



Appeal Decision

Site visit made on 6 December 2022

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2023

Appeal Ref: APP/C5690/W/22/3291751

246-254 Lewisham High Street, Lewisham, London SE13 6JU

- 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 Ramesh Ramesh against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/21/123467, dated 1 September 2021, was refused by notice dated 11 November 2021.
 - The development proposed is the erection of a 6-storey extension at the rear of the building consisting of lift and staircases and a 4 storey extension above the existing host building to form part 3/4/5/part 6 storey building to provide 9 residential units (C3 Use) (3 x 1 bed units, 3 x 2 bed units and 3 x 3 bed units at 246–252 Lewisham High Street London SE13 6JU together with associated 1 delivery parking, bins enclosures and cycles storage.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The site address was given on the planning application form (and other submissions) as 246-252 Lewisham High Street. It was evident from the submitted drawings and my observations on site that it also encompasses the small retail unit at No 254; I have therefore included that property in the site address used in the banner heading above.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area;
 - Whether or not the development would provide acceptable living conditions for future occupiers, with particular regard to daylight and sunlight, outlook, ventilation and overheating, and noise and other disturbance.
 - Whether or not the development would provide adequate cycle parking facilities;
 - Whether or not the development would provide a safe environment for pedestrians and cyclists;

- The effect of the proposed loading and servicing arrangements on highway and pedestrian safety; and
- Whether or not the development would lead to an unacceptable increase in demand for on-street car parking in the area.

Reasons

4. The appeal relates to a site of around 0.05ha on the west side of Lewisham High Street, immediately north of a railway bridge across the street. It contains a three-storey 1960s building with five shops on the ground floor¹ and four two-storey maisonettes on the first and second floors. The four flats are shown on the submitted drawings with the separate addresses 246A, 248A, 250A and 252A Lewisham High Street, though at least some of them are connected internally to the shop units below; the appellant describes them as “live-work units”. The shops face the High Street; a yard at the rear entered from Engate Street provides access to the flats, as well as service access to some of the shop units.
5. The proposed development is the erection of a four-storey upward extension of the existing building, to provide seven entirely new dwellings (one three-bedroom, three two-bedroom, two one-bedroom and one studio flat). The existing flats known as 248A and 250A would also be reconfigured to form two three-bedroom flats, each on a single floor rather than extending across two storeys as at present; the remaining flats known as 246A and 252A would be essentially unaltered. All flats would have balconies or terraces providing private amenity space; there would also be children’s’ play areas at ground floor and sixth floor levels, and part of the roof would be given over to communal amenity space. At the rear of the site, an eight-storey high extension would provide stair and lift access to the whole development, including the roof. Cycle and refuse storage facilities would be provided in the rear yard.

Character and appearance

6. The Council’s 2021 *Small Sites* Supplementary Planning Document (“the SPD”) provides advice and guidance for proposed residential development on sites of less than 0.25h. The SPD addresses “vertical intensification”, recognising that this can provide much-needed new homes in sustainable locations close to public transport, high streets and places of work, although it also states that this can have a significant impact on the character of the street. The SPD advises that development should respond positively to the character of the existing property and its surroundings, and be of exceptional design quality.
7. The part of Lewisham High Street including the appeal site – from the adjacent railway bridge north to the junction with Molesworth Street – is predominantly characterised by buildings of two to four storeys in height; this includes all the buildings making up the rest of the appeal site block. The proposed development would see the appeal site built to a maximum of seven storeys (on the Nos 250 and 252 part of the site), so that although it would step down to five storeys (No 248) and four storeys (No 246), it would still be taller than its immediate neighbours.

¹ Including the small unit at No 254, as I have described above.

