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# Appeal Decision

Site visit made on 24 February 2016

**by E Gray MA(Hons) MSc IHBC**

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

**Decision date: 03 May 2016**

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**Appeal Ref: APP/C5690/W/15/3137530**

**Land to rear of 11 Queensthorpe Road, London SE26 4PJ**

- 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 Ms Loretta Martinelli against the decision of the Council of the London Borough of Lewisham.
  - The application Ref DC/15/90814, dated 3 February 2015, was refused by notice dated 11 July 2015.
  - The development proposed is a new single storey three bed dwelling with oak board cladding to elevations and green sedum roof, all set in landscaped garden of native trees, gravel paths and wildflower 'meadow' garden.
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## Decision

1. The appeal is allowed and planning permission is granted for a single storey three bed dwelling with oak board cladding to elevations and green sedum roof, all set in landscaped garden of native trees, gravel paths and wildflower 'meadow' garden at land to rear of 11 Queensthorpe Road, London SE26 4PJ, in accordance with the terms of the application, Ref DC/15/90814, dated 3 February 2015, and subject to the conditions set out in the schedule to this decision.

## Main Issue

2. The main issue is the effect on the proposal on the character and appearance of the surrounding area, and of the conservation area.

## Reasons

3. The appeal site is an amalgamation of part of the garden of 11 Queensthorpe Road and a lane which historically ran between Silverdale Road and Queensthorpe Road. The site straddles the boundary of the Sydenham Thorpes Conservation Area (CA). The CA comprises the six roads of the Thorpe Estate, including Queensthorpe Road, which were built between 1901 and 1914. The area is characterised by terraced and semi-detached houses with small front gardens and larger, more private rear gardens.
  4. The proposed dwelling would be built on a section of garden which appears to have been divided off some time ago when No 11 was converted into flats. On my visit, I noted that the division between the two sections is well established, although the historic form of the garden remains legible. DM Policy 36 of the Lewisham Local Development Framework Development Management Local Plan
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- (LP, adopted November 2014) seeks to preserve or enhance the character or appearance of conservation areas. The contribution of domestic gardens to the significance of the area is particularly important, reflecting the Edwardian aspiration for recreation and privacy within the urban environment.
5. The development would make permanent the division of the garden, and would remove the historic ancillary relationship of the plot to No 11. However, the division has detracted from the appearance of the garden and disrupted its original form, thus lessening its contribution to the significance of the conservation area. Therefore, the further harm to the CA as a whole would be somewhat less than significant.
  6. The new dwelling would sit unobtrusively within the site, largely concealed from public view. Its contemporary design would be a clear departure from the prevailing architectural treatment in the area, but such an approach can often work very successfully in a historic context. In this case, the design responds well to the more informal nature of the appeal site. The single storey form would ensure that the development would not compete visually with the more characteristic two storey dwellings in the surroundings, and the proposed materials would complement the natural character of the site. I therefore find that the proposed design would not detract visually from the surrounding area, or from the character or appearance of CA.
  7. It is proposed to utilise the existing garage which adjoins No 11 to provide a car parking space for the new dwelling, and to give pedestrian access to the site from Queensthorpe Road. Access to the development would also be taken from Silverdale Road. Due to the location of the appeal site at the end of the terrace, the inclusion of the old lane, and the availability of the garage and land to the side of No 11, adequate access to the development would be achieved without harm to the layout of any neighbouring properties, or to the grain of the surrounding area in general.
  8. A number of benefits would derive from the proposal, including the contribution of a dwelling to the housing supply, the improvement of the unsightly area next to No 11, and the general tidying up of the neglected land at the appeal site. As I have identified less than substantial harm to the CA, Paragraph 134 of the National Planning Policy Framework (NPPF) requires that this harm should be weighed against the public benefits deriving from the proposal. In this case, the overall impact of the proposal would be acceptable, and the harm to the significance of the CA marginal, and therefore I find that these benefits, however modest, weigh in favour of the appeal proposal. Therefore, I conclude that, whilst the proposal would conflict with LP DM Policy 36, on balance, the harm to the character and appearance of the CA would not be so great as to warrant the withholding of planning permission.
  9. LP DM Policy 30 requires that development proposals should be compatible with and/or complement the prevailing urban typology. In the case of suburban terraces, new separate residential dwellings in the rear gardens will be discouraged due to the difficulty of achieving a good design fit with neighbouring developments, and disruption to the urban form. However, in this particular case, I find that the development would not give rise to these harmful impacts, and so I conclude that there would be no conflict with LP DM Policy 30.

