisham Development Management Local Plan 2014 (the DMLP). Both these policies add further detail in implementing the overarching strategic Policy 15 of the Lewisham Core Strategy which seeks to secure high quality design.
6. DM Policy 30 addresses urban design and local character in terms of securing a high standard of design and requires, amongst other things, that development proposals will need to be compatible with and/or complement the host urban typology set out in Table 2.1 of the DMLP. This table sets out the urban typologies from the Lewisham Character Study. The appeal site is situated within a 'perimeter block' urban typology and within the 'Villa' sub-set of that block type where the issues for character include, amongst other things, ensuring that spaces between the buildings are preserved and responding to the characteristic lower density and spaciousness. Table 2.1 states that new separate residential developments in the side or rear gardens of the host urban typology will not generally be acceptable in order to maintain the characteristic residential quality, although paragraph 4.4.34 of the Lewisham Character Study recognises that there may be instances where lower density typologies could be intensified to help deliver new homes.
7. DM Policy 33 deals specifically with development on infill sites, backland sites, back gardens and amenity areas. For the avoidance of doubt the appeal site would not comprise an 'infill site' by virtue of lacking a street frontage, nor is it an 'amenity area' as defined in DM Policy 33 and supporting text. As such, matters turn, to some degree, on whether the appeal site is 'backland' or 'back garden' for the purposes of DM Policy 33.
8. DM Policy 33 is clear that development on either of these site categories must meet the requirements of DM Policy 30. Part B of Policy DM33 applies a more permissive approach for 'backland' sites subject to criteria. Part C of the policy states that the development of back gardens for separate dwellings in perimeter form residential typologies identified in the Lewisham Character

Study will not be granted planning permission. Paragraph 2.251 of the DMLP provides the context for DM Policy 33 which can be summarised as the need to preserve the quality and amenity of residential areas. 'Backland sites' are defined at part B of paragraph 2.251. Examples of 'backland sites' are further illustrated in the LPAs Small Sites Supplementary Planning Document (SPD) 2021 which has been prepared in support of London Plan Policy H2.

9. What is meant by 'back gardens' for the purposes of DM Policy 33 is explained at part C of paragraph 2.251 of the DMLP. The paragraph begins by stating: "Back gardens are private amenity areas that were the entire back garden to the rear of a dwelling or dwellings as originally designed." The paragraph goes on to recognise that back gardens can no longer be classified as 'previously developed land' but it also states: "Back gardens in the 'perimeter block' urban typologies identified in the Lewisham Character Study which have more or less enclosed rear gardens, are considered to be an integral part of the original design of these areas and provide valuable amenity space and an ecological resource. Development in the back gardens of these urban typologies will not be considered acceptable."
10. Whilst the National Planning Policy Framework (NPPF) has been revised since the DMLP was adopted in late 2014, I nonetheless find DM Policies 30 and 33 to be consistent with current environmental objectives of national planning policy including achieving well-designed places. Paragraph 130 of the NPPF states that planning policies should, inter alia, ensure that developments will function well and add to the overall quality of the area, be sympathetic to local character and history and maintain a strong sense of place, using the arrangement of streets, spaces and building types. As such I find the policies to be consistent with national planning policy.
11. The street pattern at the appeal location on Inglemere Road, Bampton Road and Dacres Road forms a triangular block along which residential development is consistently arranged such that there are no obvious examples of housing development at depth. Accordingly, it is defined as a perimeter block in the Lewisham Character Study and this is borne out by my observations along the three sides of the triangle. There are some limited examples of garage courts to the rear of houses but predominantly the glimpsed views between houses reveal an open area to the rear of this triangle, where some tree specimens have become established. Given the modest size of the block and the relative proximity between corresponding rear elevations, particularly in the corners of the triangle, I find the prevailing open nature of the enclosed land to the rear of the host perimeter block has a particular value in maintaining a modest but important spacious quality in this part of Forest Hill.
12. The appeal site is situated to the rear of No.26 Inglemere Road, a substantial villa style property which has been extended and sub-divided into apartments. The original rear garden to No.26 which extended to Bampton Road, as shown on historical maps, has been impacted in two stages. Firstly, by the housing development on Bampton Road constructed in the post-war period and secondly, by the more recent subdivision of the remaining garden to No.26 to construct a humble ancillary outbuilding. This gives rise to two notable consequences noteworthy to the appeal site location. Firstly, the development on Bampton Road forms the edge of the 'perimeter block' as assessed and defined in the Lewisham Character Study. This housing now forms part of the characteristic enclosure of the remaining modest rear garden areas contained

