The Planning Inspectorate

Appeal Decision

Site visit made on 4 January 2017

by Daniel Hartley BA Hons MTP MBA MRTPI

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

Decision date: 18th January 2017

Appeal Ref: APP/A5840/W/16/3158219
4 Sternhall Lane, Southwark, London SE15 4NT

- 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 Kelli Kendric against the decision of the Council of the London Borough of Southwark.
- The application Ref 15/AP/5037, dated 11 December 2015, was refused by notice dated 8 March 2016.
- The development proposed is the creation of an outdoor play area/roof garden via a proposed glass extension for an existing nursery.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal upon the living conditions of the occupiers of surrounding residential properties in respect of noise and No 7 Sternhill Lane in terms of outlook.

Reasons

Site and proposal

3. The appeal site relates to a ground floor children's nursery which falls within a part three, part four storey building with apartments on the upper floors. It is proposed to erect a first floor glazed extension and to form a roof terrace on an existing single storey building in the north west corner. The extension would be about 1.8 metres high and an 11 square metres structure covering a proposed staircase leading from the ground floor to the first floor terrace. The terrace would occupy approximately 14.8 square metres and would have glazed balustrades to the west and south.

Noise

4. The appellant has confirmed that the outdoor play area would be occupied by up to eight children at any one time and that they would be supervised by up to two adults. I note that the appellant would accept a restriction on the times of the day that this area would be used (ie 10.00 to 16.00 Monday to Friday). However, the area would be in very close proximity to an existing apartment which has an outdoor terrace positioned at a similar level. Furthermore, and notwithstanding the boundary treatment between the appeal site and No 7

Sternhall Lane, I do consider that use of this relatively small area (and hence noise) by up to ten people would also be very apparent for the occupiers of the terraced dwelling. The noise from users of the proposed development would be particularly noticeable when neighbouring residents were using outside spaces or when they were inside their properties with the windows open. Hence, whilst I acknowledge that a restriction on the hours of use of the terrace would to some extent mitigate significant adverse impacts, the proposal would still be unacceptable as neighbouring residents should be afforded a reasonable degree of peace and quiet at all times of the day.

5. I acknowledge that there is a reclamation yard to the rear of the appeal site, but on my site visit I did not witness a lot of noise from this site. In general terms the rear of the appeal building and No 7 Sternhall Lane was relatively quiet. However, there does seem to be some suggestion from the appellant that during some periods there is noise from the reclamation yard: that is entirely possible. However, even if that were the case, I do not consider that it would be reasonable to subject residents to further noise from an area which is in closer proximity to existing residential properties. In conclusion, I consider that the proposal would have the potential to result in an unacceptable amount of noise for the occupiers of neighbouring residential properties. Consequently, the proposal would not accord with the amenity aims of Strategic Policy 13 of the Southwark Council Core Strategy 2011 and saved Policy 3.2 of the Southwark Plan 2007.

Outlook

6. The proposal would have the effect of increasing the height of existing development on the boundary with No 7 Sternhall Lane. I accept that there is already a relatively high wall on the boundary with No 7 Sternhall Lane, but I consider that this already has a harmful enclosing impact. An increase in the height of development along this boundary would compound this issue. The proposal would constitute a significantly overbearing and enclosing form of development which would have a detrimental impact upon the occupiers of such a property.

7. I therefore conclude that the proposal would have a detrimental impact upon the living conditions of No 7 Sternhall Lane in respect of outlook, and would not therefore accord with the amenity aims of Strategic Policy 13 of the Southwark Council Core Strategy 2011 and saved Policy 3.2 of the Southwark Plan 2007.

Other Matters

8. I have taken into account all representations made by other interested parties including supportive comments. I have also taken into account the fact that this proposal would improve the space and facilities offered by the existing children's nursery, and that it would be possible to ensure that there was not significant harm caused to the living conditions of the occupiers of the neighbouring residential properties from a privacy point of view. However, none of these matters would overcome my conclusion on the main issue.

Conclusion

9. For the reasons outlined above, the proposal would not accord with the development plan for the area. There are no material considerations which would outweigh the identified conflict with the development plan. Therefore, the appeal should be dismissed.

Daniel Hartley

INSPECTOR