



Appeal Decision

Site visit made on 17 April 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2024

Appeal Ref: APP/C5690/W/23/3328174

2A Gaynesford Road, London SE23 2UQ

- 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 Lakh Kallar, Kallar Investments Limited against the decision of the London Borough of Lewisham.
 - The application Ref is DC/23/131488.
 - Demolition of the existing garage and construction of a 2 storey 2 bedroom dwelling with additional accommodation at basement level, along with associated cycle parking, refuse storage, outdoor amenity space and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As the proposal is in a conservation area (CA), I have paid special attention to the desirability of preserving or enhancing the character or appearance of that area, as set out in section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. The National Planning Policy Framework (2023) (Framework) was updated in December 2023, and accordingly for the purposes of this decision I have referred to the latest version of the Framework. The content of the Framework has not been materially altered in respect of the main issues which I have considered. Therefore, it has not been necessary to seek further views from the main parties in this instance.

Main Issues

4. The main issues are:
 - whether the proposal would provide a satisfactory standard of accommodation for future occupiers;
 - the effect of the proposal on the living conditions of occupiers of neighbouring properties, with particular regard to outlook for the occupiers of 49 and 51 Church Rise; and
 - the effect of the proposal on the character or appearance of the area, with due regard to the location of the site in the Perry Vale and the Christmas Estate Conservation Area (CA).

Reasons

Living conditions for future occupiers

5. The kitchen/dining room would be served by a bay window on the dwelling's northerly elevation. The bay window would open onto a small lightwell area which the submitted drawings indicate to be 6.2 square metres in area. The room would be deep, spanning the full depth of the dwelling and would be served only by glazing on this single northerly elevation. Furthermore, the location of the window to the bedroom would be heavily restricted given its proximity to the lightwell walls.
6. I note that the BRE guidance considers that sunlight in bedrooms and in kitchens may be of less importance. However, the lower ground floor also contains a dining area and consequently, it seems to me, that the future occupiers would be likely to spend longer periods of the day at lower ground floor level. Without any detailed evidence in relation to sunlight that the proposed rooms would, for example, be BRE compliant, it seems to me that sunlight to both the kitchen and bedroom, would be limited and is likely to result in gloomy conditions.
7. The windows serving the bedroom and kitchen/dining space would face on to the outdoor lightwell, which would comprise a relatively narrow strip of land. Views out would be dominated by the lightwell walls at close proximity. This would result in a sense of enclosure that would be unduly oppressive. In coming to this view, I have taken into account that the use of paving materials and the treatment of walls could create an attractive lightwell area.
8. Consequently, the proposed development would result in poor quality accommodation for future occupiers. This would be contrary to Policy D6 of the London Plan (2021) (LP), Policy 15 of the Core Strategy: Development Plan Document (2011) (CS) and Policy 32 of the Development Management Local Plan (2014) (DMLP) insofar as they require development proposals to be of a high standard of design and layout for future occupiers.
9. I also find conflict with paragraph 135 of the Framework and the Small Sites Supplementary Planning Document (2021) (SPD) which require that developments provide a high standard of amenity for future users, including natural light.

Neighbouring occupiers

10. 51 Church Rise's (no. 51) rear garden is located immediately to the rear of the appeal site. At two storeys high, the house would extend significantly above the existing planting on the boundary with the appeal site. At the time of my site visit no. 51's garden appeared to be well used and the area closest to the appeal site contained a small greenhouse and planting.
11. As the rear of the house would be positioned alongside the shared boundary with no. 51, its width and height have the potential to impact the outlook for neighbouring occupiers from the garden. Views from the area of the garden closest to the boundary would look directly onto the house's rear elevation with minimal separation distance. Consequently, the house would have a looming presence over the neighbouring garden. The combined depth, height and proximity of the house to the neighbouring garden means that the proposed

development would be a dominant and oppressive feature for neighbouring occupiers.

12. There are windows which serve habitable rooms in the ground floor elevation of 49 Church Rise (no. 49) which face the appeal site. Unlike the previous appeal schemes¹ the proposal would have a side garden area which would provide further separation from the rear windows serving rooms in no. 49.
13. The SPD outlines that where the gap between the rear of an existing property and new dwelling is less than 10 metres, the height of new development should be no greater than the depth of the garden measured from the rear of the existing property. The submitted evidence indicates that the main rear elevation of no. 49 would be further than 10 metres from the proposal's elevation. Whilst no. 49 has a rear projection which is closer to the appeal site, the submitted evidence indicates that the separation between the rear projection and the side wall of the proposed house is 7.8 metres. As the height of the proposal would be 6.7 metres, this would accord with the relevant section of the SPD. I also note that the roof of the house would be hipped and would pitch away from the shared boundary and that the roof's eaves line would be lower than neighbouring properties. These collective factors combined with the setback from the boundary with no. 49 would ensure that the proposal would not have a harmful impact on the outlook of the occupiers of this property.
14. However, I have found that the proposal would have a harmful impact on the occupiers of 51 Church Rise with particular regard to outlook from the rear garden. Consequently, I find conflict with Policy 15 of the CS, Policy 33 of the DMLP and the SPD, insofar as they require that new development should not result in the loss of amenity to existing residents.
15. I also find conflict with paragraph 135 of the Framework which requires that developments provide a high standard of amenity for neighbouring occupiers.

