



Appeal Decisions

Site visit made on 29 October 2019

by G J Fort BA PGDip LLM MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2019

Appeal A Ref: APP/A5840/W/19/3230232

58 Borough High Street, London SE1 1XF

- 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 Colum Smith (Sanford Arment Properties Ltd.) against the decision of the Council of the London Borough of Southwark.
 - The application Ref 18/AP/4089, dated 5 December 2018, was refused by notice dated 13 February 2019.
 - The development proposed is the construction of rear extensions including at 3rd floor to provide new office space together with 4th and 5th floor extensions to provide 1 x 3 bedroom flat and 1 x 2 bedroom flat. Waste and cycle storage and terraces.
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Appeal B Ref: APP/A5840/Y/19/3230233

58 Borough High Street, London SE1 1XF

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Colum Smith (Sanford Arment Properties Ltd.) against the decision of the Council of the London Borough of Southwark.
 - The application Ref 18/AP/4090, dated 5 December 2018, was refused by notice dated 13 February 2019.
 - The works proposed are the construction of rear extensions including at 3rd floor to provide new office space together with 4th and 5th floor extensions to provide 1 x 3 bedroom flat and 1 x 2 bedroom flat. Waste and cycle storage and terraces.
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Decisions

Appeal A Ref: APP/A5840/W/19/3230232

1. The appeal is dismissed.

Appeal B Ref: APP/A5840/Y/19/3230233

2. The appeal is dismissed.

Main Issues

3. The main issues are firstly, in terms of both appeals whether the appeal scheme would preserve the setting of its host Grade II Listed Building and whether it would preserve the character and appearance of the Borough High Street Conservation Area; secondly, in terms of Appeal A only whether the proposed development would provide acceptable living conditions for its future occupants in terms of accessibility with reference to local guidance; and thirdly, in terms of Appeal A only, whether the proposed development would constitute an efficient use of land in the context of local policy.

Reasons

Special interest and significance

4. Situated within the Borough High Street Conservation Area, the appeal building is included on the Statutory List within Grade II. Like other buildings along the street, No 58 has a narrow front giving its four storey scale a tall, slender appearance, with a commercial use at the ground floor. The Listing Description indicates that the building dates from the early 19th Century, but that this may be a re-fronting of an earlier building. Its roof is obscured behind a parapet, and indeed parapets, albeit of richer detailing and more dramatic shapes, are terminal features of the façades of the taller buildings to either side, creating a confident and polite street-facing roof line, which serves to screen substantially the functional parts of the roof to the rear of those façades. In sum, the significance of No 58 derives to a degree from the confident mercantile aesthetic of its facade and its response to the underlying medieval street pattern and plot arrangement, features also inherent in its neighbouring buildings and which are important aspects of the character and appearance of the Conservation Area
5. In contrast, I saw that to the rear of the appeal building a large part 3-storey, part 4-storey extension of a blocky and utilitarian character has been added, apparently in the 1970s, which wraps around the rear of Nos 60 and 62. Moreover, such incremental development to the rear of this stretch of the street is far from unusual. I note also that the Listing Description of the appeal building contains the observation "interior gutted". It follows that these aspects of the appeal building contribute little to either its significance or that of the Conservation Area more widely.

The appeal scheme

6. As described above, the appeal scheme would see alterations to the extension to the rear of the property entailing additions at the third, fourth and fifth floor level topped by flat roofs. The extensions would provide office space and two flats.

The effects of the appeal scheme Listed Buildings and Conservation Area

7. The uppermost part of the proposed extension would be considerably taller than No 58 and its immediately adjacent buildings. At my site visit, I saw that existing alterations and additions to the rear of the appeal building and immediately adjacent buildings are not materially taller than the parapets, which are the characteristic terminal features of the façades to which they relate. I readily accept, due to the setback of the proposed extensions from the front façade taken together with the width of the highway, that the appeal proposal would not be widely visible from the street. Nevertheless, in the views that would be available, the bulk, scale and blocky character of the appeal scheme would make it read as a dominant and incongruous intrusion above the parapet line. For these reasons, the appeal scheme would undermine the architectural hierarchy and elegance of the street facing façades of No 58 and its immediate neighbours, and the significance of the Listed Building and the Conservation Area would be diminished as a result.

