
Appeal Decision

Site visit made on 22 August 2017

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

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

Decision date: 7 September 2017

Appeal Ref: APP/A5840/W/17/3175440

33 Sternhall Lane, Peckham, 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 WRM Properties against the decision of the Council of the London Borough of Southwark.
 - The application Ref 16/AP/4395, dated 21 October 2016, was refused by notice dated 8 March 2017.
 - The development proposed is described as the 'demolition of existing derelict shed and creation of 6 residential units and B1 space in place of existing D1 use.'
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Notwithstanding the description of development used above, which is taken from the application form, the proposal would create five new residential units.

Main Issues

3. The main issues are whether the proposal would provide satisfactory:
 - living conditions for future occupiers with regard to the outlook from flats 1, 2, 3 and 4; the standard of accommodation in flats 3, 4 and 5 and the safety and convenience of the access to the flats;
 - arrangements for refuse storage and cycle parking.

Reasons

Living Conditions - Outlook

4. The appeal site comprises a one and two storey building with a largely paved garden to the rear. The two storey element of the building, which has a frontage onto Sternhall Road, would be retained. The single storey element to the rear would be demolished and two new buildings accommodating five flats and three Class B1 units, erected¹. The development would be accessed using the undercroft passageway in the retained element of the existing building and a new pedestrian route serving the new buildings to the rear.

¹ For the sake of clarity, I will refer to the centrally positioned new building containing two flats and two employment units as building A and the second new building containing three flats and one employment unit as building B.

5. Flats 1 and 2 would be at ground floor level in building A with all windows facing south towards modestly sized patio areas, beyond which would be the new pedestrian route. This route would be some 1.5m wide and would run along the southern boundary of the site. A 'right of way strip' runs on the other side of this boundary within the adjoining Cooper Works residential site. Whilst the new and existing routes would run parallel, the existing route would be some 700m higher and it would be necessary to have a safety guard at the change in levels between the new and existing routes. Moreover, the external spaces of at least some of the adjoining residential units have encroached over the right of way strip up to the common boundary with the appeal site. Those external spaces are modest in size and provide the rear outlook for the adjoining dwellings. Therefore, notwithstanding any landownership issues, even if the right of way strip were reinstated, it would be reasonable to expect the adjoining occupiers to erect fences on the reinstated boundary in order to safeguard their privacy.
6. The appellant and the Council disagree over whether it would be necessary to enclose the patio areas for flats 1 and 2 with an above eye-level screen. Having regard to the likely low level of movements along the pedestrian route, I am inclined to accept that a solid, full height enclosure would not be necessary in this case. This matter could be controlled by condition. However, even if a lower form of enclosure were used, the change in levels and enclosures on the south side of the new pedestrian would be directly opposite, and in close proximity to, the windows serving flats 1 and 2 and their external spaces. These enclosures would run the full length of the flats. Moreover, oblique views to the west and east would be curtailed by, respectively, the existing retained building and new building B. Together, these structures would have an enclosing effect on the outlook from flats 1 and 2.
7. Flat 3 and 4 would be on the first and second floors of building B. The windows serving the living and kitchen areas would face west towards the end wall of building A at a distance of between 7.7m and 8.4m (according to the Council) or 8.7m (according to the appellant). This discrepancy is not material for the purposes of my assessment. Even at the longer distance, the 6.6m wide facing building would have an enclosing effect on the views from flats 3 and 4. The end wall of building A would be glazed. As such, even during working hours of darkness, its presence would be apparent as a result of light spill. In addition, oblique views north and south from the affected windows would be curtailed by the solid structures of an adjoining building and the lift shaft of building B. I recognise that the green roof of the ground floor B1 unit would have a softening effect in downward views from the balconies of flats 3 and 4. However, this would not overcome my concerns regarding the outlook as a whole.
8. I have had regard to the examples at Appendix 4 of the appellant's statement which show residential developments with buildings directly opposite. Whilst there are buildings directly opposite windows in those cases, oblique views are not constrained in the way that they would be in the appeal proposal. Moreover, I have not been made aware of the full circumstances of those cases. On the basis of the information available therefore, I am not persuaded that the cited examples provide a robust justification for the appeal proposal.
9. Consequently, I consider that surrounding structures would have an unduly enclosing and overbearing effect on the outlook from flats 1, 2, 3 and 4 to the

detriment of the living conditions of future occupiers. The proposal would, therefore, conflict with London Plan 2016 (LP) Policy 7.6 to the extent that it requires buildings to provide high quality indoor and outdoor spaces. It would also conflict with saved Policies 3.2, 3.11, 3.12 and 4.11 of the Southwark Plan 2007 (SP) which require development to create high amenity environments and achieve good quality living conditions for future occupiers, including a high standard of outlook. Nor would the proposal accord with paragraph 17 of the National Planning Policy Framework (the Framework) which includes similar aims.

