



Appeal Decision

Site visit made on 18 April 2023

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2023

Appeal Ref: APP/E5330/W/22/3307651

12 Charles Grinling Walk, London SE18 5BE

- 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 Azad Peshderi against the decision of the Royal Borough of Greenwich.
 - The application Ref 22/1952/F, dated 9 June 2022, was refused by notice dated 19 August 2022.
 - The development proposed is one and a half storey detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. In Part E of the appeal form it is stated that the description of development has not changed, but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the planning application form, excluding words that are not acts of development.

Main Issues

3. The main issues are: -
 - the effect of the proposal upon the character and appearance of the area;
 - whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to outlook, levels of daylight and sunlight;
 - the effect of the proposal upon the living conditions of neighbouring occupiers at Nos.12 and 14 Charles Grinling Walk, with particular regard to outlook, levels of daylight and sunlight, and private amenity space; and
 - the effect of the proposal upon existing trees.

Reasons

Character and appearance

4. The appeal site is located within a residential area which includes a variety of built forms and designs. The host property at No.12 Charles Grinling Walk (No.12) is the end terrace of a linear row and occupies a corner plot. The

surrounding area includes flatted developments of four storeys and two storey terraced forms. There is a large flat roofed outbuilding adjacent to the appeal site within the rear garden of No.10 Charles Grinling Walk, which adjoins the host property.

5. The road curves towards the south. To the immediate south of the appeal site is the end terrace (No.14) of a staggered row. However, the principal elevations of this staggered terrace face an area of amenity open space to the west, while their rear elevations are angled towards the corner plot at No.12.
6. The southern section of the road forms a cul-de-sac with a turning head, with pedestrian access through an area of amenity open space towards the A205 South Circular Road. Along the opposite side of the southern section of Charles Grinling Walk, there are four storey blocks of flats, with their principal elevations facing the A205 South Circular Road.
7. Due to the depth of rear amenity spaces/gardens along this southern section of the road, the approach to the appeal site from the south has an open character, notwithstanding the surrounding built forms and means of enclosure to rear spaces which comprise tall fencing/walling and gates which abut the back of the footway. The street trees located to the east of the host property and trees within the rear gardens/amenity spaces of properties make a positive contribution to the street scene, and they provide visual relief from built forms.
8. The appeal scheme would result in a new dwelling located within the rear garden of No.12. While the footprint of the dwelling would be compatible with the surrounding character; and the principal elevation of the proposed dwelling would be broadly in line with the easterly flank of its host, it would be sited well forward of the rear elevations of the staggered terraced row. The distance to the back of the footway from the principal elevation would be some 3.7m, which is much shallower than that from the rear elevations of built forms along this section of the road. Furthermore, the southerly flank would be in prominent view when approaching from the southerly section of the road.
9. Consequently, the proposed dwelling would appear prominently within the street scene, and thus be incongruous and discordant to the character and appearance of the area.
10. I therefore conclude that the proposed development would harm the character and appearance of the area, and it conflicts with Policies D3 and D4 of the London Plan 2021 (LP); and Policies DH1 and H(c) of the Royal Greenwich Local Plan: Core Strategy and Detailed Policies 2014 (RGLP). Taken together, these policies seek to ensure (among other things) that development responds to a site's context and capacity for growth; takes account of established layout and spatial character; that incremental intensification is appropriately achieved; and that the character of the area is maintained.

Living Conditions – Future Occupiers

11. The principal elevation of the proposed dwelling would face an easterly direction, and it would include a wide window to the first floor, and large patio doors to the front elevation. Given the single aspect nature of the proposed dwelling, views from the fenestration within the principal elevation play an important part in the outlook from the main living area and the bedroom.

12. The lower and middle views from the ground floor window would be shallow, given the siting of a proposed tall boundary fence at some 3.7m from the principal elevation. The existing street tree is a large specimen, and when in full leaf, it would obscure upper views. The foreground view from the ground floor would include a small front garden, but it would also include views of the proposed bin store and part of the cycle store, as well as the view of the tall boundary fence. The direct views from the upper floor would be relatively wide, given the wide nature of the proposed window, but the existing tree would obscure the view when in full leaf, due to its size and proximity.
13. I acknowledge that the proposed ground and first floor windows are fairly large in size, and the proposed dwelling would also benefit from two rooflights, one over the proposed stairwell to the rear, and another over the proposed bathroom. However, the proposed tall timber fence and gate would be sited some 3.7m from the ground floor windows. Such a boundary treatment in proximity to the principal elevation would restrict the amount of daylight/sunlight entering the ground floor of the single aspect dwelling. The existing street tree, when in full leaf would cast significant shade to the principal elevation.
14. Moreover, there is no substantive evidence before me to demonstrate that the proposed dwelling would receive adequate levels of daylight and sunlight. Given that Policy D6 of the LP requires adequate daylight to be demonstrated for single aspect dwellings, I therefore cannot be certain that future occupiers would receive adequate levels of daylight.
15. There is a dispute between the main parties regarding proposed floor to ceiling heights. The proposal would comply with the Technical Housing Standards – nationally described space standard (THS) of a minimum of 2.3m for at least 75% of the gross internal area. However, Policy D6 of the LP requires a higher standard of a minimum of 2.5m. The Council's position is that the height is 2.3m as measured from the submitted section drawings. The appellant states that the proposed height is 2.56m, but there is little evidence before me to substantiate this position. Even if I were to agree with the appellant's position, it would not alter my reasoning in regard to outlook and levels of daylight and sunlight. Furthermore, I cannot be certain that the proposed floor to ceiling heights would meet the requirements of Policy D6 of the LP.
16. I therefore conclude that the proposed development would not provide acceptable living conditions for future occupiers with particular regard to outlook and levels of daylight and sunlight. It would conflict with Policy D6 of the LP; and Policies H5 and DH1 of the RGLP. Taken together, these policies seek to ensure (among other things) that development is of a high quality design that meets relevant standards; and that future occupiers have acceptable living conditions.

Living Conditions – Neighbouring Occupiers

17. The northern solid flank of the proposed dwelling would be located some 6m from the rear elevation of the host property at No.12. The proposal would therefore bring the built form of the proposed dwelling into close view from within the rear habitable rooms of No.12, and the lower views would include a tall boundary fence. This would result in a strong sense of enclosure and a significant loss of outlook for neighbouring occupiers of the host property,

notwithstanding the alignment of the proposed dwelling to the outbuilding within the rear garden of No.10.

18. Due to the scale, depth, height and bulk of the proposed dwelling, and its siting in relation to its host, there would be a significant reduction in levels of daylight and sunlight to the rear ground floor habitable rooms and remaining garden of the host, and there is little evidence before me to demonstrate otherwise.
19. The main parties agree that the host property benefits from a prior approval¹ for a single storey rear extension, and a certificate of lawfulness² for proposed development for rear extensions to the ground and upper floor (extant approvals). Consequently, if I were to allow the appeal, there is at least a theoretical prospect that an extant approval could be implemented as well as the appeal scheme, resulting in the unreasonable loss of rear private amenity space to No.12. In that event, the effect of the proposed development upon outlook and levels of daylight and sunlight for neighbouring occupiers at No.12 would be exacerbated.
20. The appellant suggests that these extant approvals could be 'given up' as a condition to the approval of the appeal scheme. However, the host property is not within the boundary of the planning application as submitted. Therefore, such a condition would not meet the requirements of paragraph 56 of the National Planning Policy Framework (the Framework). For example, it would not be enforceable. Moreover, there is no other mechanism before me to achieve this outcome.
21. Due to its siting, the proposed dwelling would be very close to the side boundary and well forward of the angled rear building line of No.14. The rear elevation of No.14 includes windows to habitable rooms on both the ground and first floors. The solid flank of the proposed dwelling would appear within the view from these windows, above the existing tall boundary fence. This would result in a loss of outlook and an increased sense of enclosure to the existing occupiers of No.14 when viewed from the windows within its rear elevation, and from within their rear garden.
22. I therefore conclude that the proposed development would unacceptably harm the living conditions of neighbouring occupiers at Nos.12 and 14 Charles Grinling Walk, with particular regard to outlook, levels of daylight and sunlight and private amenity space. It conflicts with Policies DH(b) and H(c) of the RGLP. Taken together, these policies seek to ensure that development does not cause an unacceptable loss of amenity to adjacent occupiers by reducing the amount of daylight or sunlight or result in an unneighbourly sense of enclosure; and that infill development does not result in an unreasonable reduction in the amount of amenity space enjoyed by existing residents.

Trees

23. At my visit, the rear garden of the host property was largely cleared of vegetation. I saw a coniferous specimen, a few shrubs/trees, and an area of grass. There is little evidence before me to demonstrate that any existing trees within the appeal site are of value, or should be retained, or replaced. The appellant suggests that existing trees would be replaced. This matter could be controlled by suitable conditions if I were to allow the appeal.

¹ Ref: 21/4141/PN1, approved 15/12/2021

² Ref: 22/1269/CP, approved 07/06/2022

24. The street tree to the east of the appeal site makes a positive contribution to the character of the area, and thus is an existing tree of value. It is located some 6m from the proposed dwelling. While the appellant suggests that this tree would fail to meet a threshold of 12xgirth diameter at 1.5m height for arboricultural appraisal, there is no compelling evidence before me as to the particular standard upon which the appellant relies, nor to demonstrate that the street tree would not meet such a threshold. Therefore, I cannot be certain that the street tree would not be harmed by the construction of the proposed dwelling. However, if I were to allow the appeal, this matter could be controlled by a suitable condition.
25. I therefore conclude that effects upon existing trees, including any required replacement trees could be controlled by suitable conditions, and therefore the proposed development would accord with Policy G7 of the LP and Policy OS(f) of the RGLP. These policies seek (among other things) to ensure that wherever possible, existing trees of value are retained and where removed, they are replaced; and that development proposals take account of the retention of trees and other features that contribute to biodiversity.
26. The Council referenced Policy OS4 (Biodiversity) of the RGLP in its reason for refusal in regard to this main issue. This policy seeks to protect designated sites and areas currently deficient in accessible wildlife sites. There is no evidence before me to demonstrate that the appeal site is located within such an area, and therefore I do not consider this policy directly relates to the proposed development.

Other Matters

27. The proposed development would be located within a suitable and accessible location for housing; and it would support the government's objective to significantly boost the supply of land for homes and make effective use of land. It would assist in meeting housing needs and offering housing choice within the borough and for London. Given the scale of the scheme, an additional smaller unit of accommodation make a small contribution to the supply of housing.
28. The adverse impact I have identified is the unacceptable harm to the living conditions of neighbouring and future occupiers, and harm to the character and appearance of the area. Paragraph 219 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework.
29. Paragraph 124 of the Framework requires me to take account of the desirability of maintaining an area's prevailing character and setting (including residential gardens); and the importance of securing well-designed, attractive and healthy places. Paragraph 130 requires me to ensure that developments are sympathetic to local character, while not preventing or discouraging appropriate innovation or change (such as increased densities). In this case, the proposal would increase density but unacceptably harm the living conditions of existing and future occupiers, and harm the character and appearance of the area.
30. Consequently, the policies with which the proposal conflicts are in strong conformity with the Framework. Therefore, the conflict between the proposal and the development plan should be given significant weight in this appeal.

31. The proposed development therefore conflicts with the development plan as a whole, for the above reasons.
32. The Council is unable to demonstrate a five-year supply of land for housing, with a supply of some 3.1 years. Consequently, paragraph 11d of the Framework is engaged, whereby the policies which are most important for determining the application should be considered out of date.
33. There are no relevant Framework policies that protect areas or assets of particular importance that provide a clear reason for refusal. Therefore, in accordance with paragraph 11 d) ii of the Framework, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
34. Set against the harm identified there would be limited benefits associated with the proposal. The proposal would support the government's objective to significantly boost the supply of homes and make effective use of land. It would assist in meeting housing needs and offering housing choice within the borough and for London. As a small site, the proposal could be built out relatively quickly. Given the scale of the scheme, an additional unit would be a small contribution. The economic benefits arising from the construction process would be temporary and the additional expenditure generated from a household would be of a small scale.
35. Drawing together the above, the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The development therefore does not benefit from the presumption in favour of sustainable development as set out in paragraph 11 d) ii of the Framework.

Conclusion

36. For the reasons given, I conclude that the development conflicts with the development plan, read as a whole. No material considerations have been shown to carry sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, the appeal is dismissed.

J Moore

INSPECTOR