8. The appellant drew my attention to buildings with 5, 6, 10 and even 20 storeys on Lewisham High Street and Molesworth Street, but these are sufficiently far from the appeal site that in my view they could not realistically be said to define the character of its surrounding area. However, there are some taller buildings nearby; the Travelodge building at 223-227 Lewisham High Street opposite the appeal site rises to six storeys, while immediately south of the railway bridge No 258 Lewisham High Street has seven storeys, and the Axis House building (262-274) has a street frontage ranging from four to eight storeys in height. Notwithstanding the separation provided by the railway bridge, the proposed development would be particularly likely to be seen alongside No 258 and Axis House by anyone heading north or south along the High Street. The similar height of these near neighbours would provide a setting in which the scale of the appeal proposal would not be dominant or incongruous. To this extent therefore I consider some of the Council's objections in respect of the scale of the appeal scheme to be misplaced.
9. The SPD advises that while stacked balconies can work well on large blocks, they tend to work less well on small-scale development; it suggests the use of set-backs in the massing of the building, floor-by-floor, to create terraces rather than balconies for homes on upper floors. The stepping down towards No 244 Lewisham High Street would space for terraces on that side of the building. However, the stacked balconies on the front elevation would do little to provide visual interest or break up the bulk of the building's main High Street frontage, while the southern elevation would be a sheer face of brickwork almost entirely lacking in articulation. The massing, form and detailing of the proposed development would result in its most public faces being simultaneously bland and intrusive; this would detract from the character and appearance of the area.
10. The SPD also notes that adding residential uses to non-residential buildings can present challenges in terms of access, fire safety and so on, which can have a significant impact on a scheme's layout and design. It goes on to advise that care should be given to the design of circulation space, both inside and outside the new development, and that ground floor entrance lobbies should usually be located within a primary elevation rather than concealed on side elevations, unless it can be demonstrated that access is safe, secure and attractive for residents and visitors.
11. In this case, the access via the rear yard would be from the end of Engate Street, a cul-de-sac shared with a variety of commercial and industrial uses (including the adjacent Royal Mail delivery office). Based on what I saw during my site visit, this is very much a secondary location rather than a primary elevation; it would certainly not be attractive for residents or visitors, and it is quite possible that it would also not be perceived as safe or secure. The retention of a separate doorway for the existing Flat 246A would result in its standard domestic door being set in and overwhelmed by the six-storey rear elevation, which would be visually incongruous. The proposed external fire escape would be also an unattractive and intrusive addition to the rear of the building.
12. Altogether, and notwithstanding that I consider that the site could potentially successfully accommodate a development of the height proposed, the massing, form and detailing of the scheme mean that it would be dominant,

unsympathetic, and visually intrusive. I conclude that it would cause significant harm to the character and appearance of the area.

13. The proposal would therefore conflict with Policy 15 of the 2011 Lewisham Core Strategy ("the LCS"), DM Policies 30, 31, 32 and 33 of the 2014 Lewisham Development Management Local Plan ("the DMLP"), and Policy D4 of the London Plan 2021. Together, and among other things, these policies seek to ensure that new development is attractive and achieves a high standard of design, and creates a positive relationship with the existing townscape. For the same reason, the development would conflict with the provisions of Chapter 12 of the National Planning Policy Framework ("the Framework") which seek to achieve well-designed places, in particular paragraphs 126, 130 and 134.