within the block. Secondly, the existing outbuilding, now dilapidated and enveloped in vegetation, has a modest height and footprint, and so does not harm or interrupt the otherwise open, green character in this rear area. Irrespective of the precise status of the site as either 'backland' or 'back garden', the appeal site is situated to the rear of the existing perimeter arrangement of housing including the original donor property at No.26. The proposed dwelling would be conspicuously larger than the existing outbuilding such that it would harmfully reduce and disrupt the enclosed open and verdant character. It would not respect the original spaciousness of the host villa typology and the intended space around such buildings, including No.26. The proposed dwelling in both schemes, taking into account the proposed set-down and design amendments in the Appeal B scheme, would appear as an overtly residential and bulky building in contrast to the appellant's submission that it could be read as a subservient pavilion or mews<sup>1</sup> type building to the host villa at No.26. Therefore, as a starting point, the proposals would be contrary to the general principles of DM Policy 30.

13. The appeal site formed part of the rear garden to No.26 and up until a few years ago functioned as such. It is not the originally conceived 'landlocked' yard or workshop site which the development plan defines as 'backland' for the purposes of DM Policy 33 or as exemplified in the Small Sites SPD<sup>2</sup>. As such the appeal proposals would not benefit from the more permissive approach at Part B of DM Policy 33. Nor has the passage of time since the granting of planning permission in 2012 for an ancillary outbuilding to the residence of No.26 bestowed a transference of 'backland' status for the purposes of DM Policy 33. The 2012 permission<sup>3</sup> was purposefully for an ancillary building to the residential use at No.26 (secured by condition). Whilst that link appears to have been severed in functional terms, I have noted the dismissed April 2017 appeal<sup>4</sup> which sought to extend the outbuilding to serve as a non-domestic storage facility. This decision found harm to the character and appearance in conflict with DM Policy 33 and highlights the constrained nature of the appeal site. Accordingly, the structure on the site is characteristic of the modest scale and unobtrusive nature of small ancillary outbuildings one could reasonably expect to find in quiet, spacious rear garden areas.
14. Having regard to paragraph 2.251 of the DMLP and as set out above, I accept that the entire rear garden as originally designed for No.26 no longer exists. I also note that paragraph 2.252 of the DMLP acknowledges that some sites might not fit squarely into the site categories in DM Policy 33. To my mind that triggers a more nuanced and considered approach in this instance as to whether the principle of the proposed development would be acceptable. I come to that view given that a key tenet of the character driven approach in the underlying evidence base and within DM Policies 30 and 33 concerns itself with protecting the originally conceived urban pattern, often, but not exclusively, in the form of well-defined blocks of development. Whilst the originally conceived urban pattern no longer exists at the appeal location, I also have in mind that another important strand of the character approach for perimeter blocks relates to the valuable amenity resource provided by enclosed rear areas and spaces.

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<sup>1</sup> By reference to paragraph 4.4.37 of the Lewisham Characterisation Study

