



---

## Appeal Decision

Site visit made on 23 May 2023

**by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI**

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

**Decision date: 14 August 2023**

---

**Appeal Ref: APP/E5330/W/22/3312270**

**9 Foxglove Path, Greenwich, Thamesmead SE28 0LR**

- 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 Ms E Korantemaah against the decision of Royal Borough of Greenwich Council.
  - The application Ref 22/2623/F, dated 4 August 2022, was refused by notice dated 11 October 2022.
  - The development proposed is the erection of 2 storey, 2 bedroom attached house.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 storey, 2 bedroom attached house at 9 Foxglove Path, Greenwich, Thamesmead SE28 0LR in accordance with the terms of the application, Ref 22/2623/F, dated 4 August 2022, subject to the conditions set out in the attached schedule.

### Application for Costs

2. An application for costs was made by Ms E Korantemaah against the Royal Borough of Greenwich Council. This application is the subject of a separate Decision.

### Preliminary Matter

3. The description of development in the heading above has been taken from the planning application form. However, 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 original application.

### Main Issues

4. The main issues are:
  - The effect of the proposal on the character and appearance of the area; and
  - Flood risk.

## Reasons

### *Character and Appearance*

5. The appeal site is in a pleasant suburban area and faces onto a landscaped pedestrian and cycle route to the front of the site. The site consists of a garden area to the side of a terrace of dwellings which contains a mixture of designs, including some of 3-storeys, although the dwellings on either side of the site of the appeal site are 2-storey.
6. The Council expresses concern about the loss of the open area between the host dwelling and its detached neighbour. Except for the retention of a small gap, the proposal would in effect remove the space between the dwellings. However, there is no clearly defined pattern of development in this area. Although there are gaps between some blocks of buildings, there are also terraces of a significant length. The view from the front of the site between the buildings enabled by the site is of no particular merit, and is only readily apparent from the path and cycleway when viewed from directly in front of the site.
7. The front elevation of the proposal would reflect the design and proportions of the host dwelling, albeit with a limited set-back of the front elevation and roof slope. The proposal would therefore be viewed as a logical extension to the terrace, especially within the context of the varied design of buildings in the area. Given the scale of the proposal and the existing gap it would also not have an overly enclosing impact in views from the public realm to the front of the site.
8. The proposed dwelling would taper significantly to the rear, which is a relatively unusual layout. However, this would only be visible fleetingly from the front of the site, and the proposal would also have the benefit of shielding views of the unorthodox roof and gable arrangement of 11A Foxglove Path. Within the context of the immediate and wider area, the view of the proposal from the front of the site would not appear to be unduly incongruous.
9. The narrow rear elevation and garden as well as the tapering form of the building would be apparent from the rear of the site, but this is a subsidiary aspect viewed from a utilitarian communal parking and service area. Within that context, and despite the relatively unusual layout of the proposal, it would not be unduly obtrusive in views from the rear. The development would block views from the rear of the landscaping beyond the appeal site, but given the nature of use of this service area this would not represent sufficient reason for withholding planning permission.
10. I conclude that the proposal would not harm the character and appearance of the area. It would therefore not conflict with Policies D3 and D4 of the London Plan 2021 and Policies DH1 and H(c) of the Core Strategy<sup>1</sup> in respect of the design requirements for infill development. The proposal would also not be contrary to the National Planning Policy Framework (the Framework) with regards to ensuring well-designed places.

---

<sup>1</sup> Royal Greenwich Local Plan: Core Strategy with detailed Policies 2014

### *Flood Risk*

11. The appeal site is within Flood Zone 3 and located within an area benefitting from flood defences. The Council's reason for refusal on this issue states that the Flood Risk Assessment (FRA) submitted in support of the proposal has failed to appropriately assess the flood risk associated with the development. The Environment Agency (EA) also objected for similar reasons, including the matter of finished floor levels of sleeping accommodation. In effect, these concerns relate to the second part of the exception test.
12. In response, the appellant has submitted an amended FRA with the appeal, and the Council and EA have had the opportunity to comment on this.
13. Based on the amended FRA, the EA has withdrawn its objection to the proposal and has concluded that the development does not increase flood risk elsewhere and allows its users to remain safe through its lifetime. As such the EA considers that the proposal passes the second part of the exception test. The amended FRA also includes a flood evacuation/emergency plan, and the Council has provided no evidence that this is inadequate. Based on the evidence before me, I conclude that the proposal would comply with the second part of the exception test.
14. However, the matter of the sequential test and the first part of the exception test remain to be considered.
15. As set out in the Framework, the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
16. The appeal site is within Flood Zone 3, and it may therefore be the case that there are sites in Flood Zones 1 or 2 which could also accommodate a single dwelling. However, the Core Strategy sets out that the spatial strategy for Royal Greenwich and the London Plan's housing targets for Greenwich cannot be achieved without development in areas at risk of flooding.
17. Although the Core Strategy states that where possible the most vulnerable uses should be located towards the lowest risk areas, the Council has provided no substantive evidence as part of this appeal to demonstrate that it can meet its housing targets by developing solely within Zones 1 and 2. Even given that this proposal relates to a single dwelling on a small windfall site, it has not been demonstrated that there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding which would enable the Council to implement its spatial strategy and meet its housing target. On that basis, and having regard to the evidence before me, I conclude that the proposal would meet the requirements of the sequential test.
18. Returning to the exception test, the first part of the test is that the development would provide wider sustainability benefits to the community that outweigh the flood risk.
19. The provision of housing is of social and economic benefit to the community, and the Council's officer report states that the Council can only demonstrate a housing land supply of 3.1 years. Within that context, even the provision of a single dwelling on a suitable site carries great weight as a benefit to the

community. This is supported by the Core Strategy which accepts that development is required in areas at risk of flooding in order to meet the Council's housing targets.

20. The Core Strategy also sets out that for developments within areas of high residual flood risk, the risk should be reduced primarily through a combination of design and emergency planning measures. The proposal has been designed in response to the issue of flood risk, including measures such as the provision of sleeping accommodation and a safe haven on the upper floor. The FRA also includes a suitable flood evacuation plan.
21. Therefore, based on the evidence before me, I conclude that the development of a dwelling in this area at this time would provide wider sustainability benefits to the community that outweigh the flood risk. The proposal therefore passes the first part of the exception test.
22. On the basis of the above, I conclude that the proposal would meet the requirements of the sequential test and both parts of the exception test. The appeal site is therefore appropriate for the development proposed with regards to the consideration of flood risk. The proposal would therefore not conflict with Policies D11 and SI 12 of the London Plan and Policy E2 of the Core Strategy in respect of safety and flood risk management. The proposal would comply with the Framework with regards to taking full account of flood risk.

### **Conditions**

23. The Council and consultees have suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance (the Guidance). In some cases I have edited the suggested condition in the interests of clarity and precision to better reflect the Guidance.
24. In addition to the standard 3 year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans in the interests of certainty. Conditions in respect of external materials and landscaping are appropriate in the interests of character and appearance.
25. A condition requiring the submission of a Construction Method Statement is required in the interests of highway safety and the living conditions of nearby residents. These details should be submitted to and approved by the local planning authority at the pre-commencement stage as they relate to matters which need to be established before the commencement of building operations.
26. A condition in respect of the installation of ultra-low NOx boilers is required to minimise the impact of building emissions on air quality. A condition requiring details of cycle storage is appropriate in the interests of sustainable transport. I have imposed conditions in relation to water demand and to require that the dwelling is constructed in accordance with Building Regulation requirement M4(2) 'accessible and adaptable dwellings' which are necessary to ensure compliance with development plan policy.
27. I have not included a condition removing permitted development rights as it has not been demonstrated that the circumstances of the proposal are so exceptional as to require the removal of these rights. I have not imposed a condition requiring details of refuse and recycling storage as these are

indicated on the submitted details and I have no reason to consider that these are inadequate.

## **Conclusion**

28. For the reasons given above, any adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. The proposal would also not conflict with the policies of the development plan.

29. I therefore conclude that the appeal should be allowed.

*David Cross*

INSPECTOR

## **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: 01A, 02, 03, 04, 05, 08, Planning, Design & Access Statement (FR/F.LA-9), Flood Risk Assessment (1254 Version 2 - October 2022) and Refuse and Recycling Statement (August 2022).
- 3) No above ground works shall commence on site until a detailed schedule and samples of all external materials and finishes/windows and external doors/roof coverings to be used on the building have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained for the lifetime of the development.
- 4) Prior to the commencement of the development hereby approved, a Construction Method Statement (CMS) shall be submitted to, and approved in writing by the Local Planning Authority for a management scheme to control and minimise emissions of pollutants from and attributable to the construction of the development. This should include a risk assessment and a method statement in accordance with the control of dust and emissions from Construction and Demolition Best Practice Guidance published by the Greater London Authority. The scheme shall set out the secure measures, which can, and will, be put in place. The CMS shall include the following:
  - (1) Proposals for monitoring dust / particulates and procedures to be put in place where agreed dust /particulates levels are exceeded;
  - (2) A dust risk assessment shall be undertaken; to include dust suppression methods to be used including details of equipment during the different stages of the development;
  - (3) Site plan identifying location of site entrance, exit, wheel washing, hard standing, hoarding (distinguishing between solid hoarding and other barriers such as heras and monarflex sheeting), stock piles, dust suppression, location of water supplies and location of nearest neighbouring receptors;

- (4) Confirmation if a mobile crusher will be used on site and if so, a copy of the permit and intended dates of operation;
- (5) Bonfire policy;
- (6) Proposals for monitoring dust and preventing or controlling unacceptable releases;
- (7) Wheel washing facilities, location and facilities for discharging the water.

The construction process shall be carried out in accordance with the approved details.

- 5) The dwelling hereby approved shall be constructed in order to achieve a reduction in potable water demand to a maximum of 105 litres per person per day based on the Government's national calculation method for water efficiency for the purpose of the Building Regulations.
- 6) The boilers to be used for the new residential unit shall have dry NO<sub>x</sub> emissions not exceeding 40 mg/kWh (0%).
- 7) Prior to the first occupation of the development, full details of secure and dry cycle parking spaces shall be provided to, and approved in writing by, the Local Planning Authority. The cycle storage as approved shall be made available for use by the prospective occupants prior to the first occupation of the development hereby approved and shall be maintained for the lifetime of the development thereafter.
- 8) Prior to any above ground works, drawings illustrating that the development hereby permitted will comply with Building Regulation requirement M4(2) 'accessible and adaptable dwellings', shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and retained for the lifetime of the development in accordance with the approved details.
- 9) Prior to the commencement of the above ground works of the development hereby approved, a detailed hard and soft landscaping plan, including materials of any external hardstanding and other landscaping elements and locations and species of hedging shall be submitted to, and approved in writing by, the local planning authority. All landscaping and vegetation as set out in the approved documents shall be implemented prior to the occupation of the development hereby approved. The hard landscaping approved shall be maintained for the lifetime of the development thereafter. Should any newly planted trees die within 5 years of the date of occupation of the dwellinghouse hereby approved, it shall be replaced at the applicants expense.

**End of Schedule**