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# Appeal Decision

Site visit made on 22 January 2024

**by F Wilkinson BSc (Hons), MRTPI**

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

**Decision date: 16<sup>th</sup> February 2024**

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**Appeal Ref: APP/C5690/W/23/3323886**

**61 Baring Road, London SE12 0JS**

- 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 Community Focus Properties against the decision of the Council of the London Borough of Lewisham.
  - The application Ref DC/23/130360, dated 13 February 2023, was refused by notice dated 12 May 2023.
  - The development proposed is change of use from Class E to residential.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The National Planning Policy Framework (the Framework) was amended in December 2023. I am satisfied that the amendments made have not had a material bearing on how the main issues below are considered. References in the decision are to the December 2023 Framework.
3. When I visited the appeal property, the layout including the kitchen, and the windows and doors shown on the proposed floor plans have been created, although the property did not appear to be occupied.

## Main Issues

4. The main issues are:
  - whether the development would provide acceptable living conditions for future occupiers with regard to outlook, light, outdoor amenity space, and bicycle and waste storage; and
  - the effect of the proposal on the character and appearance of the area.

## Reasons

### *Living Conditions*

5. The application was supported by a Daylight and Sunlight Assessment (DSA) dated July 2022. This was undertaken using the guidance in the Building Research Establishment publication 'Site Layout and Planning for Daylight and Sunlight, a guide to good practice' second edition published in 2011 (the BRE Guide 2011). However, in June 2022 the BRE Guide 2011 was superseded by the Site Layout Planning for Daylight and Sunlight: A guide to good practice, BRE, 2022 (the BRE 2022 Guide) which has significantly altered the

methodology for assessing daylight and sunlight within new developments. The DSA has not been updated to reflect the amended guidance. I appreciate that the BRE 2022 Guide is not mandatory and should be interpreted flexibly. Nevertheless, it is generally recognised as one of the principal guidance documents when considering daylight, sunlight, and overshadowing.

6. The DSA identifies that the living/kitchen/dining area would exceed the aspirational targets in the BRE Guide 2011 regarding sunlight. However, the information in the DSA illustrates that the daylight distribution would be centred on the windows and doors, with very little light entering the kitchen area. The living/kitchen/dining space may meet what was the guidance in the BRE Guide 2011 for daylight overall. However, given the location of the kitchen area within the proposed dwelling and its position relative to the windows, it would be unlikely to enjoy good levels of daylight. It is therefore likely that artificial light would be required for much of the day. This tallies with what I observed at my site visit, which took place during a reasonably bright winter morning, when the kitchen area appeared gloomy. Kitchens are areas where it is possible for occupants to spend extended periods of time. Therefore, the availability of natural daylight as well as sunlight is an important consideration.
7. The windows serving the bedroom and main living space would face on to the outdoor amenity space, which would comprise a relatively narrow strip of land bounded by what is shown on the submitted plans as a 1.8 metre high close boarded fence on three sides. Views out would be dominated by the fencing at close proximity. This would result in a sense of enclosure that would be unduly oppressive.
8. The only other outlook would be from the window and glazed doors at the far end of the kitchen and study, both of which face into the small lightwell that has been created between the rear elevation of the original building and the wall of the extension that would accommodate the dwelling. The lightwell would provide a very constricted outlook due to the height of the surrounding walls on all sides.
9. For these same reasons, the lightwell would not provide a welcoming or readily usable outdoor amenity space. The main outdoor amenity space would provide a private area for future occupiers that would exceed the minimum requirement in Policy D6 of the 2021 London Plan in terms of overall size. However, given its configuration together with the proximity and height of the boundary fence to the rear elevation, it would appear hemmed in. A limited outlook would therefore be provided when in the outdoor amenity space.
10. The bicycle store would be in the outdoor amenity space which would give direct access to the rear lane. The proposal would therefore provide secure storage with convenient access. It would be possible to impose a planning condition to require further details of the store to ensure that it has sufficient width to accommodate the required two spaces. However, an enlarged bicycle store would reduce the outdoor amenity space available. The bicycles could be moved to create space when required, but I do not consider that such an arrangement would represent a well-designed space that would function well in providing outdoor amenity for future occupiers.
11. A bin store would be located at the rear of the site. The Council identifies that its waste operatives will not collect bins where they are more than 10 metres drag distance from the public realm. However, on collection days, occupiers of

the dwelling could move the bins the 25 metres or so onto Harland Road, a residential street, for collection. It is standard practice for bins to be placed out in this manner. The rear lane is relatively level and in my view this distance is not unreasonable.

