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# Appeal Decision

Hearing held on 10 January 2017 and 14 February 2017

Site visit made on 14 February 2017

**by Alison Partington BA (Hons) MA MRTPI**

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

**Decision date: 3 March 2017**

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**Appeal Ref: APP/C5690/W/16/3155510**

**Phoebe's Garden Centre, Penerley Road, Catford, London SE6 2LQ**

- 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 Michael Jordan against the decision of the Council of the London Borough of Lewisham.
  - The application Ref DC/16/095415, dated 4 February 2016, was refused by notice dated 10 June 2016.
  - The development proposed is the demolition of the existing buildings at Phoebe's Garden Centre, Penerley Road, SE6 2LQ, and the construction of a three storey building incorporating balconies to provide 5 one bedroom, 15 two bedroom and 9 three bedroom self-contained flats, together with the provision of car parking spaces, cycle spaces and landscaped garden areas.
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## Decision

1. The appeal is dismissed.

## Application for costs

2. An application for costs was made by Mr Michael Jordan against the Council of the London Borough of Lewisham. This application is the subject of a separate Decision.

## Procedural Matters

3. The hearing opened on 10 January 2017 but had to be adjourned as it became apparent that adequate notification of the hearing had not taken place. It then reconvened on 14 February 2017 after further notification of residents had taken place.
  4. During the application process the scheme had to be amended to take account of a covenant that exists on part of the site. This reduced the parking area by 2 spaces, and removed the private outdoor space for two ground floor flats. Amended plans were submitted at the appeal stage which, through the use of internal opening doors, provided private outdoor space for the two ground floor flats. The appellant indicated that letters were hand delivered to all houses surrounding the site informing occupiers of the revised plans. Given this, I am satisfied that no party would be prejudiced by my determining the appeal on the basis of these amended plans.
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## Main Issue

5. The main issues in the appeal are:

- Whether or not the proposal would preserve or enhance the character or appearance of Culverley Green Conservation Area; and
- Whether or not the proposal would provide adequate living conditions for future occupiers with particular regard to private outdoor space.

## Reasons

### *Character and Appearance*

6. The appeal site is a garden centre which has now closed. It includes a large commercial greenhouse building, and a single storey ancillary office building, as well as large areas of hardstanding. It is roughly triangular in shape, and is located at the rear of properties on Penerley, Bromley and Bargery Roads.
7. The site is located within Culverley Green Conservation Area which is a mainly Edwardian residential suburb with wide tree lined streets. The common size, shaping and form of dwellings in the area, which are predominantly semi-detached with twin projecting gables, recessed doorways, large bay windows and a symmetrical façade, and the limited palette of materials, are key characteristics of the conservation area, and give it a strong sense of unity and cohesion. The tree lined roads, and long rear gardens, help to create a sense of space in what is a densely developed area.
8. The *Culverley Green Conservation Character Appraisal (October 2001)* identifies the appeal site as one of a number of sites that detract from the special character of the area, and which has particular potential for enhancement. As a consequence, the Council have indicated that the redevelopment of this brownfield site for a three storey residential development is accepted in principle. However, the Council consider that the overall design of the building is not appropriate, given its location within the conservation area.
9. As a backland site, there are only a limited number places in the surrounding area where the buildings can be seen, and in these the buildings are often partially screened by trees and other vegetation in the rear gardens of properties. In addition, it is visible from the rear elevations of the properties that surround the site. I appreciate that residents' appreciation of the special character and appearance of conservation areas derives from views within their own dwellings as well as public viewpoints.
10. Furthermore, irrespective of the location and visibility of a site, Policies DM33 and DM36 of the *Development Management Local Plan (adopted November 2014)* (DMLP) highlight that development on backland sites, and sites within a conservation area, must still secure a high standard of design which are compatible with the existing street scape and the special characteristics of the area.
11. The proposed development would consist of a 3 storey L-shaped building with a contemporary design. The design of the building and the communal open space has sought to respect the triangular shape of the plot, as it was

