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## Appeal Decision

Site visit made on 23 January 2017

by **Tim Wood BA(Hons) BTP MRTPI**

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

Decision date: 14 February 2017

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**Appeal Ref: APP/C5690/W/16/3160729**

**5 Churchley Road, London SE26 6JF**

- 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 Mrs Saroj Morjaria against the decision of the Council of the London Borough of Lewisham.
  - The application Ref DC/16/095900, dated 15 March 2016, was refused by notice dated 24 August 2016.
  - The development proposed is a new residential building comprising 6 apartments over lower ground, upper ground, first and second floors.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this appeal are;
  - The effects of the proposal on the character of the area
  - The effects of the proposal on wildlife.

### Reasons

#### ***The effects of the proposal on the character of the area***

3. The appeal site sits broadly between development on 2 roads; Wells Park Road to the north and Longton Grove to the south. The land falls from the north to the south and buildings to the north are represented by a sizeable development of flats and those to the south by large houses. In the immediate vicinity, houses on Churchley Road consist only of a pair of modest bungalows (Nos 1 and 3) and No 5, a 2 storey house. Land to the north, south and west of the appeal site is used as allotments and is largely open in character. Whilst the ownership and use varies, the impression is that the appeal site forms part of a larger swathe of open land which separates development to the north and south.
4. The allotments are designated as Urban Green Space within the Local Development Framework Policies Map. Core Strategy Policy 12 recognises the importance of the natural environment and seeks to, amongst other things, protect the character of open spaces from development within and outside their boundaries and seeking exemplary design. Policy 15 of the Core Strategy adds that, in such areas as this, the impact on biodiversity or open space will need

to be addressed. These matters are amplified within Policies DM 30 and DM 33 of the Development Management Local Plan (DMLP).

5. The appeal site can be seen as a finger of land extending into the allotments. Whilst it is not used as allotments, the green and unbuilt nature of the appeal site complements the wider open area. The proposal would involve the construction of the part 3 and part 4 storey building within the western part of the site. It would be constructed in close proximity to the site boundaries on the 3 sides that bound the allotments.
6. In visual terms, I consider that the proposal would appear divorced from any of the surrounding built development, be that to the north or south, or equally to the few houses on Churchley Road. It would not relate in terms of scale to the Churchley Road houses, nor would it appear part of it due to the separation by the remainder of the appeal site. Furthermore, as I have identified, the appeal site forms part of a larger open area of land which performs a valuable function in separating 2 areas of development and providing a green space which adds considerably to the local character. The proposal would involve the construction of a sizeable building within this area and this would significantly erode the contribution that this site makes to the wider area.
7. The allotments appear to be well used and would not only offer the functional use for locals but also offer an amenity which is no doubt valued by them. I consider that the imposition of the considerable size of the appeal proposal within a few meters of 3 sides of the site would have a considerable and negative effect on the amenity value of the allotments and on their valued character. As a result of my findings, I conclude that the proposal is contrary to Policies DM 30 and DM33 of the DMLP and Policies 12 and 15 of the Core Strategy.

### **Wildlife**

8. The appellant has undertaken a 'Preliminary Ecological Assessment' within which it is identified, amongst other things, that there is a likelihood that bats use the site or immediately adjacent land for roosting and/or foraging. From the information submitted, it appears that it is also accepted that there is a risk that bats may be adversely affected by the proposal. The appellant then recommends that further surveys should be undertaken in order to establish the presence and use of the site by bats. However, Circular 6/2005 '*Biodiversity and Geological Conservation*' indicates that surveys should be carried out before planning permission is granted and that surveys should only be required by conditions in exceptional circumstances. It appears from the information submitted that the same can be said in relation to badgers.
9. In the case before me I find no exceptional circumstances. Therefore, in the context that there is an acknowledged likelihood of bats and other protected species being affected by the proposal, the lack of survey information leads me to conclude that harm could arise to bats and other species. Therefore, the proposal is in conflict with Policy DM 24 of the DMLP.

### **Other Matters**

10. I have taken account of the loss of trees on the site, as referred to in the appeal documents and by local interested people. I note that survey information regarding the condition of the trees affected has been submitted

and that this, along with other matters, has influenced which trees are indicated to be removed. I note that the Council's officers have considered the arboricultural evidence and have not contested the loss of trees on these grounds. In the absence of any other evidence, I consider that the level of tree loss on the site is acceptable, when judged on solely arboricultural grounds.

**Conclusion**

11. I have taken account of all other matters, including the benefits arising from the provision of additional homes within an accessible location. However, I find that neither this nor any other matter is sufficient to outweigh the harm that I have identified. Therefore, the appeal is dismissed.

*S T Wood*

INSPECTOR