



## Appeal Decision

Site visit made on 3 November 2021

**by Rory MacLeod BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 December 2021**

### **Appeal Ref: APP/C5690/W/21/3268826**

#### **1 Liphook Crescent, London, SE23 3BW**

- 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 Stephen Green against the decision of the London Borough of Lewisham.
- The application Ref DC/20/118836, dated 16 October 2020, was refused by notice dated 7 December 2020.
- The development proposed is subdivision of the plot and construction of a new build, contemporary two-bedroom house.

### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. The Council has updated its refusal reasons to take account of the new London Plan (2021) adopted subsequent to the decision on the application.
3. The application follows a pre-application submission and a withdrawn planning application enabling some prior dialogue with the Council on relevant issues.

### **Main Issues**

4. The main issues are (a) the effect of the development on the character and appearance of the area, (b) the adequacy of living conditions for future occupiers in respect to outlook from lower ground floor bedroom windows and (c) the impact on living conditions of neighbouring occupiers in relation to overlooking and loss of privacy.

### **Reasons**

#### *Character and appearance*

5. The appeal relates to a semi-detached house on a triangular shaped plot which faces towards the junction of Liphook Crescent with Ringmore Rise. Land levels fall steadily from east to west such that the back garden is substantially below the adjacent street level in Liphook Crescent. There is a detached garage at the end of the back garden close to the flank boundary with 3 Liphook Crescent. The surrounding area is residential in nature, characterised mainly by two storey, detached and semi-detached houses with some variation in design.
6. The proposal is to demolish the detached garage and construct a low-lying modern dwelling towards the rear northern end of the site. The remaining back garden would be subdivided between the host and proposed dwellings.

7. Policy DM 33 of the Lewisham Development Management Local Plan (2014) (DMLP) directs development on infill, backland and back garden sites, providing definitions for these three development types. As the site has a long frontage to Liphook Crescent, the proposal would not be a backland development. Whilst the appellant argues the proposal could be considered to be infill, it is the definition for back garden development that better fits the circumstances. The policy recognises there will be instances where a particular site will not fall squarely within any one of these definitions, in which case, the principles to be applied will be taken from the appropriate parts of this policy.
8. Section C to DM Policy 33 states "*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 proposal would involve development of an enclosed rear garden within such an urban typology. It would not be in accordance with this restrictive policy. But it would still be appropriate to examine the policy's wider principles and other relevant development plan policies. The general principles to DM Policy 33 require development to be of the highest design quality and to relate successfully and sensitively to the existing design quality of the streetscape.
9. Policy H2 of the recently adopted London Plan states that planning decisions should support well-designed new homes on small sites, to significantly increase the contribution of small sites to meeting London's housing needs and to support those wishing to bring forward custom led housing. Furthermore, Policy H2 states that Boroughs should recognise in their Development Plans that local character evolves over time and will need to change in appropriate locations to accommodate additional housing on small sites. The policy is up to date and attracts full weight. It is consistent with Paragraph 119 of the National Planning Policy Framework (the Framework) which states that planning decisions "*should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment*".
10. There is therefore a tension between the protection of back gardens in DM Policy 33 and more recent London wide and national planning policies which recognise that well-designed schemes on small sites in built up areas can make an important contribution to housing need.
11. Policy D3 of the new London Plan advocates consideration of design options to determine the most appropriate form of development that responds to a site's context. Also, that incremental densification should be actively encouraged to achieve a change in densities in the most appropriate way, and that this should be interpreted in the context of Policy H2 on small sites. Similarly, DM Policy 30 of the DMLP on urban design, requires a site specific response which creates a positive relationship with the existing townscape whereby the height, scale and mass of the proposed development relate to the urban typology of the area.
12. The proposed dwelling would be partly located on the site of the present garage which is set below street level and sited just behind the front wall and integral garage to 3 Liphook Crescent. Its mono-pitch roof would be higher than the pitched roof to the garage and the dwelling would be wider, but it would nonetheless similarly present to the street as a single storey structure. It would be sited slightly forward of the frontage to no.3 but would not be closer to the footway than the front wall to 9 Liphook Crescent. Its siting would

respect the siting of other dwellings following the curvature of the road, resulting in a front garden of comparable depth and width.

