



Appeal Decisions

Site visit made on 19 July 2021

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2021

Appeal A

Appeal Ref: APP/A5840/W/21/3267162

551A Old Kent Road, London SE1 5EW

- 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 Mayfield Property Group against the decision of the Council of the London Borough of Southwark.
 - The application Ref 20/AP/1378, dated 18 May 2020, was refused by notice dated 17 August 2020.
 - The development proposed is the erection of a 2-storey rooftop and rear extension plus associated works, to construct a single residential dwelling (Use Class C3).
-

Appeal B

Appeal Ref: APP/A5840/W/21/3271633

551A Old Kent Road, London SE1 5EW

- 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 Mayfield Property Group against the decision of the Council of the London Borough of Southwark.
 - The application Ref 20/AP/3824, dated 23 December 2020, was refused by notice dated 1 March 2021.
 - The development proposed is the erection of a single storey rooftop and rear extension plus associated works, to construct a single residential dwelling (Use Class C3).
-

Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Procedural Matters

3. Signed and dated Unilateral Undertakings ("UUs"), dated 18 January 2021 in respect of Appeal A and 22 March 2021 in respect of Appeal B, were submitted during the course of the appeals. I address these in my reasoning below.
4. The Government published a revised National Planning Policy Framework ("the Framework") on 20 July 2021, replacing the version published in February 2019. In this case, the amendments to the Framework have not had a

significant bearing on the most relevant issues in this appeal. I am therefore satisfied that there is no requirement for me to seek further submissions on the revised Framework, and that no party's interests have been prejudiced by my taking this approach.

Background and Main Issues

5. The appeals relate to proposals to extend No 551A Old Kent Road, a modern two storey house, to create an additional residential unit. In both cases this would be done by extending onto a small strip of land at the rear, as well as by building upwards. In Appeal A, two storeys would be added to the existing building to create a new 3-person, 2 bedroom dwelling, while in Appeal B a single storey would be added to create a new studio flat. Stairs within the rear extension would provide access to the upper floors in both cases; in Appeal A the kitchen for the new unit would be also be within the rear extension at first floor level, while in Appeal B a bathroom would occupy that space. In both cases an enclosed (or semi-enclosed) private amenity space described as a "winter garden" would be provided on the new top floor, at third floor level in Appeal A and at second floor level in Appeal B.
6. 551A sits at the rear of, and is accessed by a path at the side of, No 551 Old Kent Road, a five storey block of flats occupying the street frontage (though No 551 does not form part of the appeal site). Together, Nos 551 and 551A form a recent infill development between the neighbouring late Georgian or early Victorian houses on the north side of Old Kent Road; their modern materials and styling clearly differentiate them from their neighbours. To the north at the rear of the site is the Six Bridges Industrial/Trading Estate, which is currently occupied by various light industries, and building and construction suppliers, but which is earmarked for major redevelopment.
7. Although the two proposals differ somewhat in their overall scale and their detailed design – notably in respect of the roofline – the Council refused both planning applications for the same reasons. Based on all the evidence before me, I therefore consider the main issues in both appeals to be:
 - The effect of the proposed development on living conditions for neighbouring residents, with particular regard to whether or not it would be overbearing, and whether or not would result in an unacceptable sense of enclosure; and
 - Whether or not the proposed development would prejudice the redevelopment of the adjoining Six Bridges site.

Reasons

Living conditions

8. The front elevation of No 551A faces the rear of No 551 across a small courtyard which, in part, provides private amenity space for the 551A and the ground floor unit within No 551. The first, second and third floors of No 551 are cantilevered out from the rear elevation, so that the two buildings are closer together above ground level. The appellant has calculated that the minimum separation distance between the closest windows of No 551A and 551 is around 3.4m at ground floor level, and around 3m on the first floor; I have no reason to dispute these figures. No measurements were provided in respect of the

- neighbouring property at No 549, but it is clear both from the submitted drawings and my observations on site that the separation is slightly greater.
9. The proposed upper floor(s) facing the rear of Nos 551 and 449 would be stepped back behind the existing elevations of No 551A. In both cases, the minimum separation distance between the proposed second floor of the appeal property and that of No 551 would be around 3.7m. In Appeal A the minimum separation between the third floors would be around 5.4m. The Appeal A scheme would have a flat roof, while in Appeal B the irregular pitched roof would slope back above the second floor.
 10. I have not been provided with any development plan policy or guidance setting out what might be considered minimum acceptable separation distances between habitable rooms. I also recognise that in densely-built parts of inner London, there may be some cases where separation distances between neighbouring properties fall short of what may be ideal. Even so, it is clear from what I saw on my site visit that the appeal site is already tightly constrained by the buildings to its south. In this light, the appellant argues that (for both appeals), the proposed stepping back of the upper floors and widening of the gap between No 551A and the neighbouring buildings at higher levels would alleviate any sense of dominance or an overbearing effect.
 11. The space between the appeal property and its neighbours is already narrow, so that the surrounding courtyard space is tightly enclosed. The existing building is already somewhat overbearing as a result. The addition of one or two floors as proposed would increase the appeal property's dominance of the courtyard because of the limited separation distances involved. This would make it increasingly overbearing for neighbouring occupiers, and would create a significant sense of enclosure when seen from the space at the rear of No 551, the adjoining rear garden at No 549, or from with the lower levels of either neighbouring property. The single additional storey proposed in the Appeal B scheme would, because of its lower height and pitched roof, have less of an impact than the two storeys proposed in the Appeal A scheme; it would nonetheless have a detrimental effect. Both proposals would cause unacceptable harm to neighbours' living conditions which would not, in my view, be alleviated by the stepping back of levels as proposed.
 12. The appellant has drawn my attention to other sites nearby where the Council has granted planning permission for development with buildings set back from neighbouring sites to a similar extent to these appeal proposals, or in one case without any stepping back from a boundary. I acknowledge that there may well be other cases where that is an appropriate response to a particular site. However I do not know the exact circumstances of those other sites, and cannot be sure that they are comparable to these appeals. I have reached my own conclusions based on the evidence before me, taking into account the layout of the appeal site and its relationships with its neighbours, and in doing so I have found harm as described above.
 13. I find that both appeal proposals would be overbearing and would lead to an unacceptable sense of enclosure for residents of neighbouring properties within Nos 551 and 549 Old Kent Road; both would cause unacceptable harm to neighbours' living conditions. I therefore conclude for both appeals that the proposed developments would conflict with Saved Policy 3.2 of the 2007