8. Although I am mindful of the recent permitted extensions¹ relating to the property, these would not be of the scale of the appeal scheme and consequently would not share its dominant and incongruous appearance. The appellant has supplied a copy of consultation material² for the site to the rear of the appeal property, which indicates that structures of between 3 and 10 (plus ground) storeys could be built there, although scales would vary across the site, with buildings of 3 to 5 storeys suggested at the eastern part of the site closest to the appeal building. Be that as it may, I have been referred to no extant planning permissions relating to that site, and thus its precise layout and the detailed design of any structures are not clear at this stage. In any event the appeal scheme would have a more intimate relationship with Borough High Street than developments on the site to the rear. Accordingly, the emerging proposals for the site to the rear do not serve to justify the effects that I have described.
9. Consequently, mindful of the duties arising from the Planning (Listed Buildings and Conservation Areas) Act 1990, I conclude on this main issue that the appeal scheme would preserve neither the setting of its host Grade II Listed Building nor the character and appearance of the Borough High Street Conservation Area. For these reasons too the appeal scheme would conflict with Policy SP12 of Southwark's Core Strategy (adopted April 2011) (the Core Strategy); and Policies 3.12, 3.13, 3.15 and 3.16 of the Southwark Plan (adopted 2007). Taken together, and amongst other things, these policies expect development to be appropriate to the local context and to preserve or enhance Southwark's historic environment.

Living Conditions

10. The Mayor of London's Housing Supplementary Planning Guidance (adopted March 2016) (the SPG), contains advice associated to Policy 3.8 of the London Plan: The Spatial Development Strategy for London- Consolidated with alterations since 2011 (adopted March 2016) (the London Plan). Amongst other things the SPG sets out Standard 11 which advises that new build housing in London is to meet the optional Building Regulations 2010 (as amended) standards relating to accessible and adaptable or wheelchair user dwellings. Step free access is required as part of these standards. The proposed development would locate a dwelling at the fifth-floor level, which would be accessed only by stairs and consequently this arrangement would not meet the requirements of the SPG in this regard.
11. Moreover, the dwelling proposed for the fifth-floor level would be of a size suitable for family occupation. Due to the amount and range of people that could be accommodated in such a dwelling the proposed stairs would not provide convenient access either for wheelchairs, for pushchairs, or for people with mobility impairments, or for occupants involved in day-to-day activities such as carrying grocery shopping. As a result, the access arrangements would be far from ideal and would clearly not accord with the National Planning Policy Framework (the Framework) insofar as it requires planning decisions to create places that are safe, inclusive and accessible and which promote health and wellbeing with a high standard of amenity for existing and future users³.

¹ Council References 18/AP/3854 and 18/AP/3855

² *Help Shape Landmark Court*

³ At paragraph 127(f)

12. The appellant considers that no harm would occur as a result of potential occupants having to climb an additional flight of stairs to the fifth-floor when contrasted with access to the fourth-floor permitted by the extant consents related to the appeal property. However, unlike the extant permissions the proposed scale of the appeal proposal would not be captured by the advice of the SPG insofar as it states that in developments of four-storeys or less the requirements in terms of step free access should be applied flexibly. In my judgement lower accessibility requirements for buildings of smaller scales do not justify a similar approach to taller buildings, and as a consequence this matter does not overcome the proposed development's accessibility shortcomings set out above. Neither would the perceived health benefits of any exercise gained through the use of the proposed stairs outweigh its shortcomings or SPG conflicts in these regards.
13. The appellant considers that the installation of a lift would materially reduce the amount of usable space in the building and would be unviable both in terms of its development and maintenance. However, no substantive detail has been supplied to support this assertion. Consequently, this does not amount to a clear demonstration that achieving step-free access would make the development unviable, as required by the SPG to justify a departure from the accessibility standards. It follows that this matter does not therefore weigh in favour of the appeal scheme in these terms.
14. Accordingly, on the basis of the above-given reasons, I conclude on this main issue that the proposed development would not provide acceptable living conditions for its future occupants in terms of accessibility and therefore would run contrary to the SPG, insofar as it requires new dwellings to meet the accessible and adaptable dwellings standard of the Building Regulations. This is a matter that weighs against the proposed development in the overall planning balance.

