



Appeal Decision

Site visit made on 29 September 2023

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th February 2024

Appeal Ref: APP/C5690/W/23/3319232

3 St Germans Road, Lewisham, London SE23 1RH

- 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 Vincent Walsh of Urban R+D against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/22/129762, dated 21 December 2022, was refused by notice dated 14 March 2023.
 - The development proposed is described on the planning application form as: "It is proposed to develop 2 family homes on land to the rear of Bradgate House, 3 St German's Road, SE23 1RH to include works to the forecourt of the host property, the creation of bin storage facilities to the front and an access route to the side of the property".
-

Decision

1. The appeal is allowed and planning permission is granted for development described as "It is proposed to develop 2 family homes on land to the rear of Bradgate House, 3 St German's Road, SE23 1RH to include works to the forecourt of the host property, the creation of bin storage facilities to the front and an access route to the side of the property", at 3 St Germans Road, Lewisham, London SE23 1RH, in accordance with the terms of the application, Ref DC/22/129762, dated 21 December 2022, subject to the conditions listed in the attached schedule.

Applications for Costs

2. An application for costs has been made by Mr Vincent Walsh of Urban R+D against the Council of the London Borough of Lewisham. This is subject to a separate decision.

Preliminary Matters

3. During the determination of the appeal, a revision to the National Planning Policy Framework (the Framework) was published. The main parties were given the opportunity to comment on any implications the revised Framework may have for the appeal and their comments have been taken into account.

Main Issues

4. The main issues are:

- the effect of the proposed development on the character and appearance of the area;
- whether the proposed development would provide suitable living conditions for future occupiers in terms of internal floorspace provision, floor-to-ceiling heights, noise and disturbance, and provision of daylight and sunlight.
- whether the arrangements for the storage and collection of refuse for Unit 2 are suitable; and
- the effect of the proposed development on on-street parking in the area.

Reasons

Character and appearance

5. No 3 St Germans Road is a semi-detached property that has been converted to flats. The adjoining property is The Honor Oak public house, which sits on the corner of St Germans Road and Brockley Rise. The appeal site comprises part of the rear garden of No 3 St Germans Road.
6. The rear boundary of the property lies adjacent to an adult learning centre which sits on raised ground to the north. The west side boundary sits adjacent to that of the public house, including an external garden area for patrons. To the rear of the garden, a solid wall forming part of a car repair garage sits adjacent to the west side boundary. The east side boundary is shared with the side boundary and corresponding rear gardens of adjacent residential properties.
7. Part C of DM Policy 33 of the Lewisham local development framework Development Management Local Plan – Adopted 26 November 2014 (the DMLP) states that the development of back gardens for separate dwellings in perimeter form residential typologies identified in the Lewisham Character Study will not be granted planning permission. The Council's concerns in respect of the issue of character and appearance are that the proposal would be unacceptable because it proposes residential development in the rear garden of a property which exhibits a perimeter form residential typology.
8. The Council has provided a copy of the Lewisham Characterisation Study – March 2019 (the LCS). The LCS identifies perimeter blocks as having buildings facing the street, set within a regular and legible street pattern, with back gardens enclosed within the block. When viewed from St Germans Road, the appeal property and the adjoining public house generally conform to the LCS description of perimeter blocks. However, the situation to the rear is rather different. Although the neighbouring properties to the east are of a similar traditional residential character, the neighbouring uses to the north and west are of a very different character. Whilst the back garden is enclosed from the street, because of its relationship to the neighbouring properties to the north and west, it does not feel enclosed as part of the block.
9. The supporting text to DM Policy 33 notes that back gardens in perimeter style residential developments are an important amenity resource and make an

essential contribution to the character and quality of the residential areas identified in the policy. However, owing to the nature of the site and its immediate neighbours, it does not currently exhibit the typical characteristics of a perimeter block. Moreover, the proposed development would retain a rear garden for the existing property, as required by DM Policy 33. Accordingly, the proposal would not conflict with the objectives of the policy.

10. For the reasons given above, the proposal to provide residential development in the rear garden of No 3 St Germans Road would not harm the character or appearance of the area and would accord with Core Strategy Policy 15 of the Lewisham local development framework Core Strategy Development plan document – Adopted June 2011 (the CS), and DM Policies 30 and 33 of the DMLP. Together these policies seek, in respect of this issue, for development to be of high-quality design and of an appropriate density, to have a positive relationship to the existing townscape and the scale and alignment of existing streets, to resist the unacceptable development of back gardens for separate dwellings, and to retain private back gardens for proposals involving new separate dwellings.