Living conditions

14. The planning application was accompanied by a Daylight, Sunlight, and Overshadowing Assessment ("DSOA")². However, this related to a proposed development of 17 flats rather than the appeal scheme³. While all habitable rooms within the appeal scheme would have a window, this is not in itself demonstrative that all would receive adequate daylight or (where necessary) sunlight. This is a matter which in my view is fundamental as to whether or not acceptable living conditions would be provided for future occupiers; it is not therefore a matter which I consider could be adequately dealt with (if the proposal were acceptable in all other respects) by the use of a condition requiring the later submission of an updated DSOA.
15. Standard 29 of the Mayor of London's *Housing Supplementary Planning Guidance* ("the Housing SPG") advises that developments should minimise the number of single aspect dwellings; this is for a number of reasons, including that dwellings with opening windows on at least two sides can have natural cross ventilation and a greater capacity to address overheating, as well as a choice of views and access to a quiet side of the building which offers greater flexibility in the use of rooms. The proposed Flat 6 (third floor) would be entirely single aspect. Flats 3 (first and second floors), 7 (third floor), and 9 (fourth floor) would also be primarily single-aspect, inasmuch as all their habitable rooms would be on the same elevation, with only a single small window serving a hallway or shower room at the other side of the building.
16. I note the appellant's statement that "the existing residential accommodation [does] not experience overheating"; that may well be so, but it does not substantively address the Council's concern about the lack of cross-ventilation or the potential for overheating in the south-east facing⁴ rooms and flats of the proposed development. Similarly, the assertion that there are "[no] concerns in terms of air quality and pollution even though the existing main aspect faces Lewisham High Street" does not address the substance of the Council's concern about these matters. The comment to the effect that the existing flats on the site are already single aspect is not borne out by the submitted drawings, at least in respect of flats 246A and 248A which are shown to have windows and doors to front and rear terraces, so I do not agree that the proposed

² Daylight, Sunlight, and Overshadowing Assessment for Adjacent Properties and Proposed Development – EEABS, dated 8 September 2020

³ The Council's officer report indicates that the DSOA was the same as that submitted for an earlier scheme which was refused planning permission, LPA Ref: DC/20/117830

⁴ Not west-facing, as mistakenly stated in the Council's officer report (though this error has no significant bearing on the issue).

development would necessarily represent a “great improvement” on the existing situation.

17. The single aspect flat and the three flats with “limited dual aspects” would not have the variety of outlook (or “choice of views”) which the SPG seeks to achieve. However, all four affected flats’ habitable rooms would open onto the High Street from upper floor levels. This would provide future occupiers with an acceptable outlook, although this would not outweigh or mitigate other harm which I have found.
18. The location of the proposed development very close to the four-track railway line which runs on an embankment and bridge to the south of the site means that there would be considerable potential for noise and vibration disturbance from passing trains. While it is likely that the use of appropriate construction techniques and materials could mitigate the impact of such disturbance, no substantive evidence was put forward to demonstrate how this might be done. The appellant has again suggested that this could be dealt with by condition if the proposal were acceptable in all other respects, but (as with the lack of a DSOA) I consider that this would be fundamental to determining whether or not the proposed development could provide decent living conditions for future occupiers, so it could not sensibly be left to a condition.
19. The appellant has not demonstrated that the development would provide acceptable living conditions for future occupiers, with particular regard to daylight and sunlight, ventilation and overheating, and noise and other disturbance. I therefore conclude that the proposal would conflict with Policy 15 of the LCS, DM Policy 32 of the DMLP, and Policy D6 of the London Plan 2021. Together, and among other things, these policies seek to ensure that all development is designed to high standards, ensures adequate daylight, sunlight and passive ventilation, avoids the provision of single aspect dwellings, and minimises disturbance from incompatible uses.

Cycle parking

20. Standard 20 of the Housing SPG, Policy 14 of the LCS and Policy T5 of the London Plan 2021 together require the provision of a minimum of 18 accessible, enclosed and secured cycle parking spaces. The proposed ground floor plan (Drawing 05/C)⁵ shows that there would be 18 long-term cycle parking spaces in the rear yard, as well as two short-term spaces for visitors’ bicycles. I note the Council’s apparent confusion caused by the fact that the proposed block plan (Drawing 01/B) showed storage for 36 cycles in a different place, as well as its concern that there would not be any “accessible” cycle parking spaces.
21. However, based on the submitted information it is apparent to me that the yard would be able to accommodate the necessary cycle spaces, and the discrepancy between the plans could (if the proposal were otherwise acceptable) be addressed by a condition requiring the submission and approval of further details of this matter. Subject to this, I conclude that the development would provide adequate cycle parking facilities, and that the proposal would comply with Policy 14 of the LCS and Policy T5 of the London Plan 2021, the relevant requirements of which I have just set out.