Living Conditions - Standard of Accommodation

10. The Council gives the size of the single bedrooms in flats 3, 4 and 5 as 6sqm. The appellant puts the figure at 7.2sqm, including a 0.7sqm built in cupboard. Whilst I recognise that built in cupboards are a common feature of housing layouts, the floor area of the bedroom itself would be 6.5sqm based on the appellant's figures. This is less than the 7sqm minimum size recommended in the Council's 2015 Technical Update to the Residential Design Standards Supplementary Planning Document (SPD) or the 7.5sqm size set out in the Government's Nationally Described Space Standards (NDSS). Policy 3.5 of the LP requires dwellings to achieve the minimum space standards set out in the NDSS, as well as provide functional room layouts.
11. The Council says that the smaller of the double bedrooms would not meet the NDSS requirement for second double bedrooms to be at least 2.55m wide. The appellant has not disputed this finding. Nor has information been provided to demonstrate that furniture could be laid out satisfactorily, given that this room has a second door leading to a loggia.
12. The reason for refusal also alleges that the single bedrooms would be poorly lit. However, this concern is not substantiated in the Council's statement. Whilst the bedrooms would receive natural light via a loggia, that wall would be fully glazed and the combined depth of the room and the loggia would be no more than the depths of the adjoining double bedrooms. Therefore, I consider that the single bedroom would receive adequate natural light.
13. Nevertheless, by virtue of the size of the single bedrooms and the width of the smaller double bedrooms, I find that flats 3, 4 and 5 would not provide a satisfactory standard of accommodation for future occupiers. The proposal would, therefore conflict with LP Policy 3.5, the NDSS and the SPD. It would also conflict with Policy 1 of the Council's Core Strategy 2011 (CS) to the extent that it seeks to ensure that development improves the places people live and work in.

Living Conditions - Access

14. The Council has expressed concern that the new pedestrian route would be narrow and bounded on both sides by high enclosures which would not allow adequate natural surveillance of the route. I have already found that it would not be necessary to provide a high enclosure around the patio areas of flats 1 and 2. The occupiers of those flats could, therefore, be expected to provide some surveillance of part of the route. The shallow, high level windows in the Class B1 units above flats 1 and 2, and the alignment of the route relative to flats 3, 4 and 5, would limit the opportunity for surveillance by those occupiers. In other respects the route would be very secluded, it would be fairly narrow

and provide no alternative means of escape. Moreover, none of the entrances to the flats would be visible, identifiable or directly accessible from the public realm.

15. The development would be accessed by mix of residential and commercial occupiers, as well as visitors, whose presence might prove difficult to challenge. Therefore, I consider that there would be inadequate natural surveillance of the route or the entrances to the proposed flats. As such, the proposed access arrangement would pose a risk to the safety of future occupiers. It would, therefore, conflict with LP Policy 7.3 which requires proposals to reduce opportunities for criminal behaviour and contribute to a sense of security by, among other things, ensuring that routes are legible, have natural surveillance and encourage an appropriate level of human activity. Nor would the access arrangement accord with SP Saved Policy 3.11, which requires development to make adequate provision for access to, from and through the site, or Policy 3.13 which requires site layouts to give consideration to safety and ease of movement, among other things.

Refuse Storage and Cycle Parking

16. The reason for refusal also refers to likely servicing and refuse storage conflicts and a cycle storage area which would have a poor relationship to the buildings/uses it serves. Application drawing 211/P4/03 shows a refuse area towards the front of the building and separate from the access route. There is nothing to suggest that the size of this area would be inadequate to serve the proposed development. Had I been minded to allow the appeal, a condition could have been used to require further approval of the refuse storage facilities, including the separation of storage for the residential and commercial uses.
17. Application drawing 211/P4/03 also shows cycle parking at the entrance to the building. I recognise that this location may conflict with delivery vehicles parking in the undercroft. However, a recessed space appears to be available on the other side of the access route from the proposed cycle parking location. Re-positioning the cycle parking in this space would remove potential conflict with delivery vehicles and it would be a slightly more secure location. I recognise that this location would still be some distance from the proposed flats and employment units. However, it would be on the route into and out of the development and, subject to detailed design could be made secure. Again, these matters could be controlled by the use of a planning condition. Consequently, subject to the use of conditions, I find that the proposal would provide satisfactory arrangements for refuse storage and cycle parking. As such, it would comply with CS Policy 2 insofar as it prioritizes cycling and Policy 13 insofar as it encourages recycling and the efficient management of waste.

Other Matters

18. The reason for refusal also alleges a 'poor stacking relationship' between the residential and commercial uses. However, the Council's statement does not adequately demonstrate how this would lead to harm in planning terms. Nor does it show that the proposal would conflict with LP Policy 7.15 which deals with the reduction and management of noise. Therefore, this matter has not been determinative in my decision.

19. Part of the appeal site falls within the Rye Lane Peckham (south) Conservation Area. However, there is no substantive evidence to indicate that the proposal would not preserve the character and appearance of the heritage asset and its setting. It would not, therefore, conflict with CS Policy 12 which expects development to preserve or enhance the Borough's historic environment.
20. I have had regard to the other concerns expressed locally, but none has led me to a different overall conclusion.
21. The appellant has commented on aspects of the Council's statement, including its reference to a previously refused planning application at the site and the introduction of 'other observations' not referenced in the reasons for refusal of the appealed application. For the avoidance of doubt, I have given very little weight to these considerations.

Planning Balance and Conclusion

22. Paragraphs 7 and 8 of the Framework require the economic, social and environmental dimensions of sustainability to be considered together.
23. The proposal would also make a limited, short-term contribution to the economic role of sustainability through the construction works. Although the employment units could also be expected to benefit the local economy, there is nothing to suggest that they would make a greater contribution than the existing Class D1 use of the appeal which would be lost as a result of the proposal.
24. The provision of additional residential units is supported by paragraph 47 of the Framework and Policies 3.3 and 3.8 of the LP which seek to boost the supply of housing. However, the five units proposed would make a modest contribution to the supply of housing and this limits the weight I can attach to this benefit.
25. The appellant argues that the proposal would improve the character and appearance of the area. However, there is no firm evidence to show that existing use of the site is a visual detractor or that the proposed development would represent a material enhancement.
26. Consequently, I consider that the harm to the living conditions of future occupiers identified above would have a significantly negative impact on the social role of sustainability which would outweigh the modest social benefit arising from the additional housing and the limited economic benefit of the proposal. As such, the proposal would not amount to sustainable development for the purposes of Framework paragraph 14.
27. For the reasons set out above, the appeal should be dismissed.

Simon Warder

INSPECTOR