



Appeal Decision

Site Visit made on 7 December 2020

by R E Jones BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2021

Appeal Ref: APP/A5840/W/20/3258442

122-126 Tooley Street, London SE1 2TU

- 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 R West and Mr T Newman against the decision of London Borough of Southwark.
 - The application Ref 20/AP/1214, dated 28 April 2020, was refused by notice dated 24 June 2020.
 - The development proposed is construction of a new 8th storey to provide 1 x three bedroom flat (revised application).
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development I have used in the banner heading above differs to that in the application form, however, this revision has been agreed between the main parties.
3. As the proposal is in a conservation area, I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

4. The main issues are:
 - i) whether the proposed development would preserve or enhance the character or appearance of the Tooley Street Conservation Area (TSCA); and
 - ii) the effect of the proposed development on the living conditions of the occupiers of the sixth floor flat, with particular reference to sunlight.

Reasons

Conservation Area

5. The appeal building comprises a modern, mixed-use 7 storey building located on the south side of Tooley Street within a long line of buildings that extend from the junctions with Fair Street and Bermondsey Street. These are predominantly 4-6 stories high and traditional in their appearance. The appeal building is located within the TSCA, which encompasses a tightly defined

- riverside area hemmed in by London Bridge, Tower Bridge and its approach, and the railway viaduct into London Bridge Station.
6. The proposal is a revised scheme following a previous appeal¹ on an earlier application. The changes include stepping the proposed 8th floor addition back from the front elevation a further 800mm, reducing the size of the front terrace and removing the rear terrace altogether.
 7. The TSCA's significance is derived from the mix and style of buildings that include historic mansion blocks and former warehouses that are interspersed with modern and distinctive landmark buildings. Although the scale of buildings varies there is a good deal of consistency in materials and aspects of detailing that reflect most of the remaining older buildings (e.g. London stock brick, classically designed facades with parapet roofs and stucco dressings).
 8. Information submitted by the Council includes the Tooley Street Conservation Area Appraisal (CAA) that indicates that the appeal site is located in Sub Area 2 - Tooley Street West (SU2) of the TSCA.
 9. The CAA predates the More London Development on the northern frontage of Tooley Street and close to the appeal site. This comprises a large modern 10 storey mixed use development that has changed the character of SU2 as the previously open areas along the northern frontage of Tooley Street have now been developed. A public plaza is located at More London Place to the west of the appeal site. This opens up views of the southern frontage of Tooley Street, when viewed from the west, revealing the built frontage, that includes the appeal building and the buildings at Nos 90-104 Tooley Street (Nos 90-104). Those buildings, the CAA considers, make a positive contribution to SU2. From this vantage point as well as others close to the junction with Bermondsey Street and the entrance to London Bridge station, the scale and architectural detailing of the southern frontage of Tooley Street, including the appeal building and Nos 90-104 can be appreciated.
 10. Given the above, I find that the significance of the TSCA, insofar as it relates to this appeal, to be primarily associated with the appeal building's modern appearance and its juxtaposition within a largely historic street frontage comprising older buildings; a relationship that is broadly reflective of the TSCA's more recent development.
 11. The taller appeal building can be seen rising above its immediate neighbours in the frontage, which primarily consist of 4 to 6 storey high buildings, including those to its west at Nos 90-104.
 12. The proposed 8th floor addition would extend the appeal building vertically as well as increasing its overall mass. Although it would be set back somewhat from the front elevation, the proposal, would nevertheless appear as an ungainly protrusion on top of the building. In the context of adjacent properties in the southern frontage, the proposal's awkward appearance and further vertical protrusion would have a discordant presence that would harmfully unbalance the scale of the built frontage, and detract from the significance of the buildings to the west (Nos 90-104). This harmful change to the scale of development would be noticeable to passers-by, especially from medium to

¹ APP/A5840/W/19/3236234

long-range views from the west close to the public plaza at More London Place and, near the entrance to London Bridge Station.