12. The gates of the bin store would open out onto the rear lane. This could impact the access to the rear of the neighbouring properties. However, the plans show that the gates would have to be opened from the rear lane and so occupiers would be aware of any potential pedestrian or vehicle movements along the rear lane prior to opening them. In addition, in my view, the gates would not require to be open for long periods of time and so any disruption to other users of the rear lane would likely be very limited.
13. I do not find therefore that a harmful effect would arise from the proposed waste storage. Consequently, there would be no conflict with the waste management requirements of Policy 13 of the 2011 adopted Lewisham Local Development Framework Core Strategy Development Plan Document (the CS).
14. However, taking all the other factors into account, their cumulative effects would add up to the proposal failing to provide adequate living conditions for future occupiers with regard to outlook, light, outdoor amenity space, and bicycle storage. This would conflict with the residential amenity requirements of Policies D3 and D6 of the London Plan, Policy 15 of the CS, and DM Policy 32 of the 2014 adopted Lewisham Local Development Framework Development Management Local Plan (the DMLP) and the objectives in paragraphs 131, 135 and 139 of the Framework regarding well designed places. There would also be conflict with Policy T5 of the London Plan and Policy 14 of the CS, which require the provision of fit for purpose cycle parking facilities.
15. I am not persuaded that the proposal would conflict with DM Policy 30 of the DMLP which appears to focus on local character rather than standards of accommodation. However, this does not alter my conclusions on this main issue.

### *Character and Appearance*

16. DM Policy 32 of the DMLP, Policy CS15 of the CS and Policy D3 of the London Plan seek to ensure that new development attains a high standard of design that responds positively to the site-specific constraints and opportunities as well as the surrounding area and to local character and distinctiveness.
17. DM Policy 30 of the DMLP seeks to secure a high standard of design and, amongst other things, requires that development proposals are compatible with and/or complement the host urban typology set out in the associated Table 2.1. The Council considers that the site is situated within a 'perimeter blocks' urban typology and within the 'urban terrace' sub-set. The Council also considers the site to fall within the 'back gardens' category of DM Policy 33. This classification of the site is not specifically contested by the appellant. In such locations, DM Policy 33 and Table 2.1 of the DMLP state that separate dwellings will not be granted planning permission.
18. Based on the submitted evidence and my site visit observations, the rear ground floors of the properties on the terrace maintain their commercial nature. The Council is satisfied that the development would retain a useable

commercial unit to the front, and I have no reason to take a different view. The commercial frontage would therefore be retained.

19. The development does not involve substantial alterations to the building. Nonetheless, while buildings in rear gardens and yards are not uncommon, the development would introduce a dwelling into the rear yard of the appeal property. This is not a feature commonly found on the terrace, where the residential properties are generally located above the shops and front the road with rear outdoor space. Moreover, domestic paraphernalia and activity associated with a residential use would draw attention to the existence of the dwelling which would further harm the character and appearance of the area.
20. For these reasons, I find that the proposal would introduce an incongruous development into a rear yard location. It would therefore harm the character and appearance of the area in conflict with DM Policies 30, 32 and 33 of the DMLP, Policy 15 of the CS and Policy D3 of the London Plan, as summarised above. There would also be conflict with the design objectives of paragraphs 131, 135 and 139 of the Framework.

### **Other Matters**

21. While noting the appellant's contention that similar schemes have been permitted in the borough, no details are before me to enable any comparisons with the appeal proposal, which I have in any event, considered on its own planning merits. The development would contribute to the Government's objective to significantly boost the supply of homes in a location close to a range of services and facilities. However, the weight I can give to one dwelling is inevitably limited. None of the other matters outweigh the harm that I have identified.

### **Conclusion**

22. The proposal would conflict with the development plan taken as a whole as well as the Framework. There are no material considerations worthy of sufficient weight that would indicate a decision otherwise than in accordance with it. The appeal should therefore be dismissed.

*F Wilkinson*

INSPECTOR