Character and appearance

16. The appeal site is located adjacent to 2 Gaynesford Road and is bordered by the gardens of no's 49 and 51. The surrounding area is residential in character, with this side of the street containing a series of semi-detached properties which are uniform in appearance and set back from the road behind small front gardens with low level front fences and hedges.
17. The character of this part of the Perry Vale and the Christmas Estate CA and its significance stems from, amongst other aspects, the arrangement of red brick-faced houses which are well preserved, with two storey canted bay windows, decorative central entrances, architectural detailing and flank chimney stacks. The regularity and pattern of space between and around the houses, which were designed with similarly sized gardens and proportions, is an important feature of the area, and contributes to the impression of unity and cohesion in the whole estate. The Council's Conservation Area Appraisal (2019), also identifies the houses as joyful exemplars of Edwardian suburban homes which are among the best examples of their age and type in the borough, and consequently are of particular importance in this part of the CA and as a whole.

¹ APP/C5690/A/14/2219875 and APP/C5690/W/16/3150246

18. The appeal site currently hosts a utilitarian garage, and the site's frontage onto Gaynesford Road is marked by a tall wood panel fence. Whilst these features in isolation do not positively contribute to the character of the area, due to their height, they allow views from Gaynesford Road into the rear gardens of properties fronting Church Rise, which makes a positive contribution to the character of the area.
19. Unlike the previous appeal² at the site, the proposal would be set back from the highway and would respect the uniform building line of properties on this side of the street. The proposal would not extend across the full width of the site and its footprint would also be positioned away from the shared boundary with no. 49 ensuring that it would not appear cramped within its plot.
20. No. 49's garden is already shorter than those at 51-55 Church Rise, and the proposal would not alter this. The proposal's position within the street scene would retain sufficient spacing from the rear elevation of no. 49. This spacing would enable continued views from Gaynesford Road to the rear of properties on Church Rise, which display the historical pattern of development of this group as large houses with verdant rear and front gardens.
21. The proposal would have a lower roof height and lower eaves than the existing properties on this side of the street. As a result, it would be subservient to the neighbouring properties. Whilst not an imitation of the neighbouring 'Christmas' houses, the design of the proposal would reflect key design elements of the neighbouring properties. These include the use of red brick, the two storey canted bay window and hipped roof with architectural detailing below the eaves. By incorporating these references to the neighbouring properties, the overall approach to design would achieve a high quality infill scheme which provides nods to the local vernacular whilst embracing modern architecture.
22. Furthermore, the lower boundary fence and planting which would replace the existing tall wood panelled fence would open up the site and better reflect the existing pattern of development on this side of Gaynesford Road.
23. Had the appeal proposal been acceptable, a planning condition could have been imposed to ensure that details of the materials and window design were submitted and approved by the Council. This would have ensured that the windows would not harm the character and appearance of the CA.
24. Overall, the proposal would sympathetically assimilate with the CA, while respecting the group consistency of the surrounding buildings. It would preserve the character and appearance of the area including the CA. I find the proposal would comply with Policy 1 of the CS, Policies D4 and HC1 of the LP and Policies DM33 and DM36(B) of the DMLP. Taken together, these seek developments which pay special attention to the special interest of Conservation Areas and conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings.

Other Matters

25. I note concerns regarding the service provided by the Council. This does not affect the merits of the proposal itself and as such has not been determinative. I am mindful that pre-application discussions are informal, and they will not

² APP/C5690/W/16/3150246

influence any future decision the LPA may make once a proposal has been subject to the formal planning process.

26. The appeal proposal includes various energy efficiency measures designed to meet or exceed Building Regulations requirements and achieve a sustainable building. I also note that the appellant submitted a daylight study, and that the Council has not raised this issue as a concern. However, the absence of harm or development plan conflict with respect to other relevant matters is neutral and weighs neither for nor against the proposal.
27. Limited economic benefits would also be likely to arise from employment during construction works, and thereafter through the additional expenditure by future occupiers. I attach moderate weight to these matters.
28. The Framework indicates the value of using suitable land within settlements for homes. It also encourages the optimal use of underutilised land. The proposal would represent a modest contribution of one dwelling towards the supply of deliverable housing sites in the area, in an appropriate location and making efficient use of the appeal site. Being a small-scale development, it is likely that it could be delivered quickly. Having regard to Paragraph 60 of the Framework, which sets out the Government's objective of significantly boosting the supply of homes, these are significant benefits of the scheme.
29. However, the Framework also sets out in paragraph 135 that development should provide a high standard of amenity for existing and future users. The failure of the proposals to represent a high quality form of development carries substantial negative weight which weighs heavily against the proposals. Whilst I do not doubt that there would be beneficial effects, these would not be sufficient to outweigh the conflict with the development plan.

Conclusion

30. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR