

Appeal Decision

Site visit made on 15 September 2020 by S Witherley

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2020

Appeal Ref: APP/A5840/W/20/3250673

Plot 13 Land rear of 67 Plough Way, London SE16 2LS

- 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 Henson against the decision of the Council of the London Borough of Southwark.
 - The application Ref 19/AP/6820, dated 22 November 2019, was refused by notice dated 17 January 2020.
 - The development proposed as described on the application form is: Construction of a two storey, 2-bedroom house on vacant plot.
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The effect of the proposal on 1) the character and appearance of the area and 2) the living conditions of neighbouring occupiers having regard to noise, privacy and outlook.

Reasons for the Recommendation

Character and appearance

4. The appeal site forms part of the existing rear garden of the host property No. 67 which is a traditional two storey end of terrace overlooking the corner of Cunard Walk and Greenland Quay.
 5. The appellant notes that the appeal site is a separate plot of land from the rear garden of No. 67 and this is not disputed by the Council, however, it is clear from views taken of the area and from photographs submitted by the appellant that the established use of the appeal site is garden land associated with No. 67.
 6. The area surrounding the appeal site contains traditional two storey terrace properties and blocks of large flatted development. Distinction between the two predominant styles of residential properties is clear with the traditional terraced housing having a number of traditional features including butterfly roofs and relatively long rear gardens, with some having ancillary buildings sited along the rear boundary walls which are small and domestic in nature. The long rear gardens, the associated mature planting and the adjacent street trees add a
-

pleasant sense of spaciousness and greenery, in an otherwise predominantly hard urban landscape.

7. The large blocks of flatted development appear relatively modern in design with their increased height, mass and numbers creating a densely packed space within the urban city layout. The character of the area is therefore derived from the mix of two different types of housing as a result of their different designs, ages, layout, building mass and density of development.
8. The proposal's dual angled roof, which is a modern interpretation of the traditional butterfly roof seen within the terrace row, and the use of London stock bricks is an attempt to incorporate a number of design features and materials that are prevalent in the surrounding area. Nevertheless, its siting, along with its overall height and mass would result in the permanent loss of the openness and the visual separation between the two types of housing at this corner location.
9. The presence of a two storey structure, albeit with a height lower than the existing roof of No. 67, would as a result of its overall mass, appear as a prominent and juxtaposed feature in this part of the streetscape, failing to respect the existing pattern of development as seen along the rear of Plough Way. Moreover, the obtrusive loss of spaciousness resulting from the cramped relationship of the proposal to the highways in which it would front would appear as an uncharacteristic, enclosing feature when taken in views along Greenland Quay, Cunard Way and the rear of No. 67. As such, the proposal fails to accord with the 2015 Technical Update to the Residential Design Standards Supplementary Planning Document (2011) (SPD) which seeks back land development to respect the existing form and character of the area.
10. On this main issue, I find the proposal would harm the character and appearance of the area and would conflict with saved Policies 3.12 and 3.13 of the Southwark Plan (2007) (SP), and Policy 12 of the Core Strategy (2011) (CS) and the National Planning Policy Framework which seek to secure high quality development which respects the areas existing layout.

Living conditions

11. The proposal would bound the rear gardens of No. 67 and No 63. The ground floor element adjacent to No. 67 would result in a solid brick wall with a bedroom behind it and a screened terrace located above at first floor. The ground floor element overlooking No. 63 would contain an outdoor garden area with the two-storey element set back from this.
12. The distance between the rear elevation of No. 67 and the proposal would be such that occupiers of No. 67 would experience an overbearing sense of enclosure due to the solid brick wall which would be further pronounced by the first floor terrace directly overlooking No. 67. The degree of overlooking from the first-floor terrace would be particularly obtrusive when occupiers of No. 67 accessed their rear garden. Despite the proposed screening around the roof terrace to prevent this, inter-visibility between the two properties and the outdoor areas would still occur at an unacceptable level.
13. The proposed garden area would introduce an outdoor living area that would directly overlook the rear elevation and garden of No. 63. Whilst the separation distance from these areas is greater than that at No. 67 the degree of

overlooking and feeling of enclosure would still arise as a result of the proposals siting and mass. This would have a negative impact on the living conditions of both the existing occupiers of No. 63 and future occupiers of the proposal, particularly when occupiers of No. 63 use their rear garden.

14. Despite attempts to mitigate against the harmful effects of overlooking by incorporating screening and suggesting additional conditions, the substantial levels of harm that would arise to existing and future occupiers would be unacceptable given the lack of separation between the rear gardens and elevations of the existing properties and those of the proposed. The proposed louvred fins surrounding the balcony and rear facing upper living room window would still allow some views through to neighbouring gardens which would be invasive to neighbouring privacy given the limited separation distance. I note the suggestion that further screening could be incorporated but in order to be effective, such screening would effectively have to block off views from those vantage points which would result in a poor and somewhat gloomy outlook from key living areas within the proposed unit. Consequently, from the information before me, I am not satisfied that mitigation could be achieved having regard to the proposed layout.
15. The relationship between the proposal and the flatted development overlooking Cunard walk is different given the raised position of the existing first floor windows in the flatted development. The impact on the future occupants of the proposed development would be impacted upon by the close proximity of the large flatted developments which would tower above it and create an overbearing sense of being enclosed. In addition, given the proximity of the existing first floor balcony window to the first-floor windows of the proposal, an unacceptable level of mutual overlooking would arise resulting in a loss of privacy to both existing and future occupants.
16. As such, the proposal does not accord with the SPD which seeks developments to minimise overlooking and to protect neighbours' privacy by not having any windows on the boundary between the proposal and the existing neighbouring properties.
17. In terms of noise pollution and disturbance there is no substantive evidence with regard to the nature and duration of any noise that may result from the development. Given that the appeal site is located in an urban area, and the additional activity created would be from normal domestic use it would unlikely cause significant disturbance to the adjoining occupiers above what is already experienced. The proposal would not, therefore, cause a material increase to the existing levels of noise and disturbance. The proposal would therefore accord with Policy 3. 2 of the SP in relation to the protection of living conditions in relation to disturbance from noise.
18. Despite there been no harm found in terms of noise, this does not overcome the substantial harm found to arise to the living conditions of neighbouring occupiers and future occupiers having regard to privacy and outlook. The proposal therefore does not accord with the fundamental aim of Policy 3. 2 of the SP which seeks to protect the living conditions of occupiers and future occupiers of new development. The Council stated that the proposal does not accord with Policy 13 of the CS, however, this policy relates to environmental standards rather than the living conditions of existing and future occupiers and therefore not relevant in the context of safeguarding living conditions.

Other Matters

19. The appellant has provided details of other development they state set precedents for back land development. However, the characterises of each site and proposal appear different to those that are before me. In particular, the development in Aidan's Road relates to a side garden with the development attached to an existing row of terraced properties. The development at 112 Fort Road appears to have a number of different site circumstances including the distances from other receptors. The development at No. 39 Plough Way relates to an extension to an existing house and is not considered comparable.

Conclusion

20. Whilst the appellant has purported a number of minor benefits arising from the development, including that it would provide an additional home, no evidence of housing need has been submitted. In addition, whilst it may result in a development that would be car free and would provide natural surveillance to the corner site, the adverse impacts of the proposal as set out above, would significantly and demonstrably outweigh these minor benefits. The proposal would therefore harm the character and appearance of the area and the living conditions of the future and existing occupiers in terms of privacy and outlook.
21. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

S Witherley

APPEAL PLANNING OFFICER

Inspector's Decision

22. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, agree that the appeal should be dismissed.

Chris Preston

INSPECTOR