- highlighted at the hearing that triangular shaped areas of open space are an important feature of the area.
12. Whilst I agree with the Council that a 3 storey building may be acceptable on the site, the footprint and mass of the proposed building would be considerable, and out of keeping with the domestic proportions of the majority of buildings in the area. It has been highlighted that the current buildings on the site, and particularly the greenhouse, also have a considerable mass and footprint. However, their more limited height, and the lightweight, translucent nature of the greenhouse means they are much less obtrusive than the appeal proposal would be.
  13. In particular, the northern and western elevations of the proposal, which would be the most visible when entering the site, would appear large and unrelenting. I accept that in order to ensure the building is subservient to the surrounding dwellings this elevation has been kept quite simple, and that attempts have been made to break up these elevations through the use of differing materials, brickwork detailing, glass stairwells, and stepping out the parts of the building either side of the stairwell. However, the lack of any variation in height, and the overall length, of this continuous frontage would still create a solid and dominant feature that would not respect the permeable, fine grain urban typology of the conservation area.
  14. I note that revised plans submitted during the application process, showed a mansard type roof to the northern and western elevations to help to reduce the bulk of building. However, as mansard roofs are not a feature of dwellings in the conservation area, or beyond, this would be an alien and incongruous feature.
  15. It has been highlighted that the proposed building would have a similar footprint to the apartment building on Bromley Road. Be that as it may, the highly stepped front elevation, and variety in the roofline, of this building, considerably reduces its mass and bulk, in a way not achieved by the appeal scheme.
  16. Overall, I consider that the building would not be consistent with, or sympathetic to, the key characteristics which define the conservation area within which it is located. In failing to do this, even though the current site is one identified as where improvement is sought, it would be detrimental to the character and appearance of the area.
  17. Consequently, I consider that the proposed development would not preserve or enhance the character or appearance of Culverley Green Conservation Area. Accordingly, it would conflict with Policies DM33 and DM36 of the DMLP outlined above. In addition it would be contrary to Policy DM30 of the DMLP and Policy 15 of the *Lewisham Core Strategy Development Plan Document (adopted June 2011)* (LCS) which seek to ensure that developments have the highest standards of design and are compatible and/or complement the urban typology.
  18. Having regard to paragraph 134 of the *National Planning Policy Framework* (the Framework), the harm caused to the conservation area would be less than substantial, and therefore needs to be weighed against the public benefits of the proposal.

19. The proposal would utilise a previously developed site to create 29 dwellings, and would also make a contribution to affordable housing in the area. It is also argued that it would remove an incompatible use from this residential area. Although I accept that housing targets are a minimum not a maximum, the Council indicated that they are currently exceeding their housing targets. As such, the contribution to housing supply in the area has limited weight. Moreover, these benefits could all be achieved from a scheme whose design did not cause the same harm to the character and appearance of the conservation area.
20. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 indicates that the desirability of preserving or enhancing the character or appearance of a conservation area is a matter of considerable importance and weight. In this case, I consider that the public benefits of the scheme would be insufficient to outweigh the less than substantial harm.

#### *Living Conditions*

21. As well as a communal garden and a children's play area, the majority of the apartments would be provided with private open space, in accordance with Policy 3.5 of *The London Plan (adopted March 2015)* and Standards 26 and 27 of the *Housing Supplementary Planning Guidance (adopted March 2016)*. During the application process, issues relating to a covenant on part of the site lead to the removal of the private amenity space for two of the 3 bed units on the ground floor. However, this has now been addressed by the provision of inward opening patio doors on these two flats, which would enable access to a private outdoor space.
22. In the light of this, subject to a satisfactory condition, I consider that all the flats would be provided with acceptable levels of both private and communal areas of outdoor space.
23. Therefore, I consider that the proposed development would provide adequate living conditions for future occupiers with particular regard to private outdoor space. As a result, it would comply not only with the policies outlined above but also with Policy DM32 of the DMLP, which seeks to ensure that all new housing developments are provided with adequate private and useable external space, amongst other things.