<sup>2</sup> Sections 31-33 and Figures 171 and 174

<sup>3</sup> Reference DC/12/080972

<sup>4</sup> APP/C5690/W/16/3154267

15. In character terms the appeal site is integrally part of the mosaic of enclosed back gardens and land in the host perimeter block. Despite being artificially created through the haphazard sub-division of the remaining garden area to No.26 and given a separate address by street naming and numbering the appeal site remains to be read as part of the remnant, albeit truncated, rear garden to No.26. Moreover, its amenity value in providing a sense of spaciousness and separation in this rear area is amplified at the appeal location where perimeter development is clustered at the apex of the triangle on Inglemere Road and Bampton Road. Consequently, the appeal proposals would harmfully consolidate residential development at a point where intervening rear amenity or garden space is already constricted. The resulting tight knot of development at the eastern end of the triangle would significantly and adversely erode the intactness of the perimeter block and the secluded but modest gap between the corresponding rear elevations of surrounding houses.
16. In relation to the Appeal B scheme, the appellant asserts that the LPAs reason for refusal cites only a policy conflict and no tangible harm to local character and appearance. The decision notice states an "adverse impact on character and appearance of the area" and the LPA officer report, notably at paragraphs 40-44, articulates the harm, reasonably drawing on the conclusions from the recent December 2020 appeal decision for a similar development proposal. The appellant submits that the 2020 appeal decision was wrong, at paragraph 4, to draw comparison with the depth of adjoining gardens at Nos 22 and 24 Inglemere Road. In my view this makes little difference given the particular circumstances at the appeal site and as set out above I share my colleague's overall findings<sup>5</sup> on the harms to character and appearance due to the basic discordance with the prevailing pattern of development and intrusion and reduction in the "low-key sylvan character" behind this part of Inglemere Road.
17. I accept that the ability to experience both appeal schemes from within the street scene of both Inglemere Road and Bampton Road would be limited. To some extent the dwelling could be screened by planting and the gated entrance in views down the gap to the side of No.26 within Inglemere Road. That said, the creation of an access to the side of No.26 would reveal the presence of a new dwelling at depth, contrary to prevailing perimeter pattern of development. The loss of enclosed rear openness in the perimeter block would also be keenly experienced by numerous surrounding properties which closely back onto and overlook the appeal site. Overall, I find that there would be a perceptible loss of the characteristic lower density and spaciousness associated with the villa typology and amenity value of the enclosed rear spaces within the host perimeter block. Accordingly, there would be significant harm to the characteristic residential quality in this part of Forest Hill.
18. I therefore conclude that the appeal proposals would have an adverse impact on the character and appearance of the area. They would be contrary to DM Policies 30 and 33 of the DMLP. On this basis, the proposals would not be the high-quality design sought by Policy 15 of the Lewisham Local Development Framework Core Strategy Development Plan Document 2011 (the *Core Strategy*). The proposals would also fail to accord with the objectives for achieving well-designed places in national planning policy, in particular at paragraphs 126 and 130(a)(c)&(d) of the NPPF which seek, amongst other things, to ensure development adds to the overall quality of an area, is

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<sup>5</sup> APP/C5690/W/19/3242106, paragraph 7



sympathetic to local character and maintains a strong sense of place using the arrangement of streets, spaces and building types.

*Outlook for neighbouring properties - Appeal A scheme*

19. The proposed dwelling would be positioned adjacent to the north and east boundaries of the appeal site. Whilst the north-east corner of the appeal site would adjoin the single storey garage block on Bampton Road the proposed dwelling would be very close to the rear elevations of No.69 Bampton Road to the east and No.70 Bampton Road to the north. With regards to the outlook for occupiers of No.69 whilst the proposed roofscape of the eastern wing of the dwelling would be flat it would nonetheless project by some margin above the existing boundary treatment. In combination with the garage block immediately to the north and the relatively small depth of the rear garden to No.69 I find the proximity and height of the property dwelling directly on the boundary would result in an oppressively hemmed-in environment at the rear of No.69 resulting in an unacceptably diminished outlook.
20. Turning to the perspective from the rear of No.70, the width of the proposed dwelling would extend along the entire southern boundary of the small rear garden to No.70. Whilst the roofscape of the proposed single storey dwelling has been designed such that the pitch of the roof is shallower along this aspect it would still appear dominant due to the overall height and generally blank expanse of roof above the existing boundary treatment height. This harm to the outlook at the rear of No.70 would be accentuated by the particularly shallow depth of the rear garden to this property and the position of the proposed dwelling hard to the boundary with the small curtilage of No.70.
21. I therefore conclude that the Appeal A scheme would result in significant harm to the living conditions of the occupiers of Nos. 69 and 70 Bampton Road with regard to outlook. This would be contrary to Policy 15 of the Core Strategy and DM Policies 30 and 33 of the DMLP which seek to ensure that development secures high quality design which includes amongst other things, protecting neighbour amenity and responding to the spaces between buildings.