Use of Land

15. No 62 has a single window in the rear elevation of its upper floor which currently looks out over the lower element of No 58's existing extension. The proposed development would introduce much taller built elements to the rear and side and introduce windows that would afford a degree of inter-visibility between the rear window of No 62 and the rooms of the appeal scheme. However, I am mindful of the approved scheme related to the appeal site which, whilst not of the same overall scale as the proposed development, would create a similar arrangement in terms of its proposals for a fourth floor. I have not been supplied with any material to suggest that there are any impediments to the development of the approved scheme, and as such it is a matter to which I accord considerable weight. On this basis, I consider that any effects of the proposed development in terms of either shading or privacy to the rear window of No 62 would not be materially more marked than that of the approved scheme, and it would not therefore cause any additional or undue impediment to development of that adjacent property over and above those that would arise as a result of the approved scheme.
16. For these reasons, it has not been demonstrated that the proposed development would constitute an inefficient use of land. Consequently, I find no conflict with Policy 3.11 of the Southwark Plan insofar as, amongst other

things, it seeks to ensure that developments do not unreasonably compromise the development potential of, or legitimate activities on, neighbouring sites.

Other Matters

17. The appeal scheme would supply housing and office use on previously developed land in a location close to London Bridge Station, and with a PTAL rating of 6b indicating excellent access by public transport. The proposal would have obvious economic benefits accruing from its construction phase, its provision of employment space and through spending in the local area from its residential and business occupants. Moreover, the provision of housing would be a social benefit. These are public benefits that weigh in favour of the appeal scheme, yet due to its modest extent, they do so only to a limited degree.
18. I acknowledge the appellant's aspirations to realise sustainable drainage, biodiversity and energy efficiency improvements as part of the appeal scheme and employ sustainable construction techniques. Whilst these all could be public benefits, as the precise details of such measures have not been supplied, these matters carry only minimal weight in favour of the appeal scheme.
19. The appellant asserts that the residential elements of the appeal scheme would meet the minimum space standards set out in the development plan. This may be the case, however, as this is expected of any residential development in the area it is a matter that has only a neutral effect on the overall planning balance.
20. According to the appellant, during its construction phase, the appeal scheme could share site access and other facilities with the development plot to the rear of No 58. I readily accept that this could be a way of mitigating adverse impacts associated with construction activity, but it would not be a positive benefit of the appeal scheme. Accordingly, this is a matter that weighs neither in favour of nor against the appeal scheme in the overall balance.
21. Whilst I note references to the refurbishment of the Listed Building in the design and access statement, no definitive details of what this would entail have been supplied, and neither has it been demonstrated that such work would be dependent on the implementation of the appeal scheme. This matter does not therefore carry any material weight in favour of the appeal scheme.

Planning Balance and Conclusions

22. The Framework anticipates once a finding of harm to the significance of a heritage asset, such as a listed building or conservation area, has been reached that the magnitude of that harm should be assessed. In the current case the appeal scheme would clearly cause less than substantial harm to the significance of No 58 and the Conservation Area. Nevertheless, the Framework sets out⁴ that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Moreover, the harm should be weighed against the public benefits of a proposal⁵. Such public benefits can include where a proposal would secure the optimum viable use of a heritage asset.

⁴ At paragraph 193

⁵ Per paragraph 196 of the Framework

23. I have no evidence before me to suggest that a use consistent with the conservation of the appeal property would be dependent on the implementation of the appeal scheme. Consequently, it has not been demonstrated that the appeal scheme would result in the optimum viable use of No 58. The appeal scheme would, however, result in public benefits in terms of the provision of housing, office space, its use of previously developed land, its locational accessibility, sustainable drainage, biodiversity, energy efficiency improvements, and incorporation of sustainable construction techniques. Nevertheless, the combined weight of those public benefits does not tip the balance in favour of the appeal scheme when set against the great weight and importance attached to the harm it would cause to the significance of its host Listed Building and the Conservation Area. For these reasons, the appeal scheme would conflict with the Framework insofar as it requires, amongst other things, heritage assets to be conserved in a manner appropriate to their significance, and for upward extensions to be consistent with the prevailing height and form of neighbouring properties and the overall street scene.
24. In terms of Appeal A, whilst I have found that the proposal would not conflict with the development plan insofar as its policy relating to the efficient use of land is concerned, this is not a positive benefit of the scheme and is merely a neutral factor in the overall balance. On the other hand, the appeal scheme's failure to comply with the requirements of the SPG in terms of internal accessibility is a matter that weighs against it. Moreover, the other matters advanced in favour of the appeal scheme are not of a sufficient weight to justify a decision other than in accordance with the development plan, with which, in terms of the above-cited heritage and design related policies, it would clearly conflict.
25. Accordingly, for the reasons set out above, and taking fully into account all other matters raised, I conclude that the appeals should be dismissed.

G J Fort

INSPECTOR