#### *Other Matters*

24. The proposed development would be provided with 9 parking spaces as well as cycle parking. As the appeal site is located in an accessible location, close to Catford town centre, and with good public transport links, the Council have indicated that this is an area where parking should be restricted, and the parking spaces provided would accord with the maximum standards.
25. Moreover, the application was accompanied by a parking survey that indicated should the scheme create demand for on-street parking, the surrounding streets had sufficient capacity at the times when that was most likely to occur. Given this, the Highways Engineer had no objection to the scheme. In the light of this evidence, whilst I appreciate the existing problems with parking in the area raised by local residents, particularly at either end of the school day, I am satisfied that the proposal would not materially harm highway safety in the area.

26. The surrounding properties have long rear gardens, and the proposed building would be set in from the site boundaries. As a result, the Council have stated that a separation distance of at least 32m would be maintained between the proposed and existing windows, which they indicate exceeds their minimum standards. Given this, I am satisfied that the proposal would not result in any significant loss of privacy, or light, to the surrounding properties, nor that it would have an unacceptable overbearing impact.
27. The use of the site as a garden centre would have created noise from the comings and goings of staff, customers and deliveries. In contrast to the proposal, this would have been largely during the day time. Nevertheless, given the limited number of parking spaces that would be provided on the site, and the distances maintained to the surrounding dwellings, I consider that noise levels would continue to be well within the levels normally considered acceptable. Consequently, I consider the proposal would not be detrimental to the living conditions of nearby residents.
28. The appellant has raised concerns with the Council's handling of the case following a lengthy pre-application process as part of a Planning Performance Agreement. Whilst I understand the appellant's frustration in this regard, this is a matter that in the first instance would have to be taken up with the Council. In determining the appeal, I have only had regard to the planning merits of the case.

#### *Planning Obligation*

29. The application originally had a reason for refusal related to the lack of provision of affordable housing. It has been confirmed by both sides that, following detailed discussion regarding the viability of the scheme, an affordable housing contribution has now been agreed. To this end the appellant has submitted a signed Unilateral Undertaking securing payment in lieu of on-site affordable housing. I have considered this in the light of the statutory tests contained in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 204 of the Framework.
30. Policy 1 of the LCS seeks to ensure that developments of 10 or more dwellings contribute towards the provision of affordable housing with a strategic target of 50% of the total dwellings. This is also supported by Policy 7 of the DMLP. The *Planning Obligations Supplementary Planning Document (adopted February 2015)* sets out more detail on the Council's approach to affordable housing and the need for such housing in the area.
31. However, the provision of affordable housing is subject to a financial viability assessment. In this case it is agreed that the viability of the scheme is such that a contribution of £415,000 in lieu of on-site provision is acceptable, and the Unilateral Undertaking makes provision for this. The Council indicated that this would be utilised to provide affordable housing elsewhere in the borough. Therefore I consider that the obligation passes the statutory test, and as outlined above, this is a benefit of the scheme.

#### **Conclusion**

32. I have found that the scheme would provide adequate living conditions for future residents. However, this, together with an absence of harm with regard to highway safety and the living conditions of nearby residents, are neutral

factors. Therefore, even having regard to the public benefits of the scheme outlined above, they do not outweigh the harm that would be caused to the character and appearance of the Culverley Green Conservation Area. Accordingly I conclude that the scheme should be dismissed.

*Alison Partington*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Mark Pender	PPM Planning
Darren Stacey	March Designs
Jonathan Edis	Heritage Collective
Michael Jordan	
Malachy McAree	March Designs
Matthew Rosson	Landhold Developments

### FOR THE LOCAL PLANNING AUTHORITY:

Suzanne White	Planning Officer, London Borough of Lewisham
Drew Pinazza	Urban Designer, London Borough of Lewisham
Natasha Peach	Conservation Officer, London Borough of Lewisham

### INTERESTED PERSONS:

Vivienne Ramsey	Culverley Green Residents Association
John Strange	Resident
Billy King	Resident
Kieran Metcalf	Resident
Pierpaolo Finaldi	Resident
Angela Joseph	Resident
Eric Kentley	Resident
Mary Bourne	Resident

## DOCUMENTS SUBMITTED AT THE HEARING

1. Letter of objection from H A Forrester submitted by the objector.