
Appeal Decision

Site visit made on

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 25 May 2017

Appeal Ref: APP/P5870/W/17/3168980

First Church of Christ, Scientist, 42 Cheam Road, Sutton SM1 2SS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mrs Tricia Rickard, The Board of Directors, First Church of Christ, Scientist, against the decision of the Council of the London Borough of Sutton.
 - The application Ref B2016/74227/OUT, is dated 19 April 2016.
 - The development proposed is the demolition and development to provide a new D1 space on the ground floor and nine flats above with a retained car park and associated amenity space.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the Board of Directors, First Church of Christ, Scientist, against the Council of the London Borough of Sutton. This application is the subject of a separate Decision.

Preliminary matters

3. The appeal follows the failure of the Council to give notice within the prescribed period of a decision on an application for outline planning permission for demolition and development to provide a new Class D1 space on the ground floor and nine flats above with a retained car park and associated amenity space.
4. The Council has not subsequently clarified its position regarding the appeal proposal.
5. The application was made in outline with matters relating to appearance and landscaping reserved for future consideration. I have determined the appeal on the same basis and have treated the plans showing the elevational treatment as indicative only.

Main Issues

6. The main issues are:
 - the effect of the development on the living conditions of the occupiers of neighbouring properties with particular reference to privacy, outlook, light and sunlight;
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- whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to noise and disturbance;
- whether the proposal would result in the loss of a community building; and
- the effect of the proposed development on the character and appearance of the area.

Reasons

Living conditions

7. As noted above, the appeal building would be located to the east of the existing 3 storey block of flats known as Cromer Mansions. The side elevation of this block includes a number of bedroom windows which presently look out onto the two storey part of the church and its hipped roof which slopes away from Cromer Mansions and from the back and front of the building.
8. Whilst the footprint of the proposed building would be positioned no closer to this elevation than the existing building, it would be significantly taller with a much greater bulk and physical presence. Consequently, the outlook from the affected windows would be dominated by a mass of built form in a way that I consider would be overbearing and oppressive. The harm would be experienced on all of the floors but the severity would increase towards the ground floor. Although the windows are labelled as secondary bedroom windows on the proposed drawings, I have been provided with no evidence which diminishes their importance to their occupants.
9. Given the height, depth and proximity of the development to the windows, the proposal would also result in a significant loss of daylight reaching the bedrooms they serve. Moreover, the orientation of the proposed building to the east of Cromer Buildings would also likely cause a material loss of sunlight and increase in overshadowing at earlier times of the day.
10. I note that the proposed windows in the southern elevation of the proposed flats are to serve kitchens and are indicated as being obscure glazed. On this basis the proposal would not result in unacceptable levels of overlooking and loss of privacy to the bedrooms opposite.
11. The proposed building would also significantly extend beyond the depth of Cromer Buildings. I acknowledge this is the case with the existing building but as explained, the scale and massing of the proposed replacement building would be significantly greater. It is likely therefore that additional harm would arise at the rear of Cromer Mansions and its rear garden area in terms of outlook, loss of light and sunlight and potentially overlooking. However, I was unable to view the appeal site from the rear of Cromer Buildings so I am unable to judge the degree of harm which would arise. Nevertheless, the harm in terms of outlook and loss of light to the eastern facing windows of Cromer Mansions is sufficient on its own to warrant withholding planning permission.
12. In terms of the proposed flats, the bedrooms in the eastern elevation would directly face the side of the Secombe Centre and what appears to be its main servicing area. Balconies are also proposed towards the north eastern corner of the building. Future occupants would therefore be exposed to noise

emanating from the building from concerts, including that of amplified music, as well as noise and disturbance from unloading and loading of production equipment and from audiences and visitors. No evidence in the form of a noise assessment has been provided to demonstrate that such matters would fall within acceptable parameters or are capable of reasonable mitigation.

13. Both the Sutton Theatres Trust and the Theatres Trust have also expressed that the introduction of a residential use in such proximity could potentially harm the operation and viability of the Secombe Centre should future occupants complain about the noisy activities carried out in this location. This is a legitimate concern.
14. I acknowledge that the flats would meet the nationally described space standards¹ and that the proposal would provide amenity space to the rear. However, whilst I remain unconvinced of the value of the rear amenity space, being north facing and adjacent to a car park and the entrance to the Class D1 use, these are neutral matters in the planning balance which cannot weigh in favour of the appeal proposal.
15. I therefore conclude that the proposal would be harmful to the living conditions of existing residents in Cromer Mansions and, on the basis of the evidence before me, would unlikely provide acceptable living conditions for future occupants. This would be contrary to Policy DM2 of the Site Development Policies DPD (SDP), which states, amongst other matters, that planning permission will not be granted for any development that adversely affects the amenities of future occupiers or those currently occupying adjoining or nearby properties.