Living conditions

11. The Design and Access Statement submitted with the planning application refers to Unit 1 as being a 3 bed/6 person dwelling. However, the summary table on page 19 of the same document refers to the proposal being for 2x3 bed 5 person houses. The appellant has sought to clarify this inconsistency by confirming both units are proposed as 3 bed/5 person dwellings.
12. When assessed on this basis against the relevant space standards set by Policy D6 of the London Plan – March 2021 (the LP), both units would meet the required minimum standards. Accordingly, both units would be provided with acceptable provision of internal floorspace.
13. Section drawings have been provided with the appeal to demonstrate that both units would have an internal ceiling height of 2.5 metres. Although these details were not before the Council when determining the planning application, I do not find them to materially alter the development under consideration as they merely provide clarification. The details demonstrate compliance with LP Policy D6 in this regard.
14. Turning to matters of noise and disturbance, the site lies adjacent to commercial uses in the form of the public house and the car repair garage. The Council raises concerns with the lack of any noise assessment to determine the effects of the surrounding uses on the proposed development in this regard. The appellant disputes these effects, noting that similar situations are not uncommon in urban settings. The appellant adds that such details were not requested at validation stage or during the determination of the planning application.
15. Notwithstanding the disagreement between the main parties on these matters, the appeal site is in a reasonably busy area and passing traffic on the nearby busy main roads generally contributes to the background noise level, as is typical of similar residential locations. I visited the site when the adjacent garage was open and trading. When stood outside the garage's open frontage on Brockley Rise, typical noise associated with car repair activities was audible. However, I noted no audible noise from this use when stood within the appeal

site itself. Although this was a snapshot in time, the audible difference between the open frontage and the appeal site suggests the garage building is well insulated, and even with the front doors being open its activities would not be harmful to the living conditions of prospective occupiers.

16. The public house has an external area containing outdoor seating areas adjacent to the boundary with the appeal site. This includes areas directly adjacent to the existing residential properties at No 3 St Germans Road. As such, I am not persuaded that the proposal would result in harmful living conditions for prospective occupiers, or that it would place additional burdens on existing neighbouring commercial uses with regard to potential noise or disturbance, in accordance with paragraph 193 of the Framework.
17. A Daylight/Overshadowing Report (DOR) was submitted with the planning application. The Council noted that the DOR did not consider the provision of daylight and sunlight for the proposed development. A revised DOR has been submitted with the appeal which seeks to address the outstanding issues. Because this serves only to provide clarification, it does not alter the proposal under consideration.
18. The revised DOR advises that it was prepared to accord with the Building Research Establishment Report, Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice, 2nd Edition, 2011 (the BRE Guide). I note a 3rd Edition of the BRE Guide has since been published. However, I have no reason to doubt that the DOR and BRE Guide remain relevant considerations for the purposes of this scheme.
19. In terms of daylight, the DOR sets out the results of a Vertical Sky Component (VSC) assessment for the proposed windows. Two windows would fail the test set by the BRE Guide, comprising a ground floor window to each unit. However, the shortfalls against the BRE Guide requirements would be marginal. Moreover, both windows would be to rooms also served by skylight windows that would meet the relevant criteria. Accordingly, I am satisfied that the overall daylight provision for both rooms would be acceptable.
20. The revised DOR provides a less detailed assessment regarding the provision of sunlight for the proposed development, and this section of the report appears to be unchanged from the version the Council considered as part of the planning application. The DOR states that all windows would meet the criteria set by the BRE Guide in terms of Annual Probable Sunlight Hours (APSH) but limited evidence is provided to demonstrate how these conclusions have been reached.
21. Nevertheless, both units would be dual aspect with the majority of windows facing south and east. The proposal would incorporate large amounts of glazing including rooflights. Due to these factors, the geographic orientation of the proposal and the relationship to existing neighbouring development, I am not persuaded that the provision of sunlight would be unacceptable.
22. For the reasons given above, the proposal would provide suitable living conditions for future occupiers in terms of internal floorspace provision, floor-to-ceiling heights, noise and disturbance, and provision of daylight and sunlight. It would therefore accord with Policy D6 of the LP, Core Strategy Policy 15 of the CS, and DM Policy 32 of the DMLP, which together seek, in respect of this issue, for housing development to meet specific standards and

to provide satisfactory living conditions for its future residents and its neighbours. It would also accord with the provisions of the Framework and the Mayor of London Housing Supplementary Planning Guidance – March 2016 (the HSPG), which have similar aims.

