



Appeal Decision

Site visit made on 15 November 2022

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd December 2022

Appeal Ref: APP/N5660/W/22/3302022

128 Thornlaw Road, London SE27 0SB

- 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 Mrs S Potter of care of James Hay Partnership Trustees against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 21/03804/FUL, dated 17 September 2021, was refused by notice dated 29 December 2021.
 - The development proposed is demolition of a storage building and the development of a dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposal would provide acceptable living conditions for future residents with regard to outdoor amenity space; and
 - whether a legal agreement should be required with regard to offsite highways works and car club membership for future residents.

Reasons

Character and Appearance

3. Thornlaw Road is a long road that slopes upwards towards the appeal site. It features mainly detached, semi-detached and terraced residential properties on a relatively consistent line slightly set back from the road with small front gardens enclosed by a mix of low boundary treatments including timber fencing, walls and hedges.
4. The proposed dwelling would be located on a similar building line. Its front garden would be enclosed by a low brick wall with timber slats above, which would not be dissimilar to other boundary treatments in the vicinity.
5. I appreciate that the need to maintain satisfactory living conditions for occupiers of the property to the rear, which the submitted information indicates is a house in multiple occupation, has influenced the design of the proposed dwelling, including its height and mass. It would be part two storey part single storey with a flat roof, whereas the prevailing character of the road is one of

two storey dwellings with pitched roofs. Given the sloping nature of Thornlaw Road, its two storey-single storey height would relate well to the properties on either side. Furthermore, due to its height and mass, the proposed dwelling would appear subservient to the larger property to the rear and to the neighbouring properties. It would sit comfortably within the street scape.

6. A cue has been taken from the rhythm of the bay windows along the road. Although there would be some variety in the window detailing on the front elevation, the appearance would not appear unduly cluttered or incoherent.
7. Many of the nearby properties have red brick frontages with London stock brick on the side elevations. However, the proposed dwelling would be viewed in the context of the property to the rear which has a lighter colour brick, and the pair of semi-detached properties at nos. 128B and 128C and those dwellings opposite which have a large amount of light-coloured render. Given this context, the use of buff brick would not result in an inharmonious frontage.
8. The roof terrace seems to have been designed as an integral part of the proposed dwelling and would not appear as an afterthought or incongruous add on. The use of timber slats would represent a relatively light weight boundary treatment at this height and would reflect the use of timber elsewhere on the proposed development.
9. The proposed dwelling would be of a more contemporary design than the properties in the vicinity. However, overall, the built form, design, detailing and pallet of materials has had regard to a number of the prevailing characteristics of the area such that it would not appear incongruous in the street scape.
10. I therefore conclude that the proposal would not harm the character and appearance of the area. Accordingly, it would accord with Policies Q5, Q7 and Q8 of the 2021 adopted Lambeth Local Plan 2020 - 2035 (the Local Plan). Collectively, these policies seek to secure high quality design and ensure that local distinctiveness is preserved and reinforced. It would also accord with the design principles in Local Plan Policy H5.

Living Conditions

11. Based on the submitted information, it appears that the size of the proposed roof terrace would exceed the Council's minimum level for external amenity space. The outdoor space would be enclosed by timber screening. The Council's figures indicate that the height of the enclosure as a whole would be around 1.6 to 1.7 metres in height, taking account of the brick upstand and changes in level. This would not be dissimilar to a typical back garden arrangement. Furthermore, the proposed timber screening, which would comprise the majority of the boundary treatment, would not appear as a solid mass. This, together with the size of the outdoor area, means that there would not be an undue sense of enclosure. Outlook for residents when using the outdoor amenity area would not therefore be oppressive or uninviting.
12. The adjacent property at 128B Thornlaw Road has a small second floor window in its gable elevation. Despite the proposed screening, there would be views of the outdoor amenity area from this window. However, some overlooking between properties is inevitable in urban location such as this. In addition, while views from this window would be at a relatively close distance, its small

size would limit the perception of being overlooked when in the outdoor amenity area.

13. The property at no. 126 has a larger window in its gable elevation at second floor level. Nevertheless, there would be a reasonable separation distance between this window and the outdoor amenity area. As such, there would not be an unacceptable degree of overlooking.
14. I therefore conclude that the proposal would provide suitable living conditions for future residents with regard to outdoor amenity space. Consequently, it would comply with the residential amenity requirements of Policy H5 of the Local Plan and Policy D6 of the 2021 London Plan.

Legal Agreement

15. The Council's officer report has identified the need for a legal agreement under section 106 of the Town and Country Planning Act 1990 for offsite highways works and to secure provision of car club membership.
16. Part of the Council's overall approach to sustainable travel patterns and addressing congestion is to control and manage the availability of on and off-street parking. Policy T6 of the Local Plan sets out a number of requirements to achieve this.
17. Part D of Policy T6 states that development should avoid reliance on the public highway to meet the parking requirements of development. No on-site parking provision is proposed. At the time of my site visit on a weekday morning, which I appreciate was just a snapshot in time, I observed that many of the houses in the vicinity do not have an off-street parking area and on-street parking provision was well used.
18. The appellant identifies that the development would enable the provision of an additional two on-street parking spaces that currently cannot be provided due to the drop kerb at the site. The Council has suggested a condition that would secure the removal of the cross over and reinstatement of the footway in the event that the appeal is allowed. I am satisfied that a condition worded in a negative form could secure the necessary offsite highways works. On this basis, a legal agreement would not be required.
19. Policy T6 also requires that development should make car club membership available to all residents in new residential development. The supporting text states that provision of car club membership will be required for all residents from first occupation of a development scheme and that planning obligations will be used to secure such contributions. The Council's officer report identifies the need for a legal agreement to secure the provision of car club membership in the appraisal of the proposal. Although this matter was not a reason for refusal on the Council's decision notice, it is clear from the officer report that it would be a requirement in the event of planning permission being granted.
20. Given the parking situation that I observed and in the absence of any evidence to the contrary, I see no reason why the requirement to promote and make car club membership available should not apply to the proposal. The requirement would be necessary to make the development acceptable, would be directly related to the development and fairly and reasonably related to it in scale and kind.

21. A planning permission and any attached conditions run with the land or building, and not with an individual. The requirement to make car club membership available to residents would not be a restriction on the land or buildings. It would not therefore be possible to secure this requirement through a planning condition.
22. I therefore conclude that a legal agreement with regard to car club membership for future residents is necessary. The proposal is not accompanied by such a legal agreement. Consequently, in the absence of a legal agreement to secure the provision of car club membership for future residents of the proposed dwelling, the proposal would conflict with the requirements of Policy T6 of the Local Plan.

Conclusion

23. I have found that the proposal would not cause unacceptable harm to the character and appearance of the area and would provide acceptable living conditions for future residents with regard to outdoor amenity space. However, for the reasons given, the proposal would not comply with the requirements of Policy T6 of the Local Plan.
24. The proposal would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

F Wilkinson

INSPECTOR