13. Looking from the west from a point between the Aston Webb building and the Hilton Hotel, it is acknowledged, from the appellant's computer generated image (CGI), that the proposal would appear discreet and partially screened by the roof of the nearby building at (116-118 Tooley Street). Nevertheless, it is from the medium to longer range views, that I have referred to, where the harm to the character and appearance of the frontage would be most perceptible, as the proposal would be seen to clearly rise above the roofs of adjacent properties from these more open and expansive vantage points.
14. The appellant emphasises that the impact of the taller More London Development on the TSCA is greater than the effect caused by the proposed roof addition. However, despite the proposal's more reduced proportions relative to that larger development on the northern frontage, it would nonetheless have a harmful effect on the scale of buildings along the southern side of the street.
15. In the previous appeal decision, the Inspector considered in that case, that when viewed from the east, the proposed 8th floor addition, would not appear out of sync with the varied height of built form on the southern side of the street. This was due to the height and elongated scale and massing of Magdalen House, and also due to the backdrop offered by The Shard, and as such he considered that the proposal would not harm the TSCA.
16. In this regard, the appeal proposal would have a similar effect and given its new set back position, its appearance and prominence would be further reduced when viewed from eastern vantage points. Consequently, the proposal would not harm the TSCA from this perspective.
17. In light of my assessment above, and notwithstanding my evaluation of the development from the east, I have found that the level of harm the proposal would have on the TSCA, as a whole, would be greater than the neutral/slight impact concluded in the appellant's heritage statement. Therefore, the proposal would fail to preserve the significance of the TSCA.
18. Given the proposal's size and scale within the broader context of the TSCA, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
19. The appellant is of the opinion that the proposal would result in an efficient use of an existing building, whilst also being in an accessible location close to transport connections and local services. In addition, it would deliver one new unit of accommodation. This is a small contribution to the Borough's housing stock, and I attribute these public benefits a modest degree of weight in favour of the scheme. However, this would be considerably outweighed by the harm the development would cause to the TSCA.
20. In the absence of any significant public benefit, I conclude that, on balance, the proposal would fail to preserve the character and appearance of the Tooley Street Conservation Area. This would fail to satisfy the requirements of the Act, Framework paragraph 196 and conflict with Saved Policies 3.12, 3.13, 3.15,

3.16 and 3.18 of the Southwark Plan, 2007 (the SP) and Strategic Policy 12 of the Southwark Core Strategy, 2011 (the CS). Collectively, these seek, among other things, high quality design to create attractive and distinctive places; consideration of a building's height, scale and massing and that it does not dominate its surroundings inappropriately; that development preserves or enhances the special interest or historic character or appearance of buildings or areas of historical or architectural significance. When less than substantial harm would be caused to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Living Conditions

21. Following the previous appeal, the proposed development has been set back 800mm from the front elevation. This has also resulted in an increase to the separation distance it would maintain from the rooflight serving the kitchen of the 6th floor flat (kitchen rooflight) as well as reducing the severity of the angle of the proposal's front elevation relative to the glazed surface of that rooflight.
22. The appeal has also been accompanied by an assessment of the Annual Probable Sunlight Hours (APSH) in relation to the kitchen rooflight. BRE Guidance states that windows should continue to receive in excess of 80% of their pre-development value, or 25% of available hours over a year, including at least 5% of hours in winter to be considered well lit. Although the BRE guidance is not referred to in the Council's development plan policies, it is nevertheless a useful tool in which to assess the effect of developments on sunlight, and I therefore give the guidance considerable weight.
23. The appellant's APSH assessment states that following the proposed development the kitchen rooflight would receive 44% of available hours over a year and 10% in winter. The results of the assessment exceed the standard in BRE guidance and are consequently within the tolerances of acceptability for a room to be considered well lit.
24. I note that there are concerns in relation to the lack of assessment carried out in relation to sunlight, however, this has been clearly set out in the appellant's submission, whilst the Council and interested parties have had the opportunity to comment. Therefore, in light of there being no evidence to the contrary I find the results of the APSH assessment to be acceptable and in accordance with the BRE guidance.
25. Consequently, the proposed development would not harm the living conditions of occupiers of the sixth floor flat, with particular reference to sunlight. It would accord with the saved Policy 3.2 of the SP, Strategic Policy 13 of the CS and Framework paragraph 127 f). These seek, amongst other things, for proposals to protect the amenity of existing and future occupiers.

Other Matters

26. On the opposite side of the road and positioned at an angle to the appeal building are the former Distillery Offices (Nos 115-121 Tooley Street) and the former Fire Station (No 139-141 Tooley Street), both of which are brick built and Grade II listed buildings. Sandwiched between those heritage assets is the modern and much taller 127 Tooley Street (No 127). The appeal proposal would not detract from the setting of those listed buildings due to its siting, the alignment of the road and the presence of the adjacent taller and modern development at No 127.

27. Interested parties have objected on the grounds of lack of car parking, loss of daylight, refuse storage, and construction stage impacts. The Council's officers report indicates that these matters can either be dealt with by condition or do not give rise to any harmful impacts upon neighbouring occupiers. I have no reason to disagree with them on those matters. With regard to the absence of an affordable housing contribution, the Council confirms that the proposal is of a scale that would not trigger the provision of this benefit.
28. Concerns have been raised regarding the proposal's effect on the efficiency of the existing roof mounted solar panels. However, as I am dismissing the appeal on other grounds and therefore there is no prospect of planning permission being granted, it has not been necessary to consider this matter any further in this case.

Conclusion

29. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

RE Jones

INSPECTOR