Refuse storage and collection

23. The refuse storage and collection point is proposed to the front of the property adjacent to the street. In considering this issue, the Council references the HSPG, which notes that refuse and recycling facilities should meet the relevant British Standard. Reference is also given to Manual for Streets, which the Council considers the proposal would fail to meet by virtue of the dragging distance between Unit 2 and the storage area exceeding 30 metres.
24. Notwithstanding that I have not been provided with copies of the relevant British Standard or Manual for Streets, I must consider this matter against the development plan first and foremost. In this case, Part B.6.a. of DM Policy 33 of the DMLP sets out that development on backland sites will only be permitted where it provides a proper means of access and servicing which is convenient and safe both for drivers and pedestrians.
25. Because the development proposes no on-site parking, all access to the property is pedestrian only. Consequently, anyone leaving the property would need to pass directly via the refuse store where they could safely and conveniently dispose of refuse as part of their regular route. In the event that occupiers needed to take items to the bins without leaving the property, the route between both residential units and the refuse store would be reasonably level and the distance would not be so excessive as to amount to an inconvenient or unsafe arrangement. Accordingly, I find the proposed arrangement to be acceptable.
26. For the reasons given above, the proposed refuse storage and collection arrangements would be acceptable and would accord with DM Policies 29 and 33 of the DMLP, which together seek, in respect of this issue, for development to provide a proper means of access and servicing which is convenient and safe both for drivers and pedestrians, and to avoid negative impacts on the safety and suitability of access and servicing. It would also accord with the relevant provisions of the Framework, which have similar aims.

Parking

27. The proposal would provide no on-site parking. The Council considers the proposal provides insufficient evidence to determine the likely level of car ownership and the resulting effects on parking capacity in the area.
28. Although there are some parking restrictions in the area, including road markings on Brockley Rise and adjacent to the health centre on the opposite side of St Germans Road, the site does not lie in a controlled parking zone. Many properties in the street contain driveways, with the access points removing space for on-street parking. However, there remains an abundance of on-street parking space within a short distance of the appeal site.
29. At the time of my visit on a weekday morning there was a reasonable amount of nearby parking availability on St Germans Road and I noted no specific instances of inconsiderate or illegal parking. Although this observation was a snapshot in time, I have no reason to consider it an atypical scenario. The site

is also in an accessible location adjacent to a bus route with frequent services and within a reasonable walking distance of railway stations at Forest Hill and Honor Oak Park.

30. The proposal would deliver 2 units with the potential for occupiers to own or have access to private vehicles. However, based on the accessibility of the area and my observations on site, I am not persuaded that the proposal would increase parking demand in the area to a level that would be detrimental to highway safety or to the living conditions of existing occupiers.
31. For the reasons given above, the proposal would not unacceptably increase on-street parking in the area and would accord with Core Strategy Policy 14 of the CS and DM Policies 29 and 30 of the DMLP, which together seek to prioritise the access and safety of pedestrians and cyclists, to implement a managed and restrained approach to parking provision, and to concentrate residential development in accessible areas. It would also accord with the provisions of the Framework in respect of this issue, which have similar aims.

Other Matters

32. I note concerns from neighbouring occupiers that the proposal would lead to overlooking and loss of privacy to neighbouring properties on St Germans Road. The Council did not consider the proposal unacceptable in this regard, and there is no compelling evidence before me that would lead me to a different conclusion on this issue. In the event of the appeal being allowed, conditions to secure details including appropriate boundary treatments could be used to safeguard the privacy of neighbouring occupiers.

Conditions

33. The Council has provided a list of suggested conditions that I have considered against the provisions of paragraph 56 of the Framework and the Planning Practice Guidance (the PPG). To ensure compliance with these provisions I have amended, and in some cases omitted, certain conditions.
34. Conditions relating to the statutory time limit and a list of approved plans are necessary in the interests of certainty. Conditions requiring details of external materials and boundary treatments are necessary to protect the character and appearance of the area and the living conditions of neighbouring occupiers.
35. A condition requiring the submission of a construction method statement, to include details of deliveries, servicing and hours of operation, is necessary in the interests of highway safety and to safeguard the living conditions of neighbouring occupiers.
36. Conditions requiring details of hard and soft landscaping and surface water management are necessary in the interests of promoting biodiversity, protecting the character and appearance of the area, and promoting sustainable flood risk management.
37. Conditions requiring details of refuse and cycle storage are necessary in the interests of safeguarding the living conditions of future occupiers, to protect the character and appearance of the area, and to promote sustainable transport. Given the proximity of the refuse storage area shown on the approved plans to the street frontage, it is not necessary to secure additional details of a waste management plan.

