



Appeal Decision

Site visit made on 23 July 2013

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 August 2013

Appeal Ref: APP/C5690/A/13/2192877

Land opposite 166 Upper Brockley Road, London, SE4 1TG

- 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 D Freaan against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/12/81710, dated 19 October 2012, was refused by notice dated 24 December 2012.
 - The development proposed is the construction of a two-storey single family dwelling on land previously used to store second hand cars.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposal would preserve or enhance the character or appearance of Brockley Conservation Area; the effect on the living conditions of adjoining occupiers at 163 Upper Brockley Road with particular reference to outlook and whether satisfactory living conditions would be provided for future occupiers of the proposed dwelling.

Reasons

Brockley Conservation Area

3. The appeal site comprises a hardsurfaced yard which has been used for parking second hand cars since at least 1970. It forms part of a small 'island' between Upper Brockley Road and Geoffrey Road that contains both dwellings and commercial premises.
4. The majority of the properties in Brockley Conservation Area were built in the 1870s and 1880s. Generally there are a variety of architectural styles typical of the mid to late Victorian era. In the vicinity of the appeal site the surroundings mainly comprise densely developed terraced and semi-detached houses predominantly in yellow stock brick with white render detailing. There are also some small, non-residential uses and buildings nearby so the locality is not entirely homogenous.
5. The Supplementary Planning Document (SPD) indicates that residential development will not be permitted in rear gardens and explains that Brockley has many long gardens which contribute to its character and spacious setting. This attribute was referred to by the Inspector who dismissed an appeal for a pair of houses at 161 Upper Brockley Road (Ref: APP/C5690/A/12/2171203).

However, the appeal site is not a garden so the inherent presumption in the SPD does not apply.

6. Nevertheless, the land forms part of a gap in the otherwise built-up frontages and there are views across it towards the buildings in Upper Brockley Road and Geoffrey Road on either side. This is an unusual feature in the locality and its openness is of some value. However, the proposal would be positioned between the houses to the east and west so that it would still be possible to look through the remaining spaces from one side of the 'island' to the other. In this way, a sense of spaciousness would be retained. The undeveloped nature of the site is not such an important component part of the Conservation Area that it should be kept entirely free of buildings.
7. The proposed 2-storey dwelling would be adjacent to the back edge of pavement. There are other examples of development directly fronting the street throughout the Conservation Area. Although the proposal would be sited closer to Upper Brockley Road than either No 163 or 1 Geoffrey Road there is no obvious 'building line' that should be respected. As such, the historic pattern of development would not be spoilt. Moreover, the proximity of the new house to the road would increase natural surveillance along it.
8. The flat roof of the proposal would contrast with the pitched roofs that predominate but there are other buildings of a similar form not far away. The design would be unashamedly modern. Although the National Planning Policy Framework does not seek to stifle innovation it nevertheless indicates that new development should respond to local character and history. The pattern and type of fenestration would be wholly different to that found in the surrounding Victorian buildings. Furthermore, the upper floor would be finished in black horizontal timber cladding rather than reflecting the local palette of materials.
9. Therefore, when all the different elements are put together, there would be little or nothing to link the proposal to its setting. As a result, it would appear to have been 'imported' from elsewhere rather than belonging in Brockley. In short, the detailed design would not promote or reinforce local distinctiveness and the proposed new development would not successfully integrate into the historic environment. As such, it would detract from the significance of the heritage asset. The significant harm caused would not be outweighed by any public benefits including the provision of an extra unit of accommodation on previously-developed land.
10. Therefore the proposal would fail to preserve or enhance the character and appearance of Brockley Conservation Area. It would also be contrary to the aims of Policy URB16 of the Unitary Development Plan (UDP) and Policy 16 of the Core Strategy (CS) which reflect the statutory duty. Furthermore, as the scheme would be incompatible with the character of existing development, there would be a conflict with Policy URB3 of the UDP and the high standard of design sought by Objective 10 and Policy 15 of the CS. The Council refers to the emerging Development Management Local Plan but this is of little weight owing to the stage it has reached.

Living conditions at 163 Upper Brockley Road

11. Although sunlight to the garden of 163 Upper Brockley Road would be reduced the appellant's study indicates that it would receive 2 hours of sun across 72% of its area on 21 March. As such, the proposal would accord with the

recommendations in the Building Research Establishment guidance on *Site Layout Planning for Daylight and Sunlight*. The projecting first floor window would contain a panel allowing views to be gained along Upper Brockley Road. It would not afford overlooking of the main part of the garden and consequently the implications for privacy would be insignificant.

12. The flank wall of the proposed dwelling would be sited against the boundary at the bottom of the garden of No 163. It would be 8.8m to the rear windows at its closest point. The neighbouring property is at a higher level so that the proposal would effectively be less than 2 stories in height but the impact on the rear garden would nevertheless be overbearing and dominant. The adverse effect on the outdoor amenity space of the bulk and proximity of the eastern elevation would not be mitigated by the use of timber on the upper floor.
13. The separation distance would be greater than is found between 226 Malpas Road and the new development to the rear. However, the proposal would be immediately at the end of the garden and would occupy almost all of the width of the plot. These factors also distinguish the proposed relationship from that at the rear of 240 Malpas Road. In any event, the acceptance of the recent mews scheme by the Council does not mean that an unacceptable impact on those living at No 163 should be sanctioned. The proposal would be too large and too close and would lead to an excessive sense of enclosure.
14. Therefore the proposal would harm the outlook of the occupiers of 163 Upper Brockley Road. As it would not safeguard residential amenities and would be unneighbourly there would be a conflict with the aims of Policies HSG4 and HSG5 of the UDP and with Policy HSG8 which is concerned with infilling.

Living conditions for future occupiers

15. The proposal would have window openings on 2 elevations and so could not reasonably be described as single aspect. Views out of Bedroom 3 and the ventilation of it would be limited but this is less critical given the function of that room. The appellant's daylight and sunlight report confirms that the ground floor living room/kitchen/diner would comply with relevant standards. However, this assesses the entire internal space as one. The kitchen section would not be directly served by windows. It is said that this area would receive light via a skylight and the void of the stairs but it has not been shown by means of sections how this would be achieved.
16. Policy HSG7 of the UDP refers to a minimum garden depth of 9m normally being required for new family dwellings. According to the Council the garden would measure 6.5m by 7.3m but if the bike store and bins are included the external area would be 62 sq m. This compares favourably with the garden areas associated with the development at 230-232 Malpas Road. In any event the Council acknowledges that 9m is not applied rigidly. In this case, the external area would not be large but it would receive sunlight and could become a pleasant area in an urban setting. As it would be readily accessible, secure, private and useable the objectives of Policy HSG7 would be adhered to.
17. There are misgivings about the level of natural light that would be received into the kitchen area owing to the plan form of the building. However, this drawback alone is not sufficient to reach a finding that living conditions would be unsatisfactory. The functional requirements of future inhabitants would therefore be met so there would be no conflict with UDP Policy HSG5.

Other Matters

18. The Council's view is that the only acceptable approach is to combine the appeal site with land at the rear of No 161 and it also appears to favour a single storey building. The land in question is in different ownership but, in any case, I have determined the proposed scheme as it stands.
19. Concern is expressed about construction traffic in the light of recent changes to the road system but any disruption caused would be short-lived and this does not amount to a reason to resist the proposal on planning grounds.
20. Two letters of support were received during the application process which refer to the proposal improving the area and attracting interest but these points do not outweigh the harm identified.

Conclusions

21. For the reasons given the proposal would fail to preserve or enhance the character and appearance of Brockley Conservation Area and would harm the living conditions of the occupiers of 163 Upper Brockley Road. It would also not accord with the development plan. As such, the proposed development is unacceptable and the appeal should fail.

David Smith

INSPECTOR

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