
Appeal Decision

Site visit made on 26 February 2018

by Jonathan Hockley BA(Hons) DipTP MRTPI

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

Decision date: 04 April 2018

Appeal Ref: APP/A5840/W/17/3181194

206 Bermondsey Wall East, London SE16 4TT

- 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 Idris Ahmed against the decision of the Council of the London Borough of Southwark.
 - The application Ref 17/AP/0264, dated 11 January 2017, was refused by notice dated 22 March 2017.
 - The development proposed is a new build 2 bedroom town house.
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Decision

1. The appeal is dismissed.

Preliminary Matters and Main Issue

2. Evidence states that planning permission was granted in 2016 for a 2 storey 1 bed dwelling house with basement at the same site. A further application for a 3 storey 2 bed house with basement was then submitted. The appellant states that during the course of the application amended plans were submitted which set back the second floor of the proposed house, but that the Council did not respond to these plans. The application was determined by the Council on the basis of the original plans and was dismissed on the effect of the scheme on the character and appearance of the area and the setting of a nearby Conservation Area.
3. The design of the proposal in the amended plans has clearly changed, but the reduction in the 2nd floor to a certain extent reduces the scale of the scheme. Furthermore the amended plans have been consulted on as part of the appeal and interested parties have had the opportunity to comment on them, and as such the proposal has not deprived interested parties on the changed nature of the scheme. After careful consideration I have therefore considered the amended plans in my decision below.
4. The Council note that since the application was determined the adjacent building, the Old Justice public house, has been listed by Historic England. The building was listed on 23 November 2017. The Council are of the view that the harm that the scheme causes also applies to the setting of the adjacent listed building. The appellant had the opportunity to comment on this change in their final comments.
5. The main issue in this case therefore is the effect of the proposed development on the setting of the Old Justice public house, a Grade II listed building, and on

the character and appearance of the area, including the setting of the nearby King Edward III's Rotherhithe Conservation Area.

Reasons

6. The appeal site faces Bermondsey Wall East, which is characterised largely by residential development and the far reaching views possible from many aspects of the River Thames and the City of London. The appeal site lies towards the west end of the road and consists of a long narrow plot of land between No 206 Bermondsey Wall East and the Old Justice Public House. The houses in the area are mainly 3 storey modern properties constructed in buff brick. No 206 is a semi-detached dwelling; both it and its neighbouring property have an integral garage built at ground level.
7. Older buildings in the immediate area appear to be restricted to the public house and to No 48 Farncombe Street, a Regency former office for a now demolished sewer pumping station located on the other side of Farncombe Street to the pub. This building is constructed in stock buff brick with stone dressings and segmental gauged brick arches to 3 ground floor windows.
8. The Old Justice Pub, seemingly renamed 'Winnicott' and vacant at the time of my visit, was constructed in 1933 to the designs of Sidney C Clark. The listing notes how the pub sprang from the inter-war drive for 'improved' or 'reformed' pubs to improve the facilities and reputation of Victorian and Edwardian pubs. The listing notes that the pub is a rare, particularly well preserved example of a small scale urban pub influenced by this movement and gives a tangible sense of how pubs would have looked and operated in the 1930s. The pub is designed in a detailed early Neo-Tudor design, with adzed timber frame details, exaggerated brick chimney stacks, neat brick detailing and grouped leaded light windows.
9. The boundary to the King Edward III's Rotherhithe Conservation Area (the ERCA) runs along the eastern boundary of the appeal site and thus includes the pub, but not the appeal site. The Conservation Area is centred on the Scheduled Monument of Edward III's Manor House and open land to the north and east of this nationally important archaeological site, situated to the east of the appeal site, and is characterised by the open land connecting Southwark Park to the River Thames, combined with old features of the former uses of the waterfront and a range and age of housing.
10. Section 66(1) of the Planning (Listed Building and Conservation Areas Act) 1990 states that when considering whether to grant planning permission for development which affects the setting of a listed building, special regard should be had to the desirability of preserving this setting. Paragraph 132 of the National Planning Policy Framework (the Framework) says when considering the impact of a proposed development on the significance of a designated heritage asset (including the setting of a conservation area), great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of a heritage asset, or by development within its setting. The Framework defines setting as the surroundings in which the asset is experienced. Elements of setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance, or may be neutral.

11. Policies 7.4 and 7.6 of the London Plan¹, strategic policy 12 (Design and Conservation) of the Southwark Core Strategy², and saved policies 3.12, 3.13 and 3.18 of the Southwark Plan³ when read together state that development should make a positive contribution to a coherent street scape, have regard to the scale and mass of surrounding buildings, allowing existing buildings that make a positive contribution to the character of a place to influence the future character of the area and preserving or enhancing the surrounding historic environment. Permission will not be granted for developments which would not preserve or enhance the setting of a listed building or a Conservation Area.
12. The proposal would create a narrow and tall dwelling in a gap which at present, although slender, provides the pub with a measure of separation from the adjacent dwelling houses. No 206 has a building line set back from the pub, and the ground and first floor of the proposal would follow this same set back building line, with the second floor set back further, although a brick balustrade and terrace would follow the lines of the floors below.
13. At present the eaves of No 206 are lower than the pub, allowing the Old Justice to remain as the dominant feature in the street scape. The new proposed flat roof line would be higher than the eaves of 206, and set at a similar level to the eaves of the pub. Although set back, this would appear awkward and contrived, drawing the eye away from the pub and the exaggerated brick chimney stack on this roof line, failing to preserve the setting of the listed building. The materials of the proposal would not mitigate such harm.
14. The filling of the slender gap would remove the separation that allows the pub to be visually separate from the surrounding street scene. I acknowledge in this respect that the consented scheme would also allow the gap to be filled. Nevertheless, the higher design of the proposal, despite the set-back upper floor, would cause more harm to the setting and the significance of the pub than the information that I have on the consented scheme shows, and would fail to significantly temper the harm that the proposal would cause to the listed building. In causing harm to the setting of the pub, the scheme would also have a harmful effect on the setting of the ERCA in which the pub is a key landmark building, as well as on the wider character and appearance of the area.
15. Due to the lack of harm to the fabric of the pub itself, I consider that the harm caused to both heritage assets would be less than substantial. In such circumstances the Framework states that this harm should be weighed against the public benefits of the scheme. The proposal would provide one dwellinghouse in an area of high demand for residential uses. However, the existence of an extant scheme for a house, albeit slightly smaller, significantly reduces the benefit that I ascribe to the proposal. Furthermore, less than substantial harm does not equate to a less than substantial objection and I do not consider that the limited identified benefits outweigh the harm the proposal would cause to both heritage assets.
16. I therefore conclude that the proposed development would have an adverse effect on the setting of the Old Justice public house, a Grade II listed building, and on the character and appearance of the area, including the setting of the

¹ The London Plan, consolidated with alterations since 2011, March 2016, Mayor of London.

² Core Strategy, Southwark Council 2011.

³ The Southwark Plan, Southwark Council 2007

nearby King Edward III's Rotherhithe Conservation Area. Such harm would not be outweighed by public benefits and the proposal would be contrary to the Framework, as well as policies 7.4 and 7.6 of the London Plan, strategic policy 12 of the Southwark Core Strategy, and saved policies 3.12, 3.13 and 3.18 of the Southwark Plan.

17. For the reasons given above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

Jon Hockley

INSPECTOR