38. A condition requiring full details of the solar panels to be installed to the roof of the residential units is necessary to ensure the development delivers on sustainable design and construction objectives. A condition requiring the living roof to be installed prior to occupation of the development is necessary in the interests of surface water management and promoting biodiversity.
39. I am provided with no details relating to contamination or any evidence to suggest there is a risk of contamination on the site. Accordingly, I do not find the suggested condition relating to contamination to be necessary or enforceable. Similarly, I am provided with no details relating to background noise levels and I am not persuaded that a condition limiting noise from the heat pumps relative to the background noise level would be enforceable. In any event, the heat pumps are positioned away from the main living areas of the proposed dwellings and neighbouring occupiers, and I do not consider they would pose any significant risk to living conditions.

Conclusion

40. For the reasons given above, I conclude that the appeal should be allowed subject to the conditions listed in the attached schedule.

P Storey

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan – 166 P 100
 - Site Plan – 166 P 111
 - General Arrangement Plans – 166 P 100
 - Roof Plan – 166 P 121
 - Existing and Proposed Elevations – 166 P 200
 - Existing and Proposed Elevations – 166 P 201
 - Site Sections – 166 P 300
 - Site Sections – 166 P 301
 - Building Section A – 166 P 310
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - the erection and maintenance of security hoarding including decorative displays, where appropriate;
 - wheel washing facilities;
 - measures to control the emission of noise, dust and dirt during construction;
 - a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 4) No development above ground shall commence on site until a detailed schedule and specification/samples of all external materials and finishes/windows and external doors/roof coverings to be used on the buildings has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) No development above ground shall commence until a scheme for surface water management, including specifications of the surface treatments, management plan and sustainable urban drainage solutions, has been submitted to and approved in writing by the local planning authority. Thereafter, the approved scheme shall be implemented in full accordance with the approved details prior to first occupancy of the development hereby approved and maintained thereafter.

- 6) The development hereby approved shall not be occupied until details of the proposed boundary treatments including any gates, walls, fences and privacy screens for balconies have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to first occupation of the development and retained thereafter.
- 7) The development hereby approved shall not be occupied until details of enclosures for the storage of refuse and recycling have been submitted to and approved in writing by the local planning authority. The approved details shall be provided in full prior to occupation of the development and retained thereafter for the storage of refuse and recycling for the approved residential units.
- 8) The development hereby approved shall not be occupied until details of facilities for the storage of 2 cycles per residential unit have been submitted to and approved in writing by the local planning authority. The approved details shall be provided in full prior to occupation of the development and shall be retained thereafter for the storage of cycles for the occupants of the approved residential units.
- 9) Prior to the first occupation of the development hereby approved, a scheme for any external lighting shall be submitted to and approved in writing by the local planning authority. The details should demonstrate that the proposed lighting is the minimum needed for security and working purposes and that the proposals minimise pollution from glare and spillage to safeguard the living conditions of neighbouring occupiers and avoid potential disturbance to bats. The approved details shall be installed prior to the first occupation of the development and retained thereafter.
- 10) The development hereby approved shall not be occupied until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - details of all surfaces including permeability of hard surfaces;
 - details of all trees and hedges to be retained;
 - details of proposed planting of native and/or wildlife friendly species including numbers, species, location and size of trees and tree pits;
 - details of a scheme of management and maintenance of the approved landscape works for a period not less than five years following implementation.

The approved hard and soft landscape works shall be carried out no later than the first planting and seeding seasons following the completion of the development hereby approved and managed and maintained in accordance with the approved scheme of management and maintenance.

- 11) Prior to the first occupation of the development hereby approved, details of the solar panels to the roof of the approved residential units shall be submitted to and approved in writing by the local planning authority. The solar panels shall be installed in accordance with the approved details prior to first occupation of the development and retained thereafter.

- 12) The biodiversity living roof shown on the approved plans shall be installed in accordance with the approved details prior to the first occupation of the development hereby approved and retained thereafter. The living roof shall not be used as an amenity or sitting out space of any kind whatsoever and shall only be accessed in the case of maintenance or repair, or escape in case of emergency.

**** End of conditions ****