



Appeal Decision

Site visit made on 1 April 2025

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 02 May 2025

Appeal Ref: APP/C5690/W/24/3353115

7 Kent House Road, Lewisham, Bromley, London SE26 5LN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Anthony Doyle against the decision of the Council of the London Borough of Lewisham.
 - The application Ref is DC/23/134318.
 - The development proposed is described as the 'conversion of the basement and ground floors which are currently A3 use, to become one dwellinghouse unit (C3 use class). Creation of rear extensions at basement and ground floor levels. The new unit is to be a three-bedroom maisonette of 105 sqm'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. Having considered the content of the revisions it is not necessary to re-consult the main parties about this change in national policy as they do not alter my conclusion.

Main Issues

3. The main issues are the effect of the proposed development on the living conditions of the occupiers of 9 Kent House Road, with particular regard to privacy; and the effect of the proposed development on the character and appearance of the building.

Reasons

Living Conditions

4. The appeal relates to a three-storey, mid-terrace property on the eastern side of Kent House Road. The adjoining property at No 9, which appears to be in residential use, has been extended at ground floor level with the introduction of a rear conservatory. This sits within a relatively small back garden area.
5. The privacy levels of the occupiers of No 9 have already been affected to a certain degree by the appeal property's existing first floor terrace and external staircase. However, these are set away from the shared boundary with No 9, and any overlooking is from a more oblique viewpoint. Conversely, the submitted plans show the proposed roof terrace above the proposed rear basement extension to be sited directly adjacent to the shared boundary with No 9 and raised above the ground level by approximately 1.4 metres.

6. Although the proposed rear basement extension would not project outwardly past the neighbouring conservatory, this configuration would still inevitably result in people sitting out and standing close to the shared boundary fence and No 9's back garden area. The raised floor height and proximity to the shared boundary with No 9 would enable closer views, over the existing fence, of this neighbouring rear garden area. As a result, a substantial and increased amount of overlooking and an undue loss of privacy to the users of this garden would thereby occur. The removal of the external staircase would not overcome these concerns.
7. The appellant's willingness to accept a suitably worded planning condition for the submission and approval of screening by some form of visual barrier along part of the boundary with No 9 is noted. However, I have not been provided with any details of this barrier and am therefore unable to be certain that it would negate the harm that I have identified, or not cause further harm to the living conditions of the residents of No 9 in respect of outlook and light.
8. Accordingly, I find that the proposed development would cause unacceptable harm to the living conditions of the residents of 9 Kent House Road, arising from the loss of privacy. It would thereby conflict with Policy 15 of the Lewisham Core Strategy Development Plan Document 2011 (Core Strategy), Policies 32 and 33 of the Lewisham Development Management Local Plan 2014 (Local Plan) and Policy D3 of the London Plan 2021. These seek, amongst other matters, to protect living conditions by requiring new residential development, including alterations and extensions, to provide a satisfactory level of privacy for future residents and neighbours.
9. In addition, conflict would arise with the design advice contained within the Council's Alterations and Extensions Supplementary Planning Document 2019 (SPD) and paragraph 135 of the Framework, insofar as it requires a high standard of amenity for existing and future users.

Character and Appearance

10. The Council has not raised any objections to the principle of the conversion of the property to a dwelling house and I have no reason to disagree. The Council's concerns relate to the proposed basement extension and sunken terrace in this respect.
11. The size and bulk of the proposed basement extension is not significantly larger than the existing basement to the rear of the property and would clearly appear subservient to the scale of the much larger host building. It would also not be visually jarring or overly dominant when seen in the context of the rear elevations of neighbouring properties that have also been extended, including the erection of the conservatory at the rear of No 9.
12. In terms of the proposed sunken terrace, I am informed that none of the original basements at Nos 1-7 have been excavated out beyond the footprint of the original buildings. The Council also states that there are no similar types of development in the vicinity. Nonetheless, although the proposed sunken terrace would project into the rear garden, and would, in effect, result in a four-storey building with exposed masonry, this change would not be widely visible from the surrounding area. Furthermore, a sufficient amount of garden space would be retained, and I am satisfied that it would not appear conspicuous within the overall context of the alterations proposed at the appeal property.

13. I therefore find that the proposed basement and sunken terrace would not harm the character and appearance of the building. In this respect, it would not conflict with Core Strategy Policy 15, Policy 31 of the Local Plan, and Policies D1 and D3 of the London Plan. These seek, amongst other matters, to achieve high quality design and ensure that development is sympathetic to the host dwelling. It would also accord with the design objectives of the Framework, as advised in Section 12.
14. Whilst this element of the proposal may conflict with some of the specific design advice contained within the SPD, this is to be applied with discretion and given the particular circumstances of this case, I am satisfied that the overall aims of this guidance would not be undermined.

Other Matters

15. In reaching my findings I have had regard to the 2 planning consents and an application that was dismissed at appeal on the site (Ref DC/10/073989/X, DC/14/088894 and DC/16/098706). However, none of these schemes included a roof terrace above a proposed rear basement extension. Their circumstances are therefore not directly comparable to those which apply in this case.

Planning Balance

16. The appellant contends that the Council is unable to demonstrate a 5 year deliverable supply of housing land. I have little evidence from the Council in this regard. Nonetheless, I have found that the proposed development would cause unacceptable harm to the living conditions of the occupiers of 9 Kent House Road. This harm would be long lasting and contrary to Paragraph 135 and the design objectives of the Framework. With these factors in mind, I ascribe this matter substantial weight.
17. My findings in respect of character and appearance would amount to a lack of harm and would thus be neutral in any balancing exercise. The site is located in a PTAL 4 area, but not within the Green Belt, an AONB or a conservation area and the appeal building is not listed or in the vicinity of any listed buildings. I have also been made aware that there is no lightwell proposed. Nevertheless, the absence of harm in these respects do not weigh in favour of the proposal.
18. Therefore, even if I were to conclude that there is a shortfall in the 5 year housing land supply on the scale suggested by the appellant, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. The appeal scheme would therefore not be sustainable development for which the presumption in favour applies.

Conclusion

19. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, the appeal should therefore be dismissed.

Mark Caine

INSPECTOR