10. The proposal would conflict with LP DM Policy 33, which precludes the development of separate dwellings within back gardens, particularly those which are more or less enclosed, and which form an integral part of the original design of the area. However, NPPF Paragraph 53 resists inappropriate development of residential gardens where development would cause harm to the local area. In this case, the scheme would not unduly harm the local area, and would give rise to some small benefits. For that reason, I consider the departure from LP DM Policy 33 to be justified.
11. I recognise that, in stepping away from LP DM Policy 33, it could make it more difficult for the Council to resist future proposals for garden development. However, this is a very specific case where the garden has evidently been divided for some time, and a piece of land is available which can provide a suitable access to the development. It appears to me that this is an unusual and uncommon set of circumstances which is unlikely to arise in many cases.
12. In addition **to the policies cited in the reasons for refusal, the officer's report** refers to Policy 3.5 of the London Plan (March 2015), which seeks to ensure that housing developments should be of the highest quality. The policy also refers to the presumption against development on back gardens. However, the proposal complies with the overall objectives stated in the policy, and I have found that the departure from the element relating to garden development is justified in this case.
13. **The officer's report also refers to** London Plan Policy 3.4, which seeks to optimise housing potential whilst taking into account local context and character, and Policy 15 of the Lewisham Local Development Framework Core Strategy Development Plan Document (June 2011), which requires high quality design for all development. I find that the proposal complies with these policies.
14. I accept that the improvement to the appearance of the site is not dependent on the implementation of the proposed development, and could be secured by other means, for example, the serving of a Section 215 notice. Such a notice relates only to land that affects public amenity, and so may not be applicable to the whole site. **I note the Council's concern regarding the reduction** in green space that may result from garden development. However, in view of the general acceptability of the scheme, the loss of a relatively small area of land to development would not justify the withholding of planning permission.

### **Other matters**

15. A number of concerns have been raised by interested parties, including the potential for disturbance to the natural area, and the impact on ecology and wildlife. Whilst I understand these concerns, there is no detailed evidence before me as to how wildlife would be detrimentally affected, and I note that the Council has not raised an objection on ecology grounds. With respect to trees, I consider that a suitable condition would be sufficient to safeguard any valuable trees that exist on the appeal site.
16. With regard to concerns over the boundary with Cobbsthorpe Villas, the protection of the existing fence, and the potential impact of construction activities, these are private matters that would need to be addressed and resolved amongst the relevant parties.

17. I note the concern regarding the potential overlooking of the property at 6 Cobbsthorpe Villas. However, the properties would not directly face each other, and I am satisfied that the separation distance between them would be sufficient to mitigate any possibility of overlooking.
18. Concern has been voiced relating to the increase in car use in front of No 11. However, the proposal will bring back into use a disused garage, thus creating an extra space. Access to public transport is considered to be good, and therefore I do not consider that the addition of one dwelling would be unduly harmful to traffic conditions.

### **Conditions**

19. The Council has suggested a number of planning conditions which I have considered against the relevant advice in the PPG. As a result, I have amended some of them for clarity and elimination of duplication.
20. For the avoidance of doubt, and in the interests of proper planning, it is appropriate that the development is carried out in accordance with the approved plans. Conditions to secure external materials, the protection of trees, and details of entrance treatments are appropriate in the interests of character and appearance.
21. It is essential that the requirements of Conditions 3 and 4 are agreed prior to the development commencing to ensure that the development is acceptable in respect of the matters they address.
22. I have not imposed the proposed condition relating to the dwelling emission rate and water consumption as these matters relate to other regulatory requirements. For the same reason, I have not imposed the proposed condition requiring compliance with Approved Document M4(2) of the Building Regulations (2015).

### **Conclusion**

23. For the reasons above, and taking all other matters into account, I conclude that the appeal should be allowed.

*E Gray*

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: 118.100.111, 118.200.111, 118.201.111, 118.202.111, 118.203.111, 118.206.111, 118.207.111, 118.208.112.
- 3) No development shall be commenced until details of the boundary treatments to the entrance to the site from Silverdale Road have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with these approved details.
- 4) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction – Recommendations (or an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
- 5) The external surfaces of the development hereby permitted shall be constructed in the materials shown on Drawing No 118.202.111.