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# Appeal Decision

Site visit made on 20 June 2023

**by N Teasdale BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 August 2023**

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**Appeal Ref: APP/E5330/W/23/3314405**

**The Pickwick, 246 Woolwich Road, Greenwich SE7 7QU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Sunil Purewal of Pure Let Greenwich Ltd against the decision of Royal Borough of Greenwich.
  - The application Ref 22/3403/MA, dated 11 October 2022, was refused by notice dated 6 December 2022.
  - The application sought planning permission for an application submitted under Section 73 of the Town & Country Planning Act 1990 for a minor material amendment in connection with planning permission 20/2942/MA, dated 12/02/2021, for the 'Redevelopment of land to the rear involving erection of 6 dwellings (5 x 3-bed and 1 x 4-bed), plus cycle and car parking and amenity space', for the Variation of Approved Scheme Drawings (Condition 1) to allow for a reduction in ground excavations resulting in the land level on which the houses are to be constructed stepping up from the same height at the northern end of the terrace up to a maximum of 1.125m higher at the southern end of the terrace without complying with a condition attached to planning permission Ref 21/2162/MA, dated 9 December 2021.
  - The condition in dispute is No. 14 which states that: a. Prior to the commencement of the development, other than demolition and groundworks, details relating to privacy screening to the approved rear terraces shall be submitted to and agreed in writing by the Local Planning Authority. b. The agreed measures shall be implemented prior to the first occupation of the development and retained for the lifetime of the development.
  - The reason given for the condition is: to retain the residential amenity of occupants immediately to the east of the site and to accord with policy DH(b) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies (Adopted July 2014).
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The reason for the original condition as set out above relates to the residential amenity of occupants immediately to the east of the site. However, the reason for refusal as set out on the decision notice includes for neighbouring properties to the east and northeast of the site. The appellant therefore argues that given the wording of the original condition, it would be unjustified to consider the impact on the properties to the northeast now. My consideration of the appeal must be based on present circumstances, and I am therefore not confined to the original reasons given for imposing the condition.

## **Background**

3. Planning permission was granted for a an application submitted under Section 73 of the Town & Country Planning Act 1990 for a minor material amendment in connection with planning permission 20/2942/MA, dated 12/02/2021, for the 'Redevelopment of land to the rear involving erection of 6 dwellings (5 x 3-bed and 1 x 4-bed), plus cycle and car parking and amenity space', for the Variation of Approved Scheme Drawings (Condition 1) to allow for a reduction in ground excavations resulting in the land level on which the houses are to be constructed stepping up from the same height at the northern end of the terrace up to a maximum of 1.125m higher at the southern end of the terrace. A condition relating to privacy screening to the approved rear terraces was imposed in the interests of residential amenity of occupants immediately to the east of the site. Condition 14 therefore states, that a. Prior to the commencement of the development, other than demolition and groundworks, details relating to privacy screening to the approved rear terraces shall be submitted to and agreed in writing by the Local Planning Authority. b. The agreed measures shall be implemented prior to the first occupation of the development and retained for the lifetime of the development. The proposed development seeks to vary this condition to allow construction of dwellings without the rear screens (to the east elevation).

## **Main Issue**

4. The main issue is the effect that varying the condition would have on the living conditions of occupiers of surrounding properties in relation to privacy.

## **Reasons**

5. The appeal site is located on land to the rear of the Pickwick Arms, a vacant public house located along Woolwich Road. The Public House forms part of a row of terraced residential properties which lie to the north and northeast of the appeal site. Whilst they front onto Woolwich Road, they have long and narrow garden areas to the rear which face onto the appeal site. There are a number of apartment buildings located to the east of the site along Victoria Way beyond of which lie further terraced properties and the garden area serving No 10 Victoria Way runs along the southern boundary of the appeal site. Further residential properties are located to the west. Whilst the surrounding area comprises a mix of residential and commercial uses, the appeal site is predominantly surrounded by residential properties.
6. Works are well underway on site following the grant of planning permission relating to the redevelopment of land involving the erection of 6 dwellings. These properties comprise a short terrace with the rear elevations facing eastwards. As part of my site visit, I was able to access all 6 properties and their second-floor balcony areas which run the full width of the rear elevation and gradually step up in height to the south due to ground levels.
7. Whilst there is a good separation distance from the properties along Woolwich Road, the balcony areas are located just a short distance from the rear garden areas of these properties at a setback position to the southwest. Given the close relationship, positioning of the appeal properties and height of the balcony areas at second floor level, clear and open views are had from the balconies into the garden areas of a number of the properties located along Woolwich Road resulting in an undue loss of privacy for the existing occupiers.

The proposed screens to the north and south and between dwellings would be insufficient to overcome this harm as the specific positioning and relationship that exists between the appeal site and the garden areas would still result in overlooking when utilising the balconies particularly when stood up. I appreciate the appellants' suggestion to further amend the condition to add additional screening on the northern most unit of the appeal scheme only. However, this would not sufficiently overcome the harm identified as overlooking would still occur from a number of the other balcony areas not just the northern most unit.

8. I note the appellants' claims that some degree of overlooking is impossible in urban areas and that the garden areas of properties located along Woolwich Road are already overlooked by neighbouring properties including the flats along Victoria Way. Whilst I accept that a level of overlooking can be expected in such areas, the specific relationship that exists between the appeal site and the garden areas serving the properties along Woolwich Road is such that it would allow for direct views into the garden areas at close range which is unacceptable. I am also not persuaded that the same relationship exists between the flats along Victoria Way and these garden areas given their specific location and siting along with landscaping that exists. They are therefore not directly comparable.
9. As mentioned, a number of apartments are located to the east and are separated by the garden areas of the appeal site, boundary fencing and a parking area. There are also several trees located along the eastern boundary. Whilst the apartment is visible from the balcony areas, views are largely filtered due to the presence of trees and in any event, there is sufficient distance between the appeal site and the apartment block to ensure that there is not a detrimental impact upon the amenity of existing occupiers. Moreover, the relationship that exists is no different to that experienced from the first-floor windows of the appeal properties.
10. The Council make reference to the amenity space/parking area which is indeed located closer to the appeal site. However, the overall use and function of this area is largely for parking opposed to amenity space and this, along with the separation distance is such that it would not be unduly harmed by the proposed removal of the privacy screens to the eastern elevation. Additionally, outlook onto this area is already available from a number of properties including the apartment block and thus this relationship would not be materially different nor uncommon in such a setting. The appellants' acceptance of the screens at committee would not alter my findings on this. That said, the lack of harm identified to the apartment block to the east would not overcome the other harm identified.
11. For the reasons given above, I conclude that whilst the proposed development would not have a harmful effect on the living conditions of occupiers to the east of the site along Victoria Way, the proposal would harm the living conditions of occupiers to the northeast along Woolwich Road in relation to privacy. It would therefore conflict with Policy DH (b) of the Royal Greenwich Local Plan Core Strategy with Detailed Policies, 2014 which requires development to not cause an unacceptable loss of amenity to adjacent occupiers by reducing the amount of privacy they enjoy.

## **Other Matters**

12. The site does not lie in a Conservation Area and there are no listed buildings in the immediate vicinity. I acknowledge the lack of changes in relation to design, access/parking, flood risk, archaeology, ecology, trees/landscaping and floor space as well as recognising the principle of development which is established along with its accessible location. Such factors are however neutral matters in my overall decision and would not be sufficient to outweigh the harm identified.
13. I appreciate that the proposed removal of the screens would improve outlook for future occupiers of the appeal properties, and I note the design claims regarding their overall loss. However, this would also not be sufficient to outweigh the harm I have identified above.

## **Conclusion**

14. For the reasons given, having had regard to all other matters raised, the proposal would not accord with the development plan and the appeal should therefore be dismissed.

*N Teasdale*

INSPECTOR