*Other matters*

22. As set out above the appeal site is in a sustainable location reflected in a reasonable PTAL rating for inner London. The off-street parking provision in the Appeal A proposal was originally 3 spaces but I have considered the proposal on the 1 space proposed in amended plans as part of the draft statement of common ground and as discussed at the hearing. This provision would exceed the maximum parking standards set out in the London Plan at Table 10.3 in support of Policies T6 and T6.1. Whilst I observed off-street parking does occasionally occur in this part of Forest Hill, including at No.26 Inglemere Road, it is not the prevailing character and much of it may well predate development plan and national planning policy to encourage modal shift and transition to a low carbon future. There is little evidence that on-street parking in Inglemere Road is particularly stressed or that future occupants of the proposed 3 bedroom dwelling would expect an off-street parking space. Nor is there any comfort in Policies T6 or T6.1 to support the appellant's suggestion that a 0.25 parking space requirement could be "rounded-up" to 1 space. Accordingly, Appeal scheme A would be contrary to Policies T6(D) and T6.1(A) of the London Plan (2021). The proposal would also fail to accord with Policy 14 of the Core Strategy and with national planning

policy at paragraphs 108 and 124(c) of the NPPF, all of which seek to promote sustainable travel modes and reduce future car use, including by managing provision for car parking in sustainable locations.

### **Planning Balance and Conclusion**

23. Both appeal proposals would result in significant harm to the character and appearance of the area and would be contrary to the development plan by reference to DM Policies 30 and 33 of the DMLP and Core Strategy Policy 15. These policies are consistent with the NPPF, are up-to-date and therefore to be afforded full weight in decision-making. The Appeal A scheme would also result in unacceptable harm to the living conditions of two neighbouring properties contrary to the same above development plan policies. The Appeal A scheme would also be contrary to development plan policy regarding off-street parking provision. Planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.
24. The appellant submits that there is a significant housing need to be met both in Lewisham and more widely across London to which the development plan clearly expects small windfall sites to play a significant cumulative role in delivering new homes. The appeal proposals would deliver one dwelling, albeit much needed family sized accommodation. As set out above the dwelling would be in a sustainable location where the development plan identifies Forest Hill serving a particular spatial role as a 'District Centre / Hub'.
25. At just one dwelling, albeit within a sustainable location and to a PassivHaus style design, the social, economic and environmental benefits would be only modest. There is very little before me to evidence that the policies of the development plan, including the significant extent of the 'perimeter block' typology across Lewisham, is unduly constraining the supply from small sites. The recent Small Sites SPD demonstrates the LPAs commitment to unlocking appropriate sources of supply in support of London Plan Policy H2. Moreover, DM Policies 30 and 33 in the DMLP were found sound against the competing priorities in the NPPF of boosting the supply of housing and the environmental objective of protecting and enhancing the built environment. Consequently, the modest benefit of an additional dwelling for both appeal schemes would not outweigh the environmental harms identified to character and appearance and therefore the conflict with the development plan. For Appeal scheme A the limited benefits are further outweighed in any balance by the other social and environmental harms and resultant conflict with development plan policy considered in this decision. Accordingly, there are not the material considerations in this instance to indicate decisions on both appeal schemes other than in accordance with the development plan.
26. For the reasons given above and taking into account all other matters raised, I therefore conclude that both appeals should be dismissed.

*David Spencer*

Inspector.

## APPEARANCES

### FOR THE APPELLANT:

Lovelace Poku - Land and Development Manager, Sterling Rose Homes

Miheer Mehta - Director, Sterling Rose Homes

### FOR THE LOCAL PLANNING AUTHORITY:

Angelica Rokad, Of Counsel [Instructed by Head of Legal Services,  
Council of the London Borough of Lewisham]

Amanda Ghani – Planning Officer

David Robinson – Major & Strategic Projects Manager

Antigoni Gkiza – Planning Officer