⁵ The Council’s officer report in fact referred to version B of this drawing.

Pedestrian and cyclist environment

22. As I have already described in paragraph 11, the proposed flats would be accessed from Engate Street at the rear of the building. The Transport Statement which accompanied the planning application⁶ stated that “there is a footway on the western side of Engate Street and a shared surface route around 2.5m in width linking Engate Street with Lewisham High Street” which is “clearly suitable for the new residents to be located at the site”.
23. However, I saw on my site visit that Engate Street is dominated by its surrounding industrial and commercial uses, and there are many places where the footway is effectively intermittent. The gates providing site access to the appeal site would also open directly onto the carriageway, and this would not provide a safe environment for pedestrians and cyclists in a street where vans or lorries are often likely to be manoeuvring. Based on what I saw on my site visit, I therefore agree with the Council that Engate Street provides a poor environment for pedestrians and cyclists.
24. The Council considers that a financial contribution towards the improvement of the public realm on Engate Street to improve site access is necessary. Although the appellant has indicated a willingness to provide a planning obligation (in the form of a signed Unilateral Undertaking) in respect of car parking permits (to which I shall return shortly), neither the Transport Statement or the appeal statement addressed the matter of improving access for pedestrians and cyclists within Engate Street. In any case, no completed planning obligation has been provided.
25. I conclude that the proposed development would not provide a safe environment for pedestrians and cyclists, and would therefore conflict with Policy 14 of the LCS, DM Policy 35 of the DMLP, Policy LTC21 of the 2014 Lewisham Town Centre Local Plan (“the LTCLP”), and with Policy T2 of the London Plan 2021. Together, and among other things, these policies seek to ensure that development supports the use of sustainable transport, and that access for and safety of pedestrians and cyclists is promoted and prioritised, including by improving public spaces and ensuring that they provide safe and accessible connections.

Servicing arrangements

26. The Council’s reason for refusal referred to the “failure to provide rear access for all of the ground floor commercial units”, and the potential impact on Lewisham High Street (a “Red Route”, with no stopping allowed between 7am and 7pm seven days a week) of vehicles loading and unloading to service the shop units. The appellant insists that “as shown on the proposed ground floor plan, the ground floor shops have access to the rear of the building”, although as far as I can tell neither the “existing” (Drawing 02) nor “proposed” (Drawing 05/C) shows the shop unit at No 252 with a connection to the rear yard; it is not therefore unreasonable to conclude that the servicing of that unit would need to be done from the High Street, bringing with it the potential for parking in breach of the Red Route restrictions.
27. However, the appellant’s statement is written on the basis that the proposed development would be serviced from Engate Street. One parking place would

⁶ By YES Engineering Group Limited, dated July 2021

be provided in the rear yard for delivery and service vehicles; notwithstanding the discrepancy with the plans, this would be intended to serve the four shops Nos 246-252 Lewisham High Street, but it seems likely that it would also serve the 11 flats above.

28. The submitted Transport Statement contends that the proposed servicing arrangement "is considered satisfactory" as "the number of deliveries [is] anticipated to be extremely low with no peak hour deliveries", and that servicing the retail units would not compromise highway safety. The Transport Statement indicates that the shops each have a floor area not greater than 75m², and reference was made to the local plan for the London Borough of Brent which states that one Transit van-sized bay should be provided for retail units with a floor area less than 500m²; it was argued that a similar requirement would be appropriate within Lewisham. However, on my reading of this limited extract I infer that the Brent requirement – whether or not it can be used as a guide for Lewisham – would be one van space per retail unit. It is therefore doubtful whether a single space would be adequate to serve four independent commercial units.
29. Furthermore, the proposed development would represent a significant intensification of the use of the site. This would not simply arise from there being an additional seven flats on the site; the separation of the four existing flats from the shop units below would be likely to lead to there being more deliveries, comings and goings and so on than would be the case with integrated "live-work" units. It is also not at all clear how the use of a single bay for loading and servicing a total of four retail units and 11 flats would or could realistically be coordinated. Finally, the location of the parking bay would be likely to lead to the obstruction of the shared entrance to the shops and flats, and an increased risk of conflict (and possibly accidents) between the two groups of site occupiers.
30. I therefore conclude that the proposed loading and servicing arrangements would be harmful to highway and pedestrian safety. The development therefore conflicts with Policy T7 of the London Plan 2021, which seeks to ensure that development proposal facilitate safe, clean and efficient deliveries and servicing, with adequate off-street space for servicing, storage and deliveries.
31. The decision notice also indicated conflict with Policy LTC21 of the LTCLP and Policy T6 of the London Plan 2021. These policies relate, respectively, to improving public and sustainable transport within Lewisham town centre, and the provision of car parking. I find no conflict with either policy on this matter, although this does not alter my overall conclusion.

Car parking

32. The appeal site is in an area with a Public Transport Accessibility Level of 6B, reflecting its excellent public transport connectivity. Policies T6 and T6.1 of the London Plan 2021 seek to ensure that car-free development is the starting point for proposals in places that are well-connected by public transport.
33. No car parking places would be provided on-site. However, the appeal site is within the Lewisham/Central Controlled Parking Zone ("the CPZ"); Policy 14 of the LCS and DM Policy 29 of the DMLP seek to ensure that car-free status for new development is assured without displacing parking demand onto the street. The Council has stated that a planning obligation, which would serve to

prevent an occupier of the scheme acquiring a permit for the CPZ, would be necessary. I agree; the appellant has also indicated a willingness to enter into such an obligation, but none has been submitted to me.

34. The Council also referred to the lack of provision of an appropriate level of Blue Badge parking spaces for disabled motorists. Its officer report commented that "the applicant has not submitted an Accessibility Audit of the site by other modes to demonstrate that the lack of compliance can be accepted in this instance". Neither the Transport Statement nor the appellant's appeal statement addressed this particular point; however, I have not sought further information from the appellant on the matter as it could not alter my overall conclusion.
35. In the absence of a mechanism to secure the car-free status of the development by preventing future occupiers from acquiring CPZ permits, I conclude that the development would be likely to lead to an unacceptable increase in demand for on-street car parking. It would therefore conflict with Policy 14 of the LCS, DM Policy 29 of the DMLP, and with Policies T6 and T6.1 of the London Plan 2021, the relevant provisions of which I have set out above.
36. The decision notice indicated conflict with the provisions of paragraphs 102 and 109 of the Framework, but these relate respectively to Local Green Spaces and overnight lorry parking; I find no conflict in these respects. Again, the Council also indicated conflict with Policy LTC21 of the LTCLP, but as this does not address car parking it is not directly relevant to this matter; I find no conflict with that policy either.

Conclusion

37. The proposed development would provide a net increase of seven new dwellings, resulting in a small boost to housing supply which is a modest benefit of the scheme. The appeal site is in a town centre location close to a variety of shops and services, and there would also be likely to be some benefits for local businesses arising from an increased number of households in the area, although given the small scale of the proposal this would represent a very modest social and economic benefit.
38. However, the development would cause significant harm to the character and appearance of the area, and it has not been demonstrated that it would provide acceptable living conditions for future occupiers. There would also be significant shortcomings in respect of the arrangements for pedestrian and cyclist access to and from the site, servicing and deliveries, and in respect of car parking. The proposal would therefore conflict with the development plan taken as a whole.
39. There are no material considerations which indicate that the decision should be made other than in accordance with the development plan. For the reasons given above, the appeal is therefore dismissed.

M Cryan

Inspector