Southwark Plan, which seeks to ensure that development protects the quality of life for present and future occupiers in the surrounding area.

Redevelopment of adjoining site

14. Proposals for regeneration and redevelopment of the wider Old Kent Road area, including the Six Bridges site north of the appeal site, are set out in the draft Old Kent Road Area Action Plan ("the AAP"). The most recent version of the AAP was published in December 2020, and describes the ambition to transform the Six Bridges site to host a mix of distribution warehouses below new homes, and sets out masterplan level proposals to achieve that. It identifies the area immediately north of and adjoining the appeal site – currently part of the Selco Builders' Warehouse and its rear yard – as a future area of public open space. North of this, the AAP proposes large storage and distribution units at ground level, with tall residential buildings (mostly of around 9 or 10 storeys, but with one rising to 20 storeys or more) above at podium level. East of the appeal site, a mix of "high street" and "small industrial" buildings is proposed around the junction of Old Kent Road and St James's Road, potentially with another residential tower of up to 20 storeys. I understand from the evidence before me that an earlier iteration of the AAP proposed residential blocks of six or seven storeys much closer to the appeal site, but that plan has been superseded by the December 2020 version.
15. The AAP is not yet close to being adopted; the evidence before me indicates that the December 2020 version was subject to public consultation earlier in 2021, but as far as I am aware the proposed submission version of the plan has not yet been published or submitted for examination. While the AAP is a useful statement of intent for the surrounding area, it remains some way off becoming part of the development plan, and therefore the weight I can give its emerging policies and site-specific proposals in this appeal is limited. Nevertheless, it is an up-to-date expression of the Council's vision for the area, and it is useful in assessing the potential impact of the proposed development in these appeals.
16. In both Appeal A and Appeal B, the proposed development would have no windows on either the northern or eastern elevations which would face the strategic Six Bridges site to the north and east, nor would the extensions be built to abut the boundary between the appeal site and the strategic site. The December 2021 version of the AAP indicates that the proposed development on the appeal site would be well separated from the nearest proposed buildings within the Six Bridges site – the appellant suggests by a minimum of around 29m, a figure which has not been disputed by the Council. Such a separation distance would mean that the proposed development on the appeal site would have a minimal impact on proposals for the surrounding area.
17. On the basis of the proposals set out in the emerging AAP, in my view there is no substantive evidence to indicate that either of the developments proposed for the appeal site would, as a result of their siting, height or massing, restrict the development potential of the adjoining site. I am satisfied that the redevelopment of the adjoining Six Bridges Site would not be prejudiced.
18. I therefore conclude for both appeals that there would be no conflict with Saved Policies 3.11 and 3.12 of the 2007 Southwark Plan, which together seek to ensure that development proposals are well-designed and make efficient use of land, while ensuring that they consider the context of the surrounding area

and do not unreasonably compromise the development potential of neighbouring sites.

19. The Council's decision notice indicated that the proposal did not comply with advice in the 2015 Residential Design Standards Supplementary Planning Document, but the officer report on which the Council relied in the appeal did not provide any elaboration on this matter. Consequently I find no conflict with the guidance in that document.

Other matters

20. I note that the Council had no objection to the design quality of the proposed developments in terms of materials and detailed design, that the proposed accommodation would provide acceptable living space for future occupiers. I also note that, notwithstanding the comments made by some interested parties, the Council was satisfied that the proposals would not lead to a harmful loss of daylight or sunlight for neighbouring residents. These are all neutral factors in the overall balance, and consequently none outweighs the harm I have found.
21. The appellant has submitted completed UUs for both appeals. These contain obligations in respect of contributions towards archaeological investigations and the provision of outdoor amenity space within Southwark, contingent on the granting of planning permission. However, the contributions secured by the UUs are intended to mitigate the effects of the proposed developments. As I am dismissing the appeals for other reasons it has not been necessary for me to consider the UUs in further detail.

Planning Balance and Conclusion

22. Each appeal proposal would provide an additional dwelling in a location with good access to services, at a time when the government is seeking to significantly boost the supply of housing. Given the small scale of the proposals, this is a benefit which carries moderate weight in their favour. Neither scheme would constrain or otherwise prejudice the future redevelopment of the neighbouring Six Bridges site; this is a neutral factor in the overall balance.
23. However, both proposals would cause significant harm to neighbours' living conditions. This is a matter which carries considerable weight, and outweighs the benefits associated with the schemes. The proposals would conflict with the development plan taken as a whole, and there are no other considerations, including the Framework, that outweigh this conflict.
24. For the reasons set out above, I therefore conclude that both appeals should be dismissed.

M Cryan

Inspector