



Appeal Decision

Site visit made on 22 October 2019

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th November 2019

Appeal Ref: APP/C5690/W/19/3234523

30- 30A Sydenham Road, London SE26 5QF

- 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 James Fitzgerald of Opal Investments London Limited. against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/19/111418, dated 12 March 2019, was refused by notice dated 12 July 2019.
 - The development proposed is described as: 'The demolition of the existing building at 30 & 30 A Sydenham Road, SE26, and the construction of a two-storey building comprising a retail unit (Use Class A1) at ground floor level, 2x one bedroom dwellings, and 1x two bedroom dwellings, together with provision of bicycle, and refuse storage and associated works'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity, I have taken the description of the development from the appeal form and the Council's decision notice as they more accurately reflect the determined scheme, since notable amendments occurred during its assessment with the Council. Consequently, this description is more precise than that originally given on the application form. I have also, inserted '30' into the address in the banner heading, as it is listed on the appeal form.

Main Issues

3. The main issues of this appeal are the effect of the proposed development on:
 - the vitality and viability of the retail unit and Sydenham District Centre (SDC);
 - the character and appearance of the appeal site and surrounding area, including the setting of the Sydenham Thorpes Conservation Area (STCA) and on the setting of No's 32 & 34 Sydenham Road, which are both Grade II Listed; and,
 - the living conditions of future occupiers.

Reasons

Vitality and viability

4. The site relates to a single storey property, which was in operation as a charity shop during my site visit. It is common ground between the main parties that

the site is located in the SDC. Due to its corner site location, the site fronts both Sydenham Road and Newlands Park. The proposed development is to demolish the existing building and replace it with a 2-storey mixed use development comprising a single retail (A1¹) unit and 3no. residential (C3) units. On the ground floor the retail unit would be sited towards the Sydenham Road frontage with the residential units located behind, which then would extend to the first floor of the scheme.

5. On the basis of the evidence before me, I note that the existing retail unit has a commercial floor area of 142m² and through the proposed development this would be reduced to 40.2m². Additionally, I note that currently the existing retail unit benefits from a notable amount of ancillary space for storage, WC's and a staff room, amongst other things. Such additional ancillary facilities would not be provided on the proposed scheme for the retail unit. The appellant has directed me towards other retail premises² in the locality that have smaller commercial floor areas than the scheme before me.
6. However, relatively little detail has been provided regarding the particular planning backgrounds to these properties. Without such information a full and detailed comparison between these premises and the case before me cannot be drawn except insofar as I was able to observe and assess these properties during my visit. In any event, the presence of these properties would not alter the material change in the ratio of storage to retail space on the site. Whilst these other businesses may require little space for the storage of stock this would not necessarily be the case for all retail uses. Additionally, I find that the proposal would likely result in a reduction of active frontage at the ground floor of the site, especially on the elevation facing Newlands Park due to the proposed areas for bicycle and bin storage.
7. Nevertheless, on the balance of the evidence provided, given the layout of the existing retail shop, I am not satisfied that the amount of retail floor space, including its ancillary area would result in the proposed retail unit becoming unviable for a future retail use. I note that the appellant considers that smaller units attract smaller rents and can therefore making them more affordable and attractive to smaller businesses/start-ups. Whilst this could be a possibility, I am not convinced that the long-term viability of a retail unit on the site would not be compromised by a reduction in the amount of floor space, including ancillary storage/servicing space, as proposed. I find that this would adversely affect the essential shopping character and function of the appeal site and the SDC.
8. Consequently, the vitality and viability of the retail function of the site and SDC would not be maintained. The proposed development would therefore fail to comply with the retail aims of Policies 3 and 6 of the Council's Core Strategy Development Plan Document 2011 (CS), DM Policy 14 of the Development Management Local Plan 2014 (LP) and the National Planning Policy Framework (the Framework).

Character and appearance

9. The existing building occupying the site is a modest single storey commercial property. However, given its location at the junction of Sydenham Road and

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

² 36A Sydenham Road and 40B Sydenham Road

Newlands Park it is visually prominent in the street, due to comprising a corner plot. Whilst not located in the conservation area, the boundary of the STCA runs adjacent to the site on both the Sydenham Road and Newlands Park frontages.

10. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that in the exercise of planning functions with respect to any buildings or land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area. This statutory duty does not extend to the setting of a conservation area, but it is common ground between the parties that this is a material consideration in this appeal.
11. The STCA was designated in June 2001 and was further extended in 2007. The special character of the STCA derives from the Edwardian Thorpes Estate, which was built between 1901 and 1914. Features and details used were inspired by the Queen Anne, neo-Georgian and vernacular revivals using red brick contrasted by white roughcast, multi-paned sash windows, grey slate roofs and decorative pargetting. The area's character is enhanced by its compact layout of tightly packed houses, small front gardens and tree-lined streets.
12. I consider from my findings during my visit that the significance of the STCA to be that although the character of some parts of the surrounding area may have experienced notable change during the 20th Century, the Thorpes Estate remains very much as it was in the Edwardian era, which is an important period in the development of Sydenham. Additionally, in the immediate locality of the site, I find the retail function of Sydenham Road to be a predominant feature.
13. I note the comments in the Heritage Statement³ (the HS) supplied by the appellant in support of his submission regarding the limited contribution that the existing 20th Century building makes to the setting of the STCA. I agree with this observation, but I do not find that the existing building is 'run-down'. I also note the presence of the modern development on Sydenham Road on the opposite side of No's 32 & 34 to the site. Nevertheless, with the site being immediately adjacent to the STCA and in a prominent location at the junction of Sydenham Road and Newlands Park, there is an opportunity for the development of this site to positively contribute to its setting.
14. The proposal would involve the re-development of the site, and I find that the scheme would be visible from a large proportion of the STCA due to the existing landform, road network and buildings and, therefore, the effect of the proposal on the setting of the STCA would be notable with its size and proposed design. I note that the scheme has been amended since its original submission. Additionally, I note the historic images provided by the Council's Conservation Officer in her response dated 25 April 2019, showing a range of buildings more than one storey in height that once occupied the site. However, I find that whilst the proposal replicates some of these features such as the single storey element to the front with a 2-storey element behind. I consider that the projection of the proposed 2-storey element is too close to Sydenham Road. This would be particularly noticeable when travelling towards Newlands Park from No's 32 and 34.

³ Heritage Statement; Proposed Development undertaken by Armour Heritage dated March 2019

15. The projection of the proposed development would introduce built form to an otherwise open area and would significantly alter this part of the street due to its height, and depth which would break the established first floor building line to the south of the site and would appear unrelated to the neighbouring properties as a whole. Whilst I acknowledge that the appellant has sought to vary the roof heights, I consider that the level of articulation is not sufficient, with regards to the pitched roof on the 2-storey element. Although, no accommodation is proposed in this roof space, I note the proposed glazing in the front gable and roof lights that would serve this area. Additionally, whilst concerns have been raised by the Council towards the fenestration details on the elevation facing Newlands Park, I find this detail to be generally acceptable, apart from the modest area of glazing allocated to the retail unit. I find that although this area turns the corner of the proposed building, the limited area of glazing would create a striking and discordant addition to the street scene.
16. The appellant has referenced an approved planning application⁴ (the application) at 22A-24 Sydenham Road for the construction of a four-storey building with basement, to provide retail/restaurant (A1/A3) on the ground floor and residential accommodation above. However, relatively little detail has been provided regarding the particular planning background to this scheme. In any event, I find that the circumstances in the application are not entirely representative of the site in the appeal before me, as the site in the application forms part of a terrace, occupying the same building line. Although, I do recognise a similar contemporary approach to the design, external materials and fenestration details to the scheme before me. Overall, I find little within the application that would lead me to alter my conclusion on the main issue in this instance. As such, I find that the proposed scheme would fail to either assimilate with, or complement, the existing buildings on this part of Sydenham Road and would therefore harm the character and appearance of the surrounding area and the setting of the STCA.
17. Turning to the effect on the setting of the listed buildings, No's 32 and 34. These were formerly listed as No 32 and No 34 (Woodmans Cottage). The pair of properties date from the early eighteenth century and comprise 2-storeys with dormers in the roof. The dwellings are Stucco and handed in appearance, with side extensions containing entrances and small round-headed windows over in ogee semi-gables. The dwellings have a tiled mansard hipped roof behind parapets with weatherboarded returns and 2no. centrally located chimney stacks on the front and rear roof slopes. Present are flush French windows and the front doorcases are wood with rusticated architraves and shaped brackets to cornices.
18. I note the comments in the HS, which highlights that No's 32 and 34 are not located in the STCA. Nonetheless, I do not find that this diminishes from the fact that these dwellings are listed. Although, the wider area surrounding No's 32 and 34 has undergone some significant change since the dwellings were originally erected, I find that the listed buildings heritage significance to derive from their historical value and the positive contribution that they make visually to the surrounding area.
19. The proposal would represent a large bulky development that would be visually dominant, particularly through the siting of the 2-storey element, forming an

⁴ DC/14/089339 – approved 31 March 2015

unsympathetic feature in the street scene that would be clearly visible from surrounding streets. I find that the proposed development falls within the setting of No's 32 and 34, due to their proximity and the visibility of the appeal site from their principal elevations. Overall, I find that the proposed development would be excessive.

20. I have a statutory duty under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires me to have special regard to the desirability of preserving or enhancing a listed building or its setting or any features of special architectural or historic interest which it possesses. I consider the proposal fails to accord with this duty.
21. For the reasons given above, I therefore conclude that the proposed development would have a harmful effect on the character and appearance of the appeal site and surrounding area including the setting of the STCA and on the setting of No's 32 & 34. Consequently, the proposed development would fail to accord with the heritage, design, character and appearance aims of CS Policies 15 and 16, LP DM Policies 30 and 36 and Policies 3.5, 7.4, 7.6 and 7.8 of the London Plan 2016 (LonP).
22. Additionally, the proposed development would not conserve the heritage assets in a manner appropriate to their significance in line with the Framework. I find that the proposed development would result in "less than substantial" harm to the setting of the STCA and No's 32 and 34 for the purposes of paragraph 196 of the Framework. The proposal would contribute to the Council's housing supply and would result in some limited economic and social benefits. However, as public benefits, these would not outweigh the less than substantial harm to the setting of the STCA and No's 32 and 34.

Living conditions

23. Concerns have been raised in relation to the size of proposed dwellings no. 1 and 3, which is understood to consist of approximately 70.5m² and 58.8m² of gross internal floor space (GIA). This is a matter of dispute between the main parties. The appellant acknowledges in their submission that there are some discrepancies in the figures presented on the submitted drawings and has provided clarification.
24. The Council maintain that there is an unacceptable amount of GIA with regards to no's 1 and 3. Reference has been made by both parties to the required standards contained within the LonP, which reflect those contained within the 'Technical housing standards – nationally described space standard, March 2015'. In particular reference has been made to the figures contained within Table 3.3 of the LonP. I have examined the details before me in the statements from the appellant and the Council, and on the application plans.
25. I find that the GIA is defined as the total floor space measured between the internal faces of perimeter walls that enclose a dwelling. This includes flights of stairs and voids above stairs, amongst other things. On this basis, I find that both no's 1 and 3 meet the GIA requirements for a 2 bedroom/3 person and a one bedroom/2 person dwelling respectively. Under these circumstances and in the absence of any substantive information to the contrary, I have no reason to doubt that the proposed dwellings would not meet the minimum GIA requirements as specified in the LonP.

26. The LonP requires a minimum of 5m³ of private amenity space (PAS) for 1-2 person dwellings and an extra 1 sqm for each additional occupant. The 2no. one bedroom/2 person dwellings have 5.1m² and 7.1m² of PAS respectively. Additionally, the 2 bedroom/3 person dwelling has 5.8m² of PAS, which the appellant acknowledges technically below the minimum requirement. However, I agree with the appellant that the difference is marginal and given that the GIA on this property is in excess of the minimum requirement, albeit modestly, I do not find that the shortfall in PAS would be so notable to have a harmful effect on the living conditions of the future occupiers of No. 1 in this instance.
27. On balance, I consider the proposed dwellings would provide an adequate level of accommodation for future occupiers. Therefore, the proposal would accord with the living condition aims of CS Policy 15, LP DM Policy 32, Policy 3.5 of the LonP and the Framework.

Other Matters

28. I also acknowledge that the development would bring some social and economic benefits to the area through the creation of a mixed-use scheme, including the additional dwellings, and during the construction phase of the development. However, these are minor factors in favour of the development. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

Planning Balance and Conclusion

29. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires this appeal to be determined in accordance with the development plan unless material considerations indicate otherwise.
30. I have found that the proposal does not create any significant harmful effects from a living conditions point of view. However, this is a neutral matter in the overall planning balance. Whilst the proposal would seek to provide a mixed-use scheme with a retail unit and 3no. additional dwellings to the Council's housing supply, this would not significantly and demonstrably outweigh the significant harm that would be caused to the appeal site and surrounding area, including the setting of the STCA and No's 32 and 34.
31. The proposal would be contrary to the development plan when taken as a whole, and there are no other considerations which outweigh this finding. It would also be at odds with the requirements of the Framework. Taking all matters into consideration, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR