
Appeal Decision

Site visit made on 14 December 2023

by C J Leigh BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2024

Appeal Ref: APP/C5690/W/23/3321205
168 Marvels Lane, London, SE12 9PJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Aventier against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/22/128400, dated 9 September 2022, was refused by notice dated 22 February 2023.
 - The development proposed is demolition of a single-family dwelling and erection of a three storey plus roof accommodation block of flats, containing 1x1 bedroom, 6x2 bedroom and 1x3 bedroom units, with associated access, 2 parking spaces, communal cycle & refuse.
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Procedural matters

1. The application was made for outline planning permission, with approval sought for access, layout and scale.

Decision

2. The appeal is dismissed.

Main issues

3. The main issues in this appeal are the effect of the proposed development on the character and appearance of the surrounding area, and on the living conditions of adjoining occupiers. A further main issue is whether the proposal is consistent with development plan policies relating to housing standards.

Reasons

Character and appearance

4. The appeal site contains a detached house which lies in a row of detached houses of generally similar scale, form and siting. There are two storey semi-detached houses opposite. Further to the northwest and south east fronting Marvels Lane are three storey flats, and further flats to the south. The proposed development would see demolition of the existing property and the erection of a three-storey building, with accommodation in the roof.
 5. The proposed building would be of a scale that relates poorly to the adjoining properties and the wider area. The height of the building would rise significantly above the houses either side, with the elevation at third floor
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sitting next to the pitched roofs of those buildings whilst the roof for the flats would then rise higher: notably above the row of adjoining houses. The depth of the proposed building into the site – which would be at all stories and at the roof (and hence greater than what might be claimed as a fallback permitted development scheme of a ground floor extension to the existing property) – would emphasize the scale, as would the width of the building, which would largely fill the plot.

6. These elements combine to create a building that would be of excessive scale for the site and when seen in views along the road. The new flats would be seen to sit uncomfortably between houses to either side and opposite the houses on the northern side of Marvels Lane, rising above the adjoining houses. This visual impact of scale and layout would be further accentuated by the proposed lowering of the site: that would make the building appear even more overly large for its plot and incongruous to the area.
7. I acknowledge there are existing flats in the vicinity of the appeal site. However, those sit on bigger sites with more space surrounding them which prevents the impression of overly large buildings. They also relate more suitably to their neighbouring buildings in terms of their height and layout.
8. The appellant states that the internal sizes of the proposed flats as shown on the drawings give rise to the potential to reduce the scale of the building, but no further details are provided on this. However, layout and scale were matters to be determined in this submission and hence is reflected by the drawings; they are not indicative drawings. It would therefore be inappropriate for me to consider a possible, undefined alternative scheme.
9. Policy 15 of the Lewisham Core Strategy 2011 (CS), and DM Policy 30 and DM Policy 31 of the Lewisham Development Management Plan 2014 (DMP) seek to ensure all development is of a high standard of design and is compatible with the local character of the area. The National Planning Policy Framework states that high quality, beautiful and sustainable buildings is fundamental to planning, and that all developments should add to the quality of an area and be visually attractive. My judgement is that the proposals do not satisfy these policies.
10. I note the appellant's reference to the Lewisham Small Site Supplementary Planning Document (SPD) which I am informed states that, where streets are of a varied character, it may be appropriate to build more than one storey taller than the context if the scheme is of exceptional design quality. In this instance I do not consider the appeal site lies in a street of such varied character that would warrant this approach and, as the scale of the building is excessive for the plot and context, I do not consider there to have been demonstrated an exceptional design quality.
11. On the main issue it is therefore concluded that the proposed development would be harmful to the character and appearance of the area and conflict with the policies referred to above.

Living conditions

12. The Council raise concern that the proposed arrangement of dwellings within the building would lead to a loss of privacy to adjoining occupiers. Appearance is a reserved matter, and so I acknowledge that there may be differences in

the position of windows and internal layout of flats at the reserved matters stage, was permission to be granted. However, the scale and layout of the proposed building is for determination as shown on the submitted drawings, as is the intention to accommodate 9 dwellings of the mix stated.

13. It is axiomatic that there would be flats at the higher levels of the building with windows looking out in some direction other than just to the public highway. I have commented earlier that the proposed building is excessively tall and deep, filling its plot width and close to the adjoining houses, and so I further consider it self-evident that there would be windows at high levels which would allow angled views to the gardens of those houses leading to a likely loss of privacy; the provision of balconies is likely to heighten this harmful effect. Due to the scale and layout of the building, the quantum and type of flats proposed, and the relationship of these matters to neighbouring houses, I cannot accept that submissions at reserved matters relating to appearance can satisfactorily address the issue of overlooking and loss of privacy.
14. In my judgement from observations at the site visit the height of the proposed building and its projection into the rear garden area – notably beyond the rear building line of neighbouring houses – means there would be an overbearing impact upon the outlook for existing occupiers.
15. I note the appellant's submissions relating to measurements of angles contained within the Council's Alterations and Extensions SPD, and shadow study in relation to the Small Sites SPD. However, the content of those studies does not outweigh my overall conclusion on the second main issue that, based on what I have read and seen, the development for which permission is sought as shown in the submitted drawings and described on the application to the Council would be harmful to living conditions. This would be contrary to Policy 15 of the CS and Policy 32 of the DMP which, amongst other matters, seeks to ensure residential development provide a satisfactory level of privacy and outlook for neighbours. It would also conflict with the Framework's objective of ensuring development is well-designed and creates places with a high standard of amenity for existing users.

Housing standards

16. The Council's third reason for refusal states that the proposals would result in the loss of a large viable family home, and that the replacement dwellings would not be suitable as the 3-bedroom dwelling would be at top floor level; it is said this is contrary to Policy 32 of the DMP.
17. Policy 32 requires all new residential development to be of a high-quality design and internal layout, in order to meet the needs of the occupants. Four parts of the Policy set out the requirements for siting, layout and internal standards. Family homes are defined as being 3 or more bedrooms and, in addition to the other requirements of Policy 32, the Policy requires these to have an internal design with separation of uses. Paragraph 2.246 of the supporting text to the Policy states that family houses should be provided with their own private garden area of a size appropriate to the design and configuration of the site and size of the house.
18. The proposals include a 3-bedroom flat, not a house, but I acknowledge that some form of amenity space – whether a garden or suitably sized and

configured terrace – may be important to enable a dwelling to be effectively used as a family dwelling. However, as the appellant points out, the application was in outline with appearance a reserved matter. I have commented earlier that this means the internal layout of the building might be altered from the submitted drawings, and the Council have not explained why such configuration could not take account of the need to accommodate a family home that satisfies Policy 32.

19. On the third issue it is therefore my conclusion that, as the proposed development seeks outline permission for a family-sized 3-bedroom dwelling, there is not a conflict with Policy 32 and the Council's housing standards.

Other considerations and conclusions

20. The proposals would provide for additional housing within an established residential area. The National Planning Policy Framework states that planning decisions should support development that make efficient use of land, and significant weight is attached to that. Policy D3 of the London Plan 2021 also seeks to optimize site capacity to make the best use of land, but this is through a design led approach. For the reasons given above I have found that the proposed development would not satisfy this requirement, and the relevant policies of the CS and DMP. Although there is compliance with policy in respect of the third main issue, my overall conclusion is that the proposed development conflicts with the development plan as a whole.
21. There would be a short-term boost to economic development during construction of the buildings, and the development would bring financial benefits arising from new housing. I attach moderate weight to these matters, but they do not outweigh the harm arising on the first two main issues in this appeal. Thus, the appeal is dismissed.

C J Leigh

INSPECTOR