13. The proposed dwelling's mass and form would not replicate the predominant two storey house type in the area, but Liphook Crescent includes a bungalow and variation in the design and materials used on the dwellings. It does not have a completely homogeneous character. The proposed dwelling would be at the end of a row of houses, before the long gap to no.1 Liphook Crescent, sited side on to the road and on lower ground. It would appear as a subservient structure to the row of houses and a transitional element in the street scene.
14. The back garden retained for the host property would be significantly reduced in size. The retention of such gardens as an integral part of the original design of these areas is important to the reasoning behind DM Policy 33. Yet there is considerable variation in the size of private back gardens in the area. The host dwelling has a relatively large back garden supplemented by an elongated front garden area. The division of the remaining back garden between the host and proposed dwellings would result in modest but adequate back garden for both dwellings, comparable in area to some of the smaller back gardens nearby. The retention of a high boundary fence to Liphook Crescent would ensure adequate privacy within these gardens.
15. The appellant has referred to four nearby sites for new dwellings. Only one of these sites, at 12 Ringmore Rise, is similar to the appeal site, but the two houses constructed relate to the time of a different local planning policy regime. These development sites do not act as precedents for the proposal but do indicate local character changing over time as envisaged by Policy H2.
16. In my judgement, the proposal would not have a significant adverse impact on the urban grain of the road. Any harm arising from the conflict with the restrictive and protective clauses on DM Policy 33 would be outweighed by the more recent policy imperatives to promote sensitive infill developments on small sites. The siting, mass and orientation of the proposed dwelling have followed a design-led approach that have responded to the site's context in accordance with Policy D3. Its design would be compatible with general principles set out in Policy 15 of the Lewisham Core Strategy (2011) and DM Policy 33 and with the site specified response called for in DM Policy 30.

#### *Outlook*

17. Both bedrooms would be located at lower ground level, served by windows set back approximately 3m from the new boundary, where there would be a high fence separating the gardens. The bedrooms' floor level would be below ground level, but their windows would be above it, of appropriate size for the rooms and of suitable height to enable outlook. The south-westerly orientation would ensure that the rooms would benefit from adequate natural lighting. Notwithstanding the proximity of the boundary fence, outlook from the bedrooms across the dwelling's own garden would be satisfactory.
18. There would not be conflict with Policy D6 of the London Plan in relation to the minimum internal space standards or housing quality including in relation to outlook. Similarly, the level of outlook provided would not conflict with Policy 1 of the Core Strategy on housing provision and mix, with DMLP Policy 32 on housing design, layout and space standards, or with the Housing SPG of the London Plan (2016).

### *Living conditions*

19. The proposed dwelling would be sited further from the flank wall to 3 Liphook Crescent than the present garage, would have a similar depth but would have a greater height and width. The rear garden to no.3 is not deep but includes a lower patio to the rear of the proposed dwelling from which its greater mass would be evident. The high level rear facing windows to the kitchen dining room at upper ground floor level would ensure no overlooking of the garden at no.3. However, the rear facing aspect to the corner open balcony would afford views over the boundary fence, as would the top steps to the flight of steps proposed to the rear of the building. There are steps leading to a back door to the garage, which is used for storage rather than parking, so these steps form the main access. It is just possible to see into no.3 from these steps. But the submitted plans indicate that a more significant level of overlooking would arise from the proposal.
20. The proximity of the balcony and new steps to the nearer, relatively private, parts of the garden to no.3 would give rise to a sense of being overlooked and a loss of privacy. There would also be opportunity to look towards the rear upper windows at 33 and 33a Ringmore Rise due to the fall in ground level, but given the greater separation, in my judgment, there would not be a material loss of privacy. Nor would there be a material loss of privacy within the back garden to 35 Ringmore Rise as it would be the rearmost part of the back garden that could be viewed over the lower part of the boundary fence in front of the balcony.
21. In relation to the impact on 3 Liphook Crescent, the proposal would thereby be contrary to clauses within Core Strategy Policy 15 and DMLP Policies 30, 31, 32 and 33 inasmuch as they relate to amenity considerations including overlooking and loss of privacy.
22. The appellant contends the steps would only be used for occasional access, but there can be no assurance that this would be so. The proposal would result in a more intense use of the rearmost part of the site, including the garden area for the new dwelling, which would be of modest proportions. The use of the steps is not a matter that could readily be enforced by a planning condition.

### **Other Matters**

23. Residents have raised concerns on issues other than those I have examined. The proposal would result in additional parking pressures on local streets; but having regard to the length of the site frontage to Liphook Crescent and to the parking survey, this would not result in nuisance or capacity issues. Any noise or disturbance from construction activities would be temporary and could be controlled by a planning condition, as could external lighting impacts.

### **Conclusion**

24. The proposal's benefit in providing one additional dwelling towards housing need would be outweighed by the harm to living conditions at 3 Liphook Crescent. For the reasons given the appeal should be dismissed.

*Rory MacLeod*

INSPECTOR