Community facilities

16. SDP Policy DM31 states that planning permission will not be granted for development that involves the loss of a social or community facility unless it can be demonstrated that the facility is no longer required either in its current use or for any alternative social or community use, or suitable alternative provision is made or is available nearby.
17. The appeal building was previously used as a church but the appellant has explained that it is no longer required by the Christian Science Church. Nevertheless, it is clear from the representation received that there is significant interest in retaining the use of the building as a church and for community related purposes. Indeed, Sutton Baptist Church, who are currently using the Secombe Centre next door, are interested in its acquisition. Accordingly, on the basis of the evidence before me, it cannot be argued that the facility is no longer required either in its current use or for any alternative social or community use.
18. In any case, the proposal seeks to provide a replacement Class D1 space at the ground floor level, which in principle would be in compliance with SDP Policy DM31. On the basis of the evidence provided by the appellant, a comparable level of floor space would also be provided. However, I have little information of how the space would be operated and managed. This would be a matter for which I would wish to be satisfied, particularly as Policy DM31 requires suitable alternative provision to be made. I would also look to be satisfied that the

¹ DCLG. Technical housing standards - nationally described space standard (March 2015)

Class D1 use could operate without undue restriction and without undue harm to the living conditions of future occupants above.

19. One parking space is proposed for each of the nine flats. Whilst this would leave only seven spaces for the Class D1 use, I note that the site is in close proximity to a multi-storey car park. Therefore subject to appropriate management of the remaining spaces for those with the greatest need to park closest to the building, this would be a satisfactory arrangement.

Character and appearance

20. The site is presently occupied by the church, hall and dwelling with a car park to the rear. The site is set in landscape grounds with a number of mature trees in and around the periphery which make a significant contribution to the visual amenity of the street scene. The combined existing built form is modest in its scale and is set back from and below the level of Cheam Road and the adjacent footpath.
21. Whilst the main form of the replacement building would be larger than Cromer Mansions, the difference in height would not be significant. Its height would also be less than that of the Secombe Centre to the north and the scale of the Holiday Inn beyond. The scale and massing of the proposal would not therefore be out of place within the street scene. Accordingly, the proposal would not result in conflict with SDP Policy DM1, insofar as it seeks to ensure new development is of a scale, massing and height that is appropriate to the setting of the site and/or townscape function.
22. The appellant has also made reference to an emerging STC Draft Master plan 2016, which allocates the site for development of up to 10 storeys. However, I have not been provided with a copy of this document and I am unaware of its current status and whether any objections have been received. I have therefore applied little weight to this reference.
23. As noted above, the appearance of the development is reserved for future consideration. Therefore, although I am not convinced that the tower element of the proposal is appropriate, as it competes with the primacy of the Secombe Centre (a former church), I am satisfied that it would be possible to design a scheme that complies with the expectations of SDP Policies DM1 and DM3. These policies state, amongst other matters, that planning permission will only be granted for development that maintains and enhances the local character and appearance of the surrounding area.
24. The Council has provided a copy of a Tree Preservation Order (TPO) relating to three trees close to the site frontage. The appellant says a TPO made in the lifetime of the application was withdrawn. Whatever the status of the TPO, the appellant has provided an arboricultural report which concludes that the development would have negligible impact on the trees, subject to appropriate protection measures. I find no reason to take a contrary position. Moreover, I am satisfied that the footprint of the building would allow the existing landscape setting to be largely retained.
25. I therefore conclude on this main issue that the proposal would not result in undue harm to the character and appearance of the area and as such would not result in conflict with Core Policy BP12 and SDP Policy DM1.

Other matters

26. I agree that the proposal makes effective use of previously developed land in accordance with one of the core planning principles of the Framework and Core Policy BP1 and SDP Policy DM35. The proposal would increase housing supply in accordance with paragraph 47 of the Framework and the development benefits from a sustainable central location close to services and facilities. These are matters of significant weight in favour of the appeal proposal. However, to achieve the density and scale proposed would be at the cost of conflicting with other key principles of the Framework, including that planning should seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
27. For this reason, the proposal would not meet the social objectives of sustainable development and would not therefore benefit from the presumption in favour of the same.

Conclusion

28. For the reasons explained, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Richard S Jones

INSPECTOR