



Appeal Decision

Site Visit made on 9 August 2021

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2021

Appeal Ref: APP/E5330/W/20/3248821

112 Shooters Hill Road, London SE3 8RN

- 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 Stephen Spence against the decision of the Council of the Royal Borough of Greenwich.
- The application Ref 19/2457/F, dated 5 July 2019, was refused by notice dated 3 September 2019.
- The development proposed is described as "subdivision of an existing 662sqm site to create an additional plot for the erection of a new-build, 3-storey, detached 4-bedroom house. It is proposed to demolish the existing concrete outbuilding (bomb shelter) located to the rear of the site, and to sub-divide the rear split garden to allow for the erection of the detached, 4-bedroom house with private garden to the side. The new division will utilise approximately 207sqm of the rear of the garden, leaving approximately 168sqm of rear garden for private amenity space for the ground floor and lower-ground floor flats".

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The London Plan 2021 (the LP 2021) was published by the Mayor of London on 2 March 2021, and this post-dates the Council's refusal notice. The LP 2021 comprises the spatial development strategy for London and thus it forms part of the development plan for decision-making purposes and supersedes the London Plan 2016. Furthermore, the Government published a revised version of the National Planning Policy Framework (the Framework) on 20 July 2021.
3. It is incumbent upon me to take into account the most up to date information in reaching a decision. I have, therefore, had regard to both the LP 2021 and the revised Framework in my decision. I am satisfied that this has not prejudiced the main parties as they were provided with an opportunity to comment on these matters as part of the appeal proceedings and I have taken their comments into account.
4. I observed during my visit that the appeal site has already been separated from the rear garden of No. 112 Shooters Hill Road and is no longer in use as a residential garden. Furthermore, there was evidence that the site had recently been cleared of mature trees with several large tree stumps present. I have therefore dealt with the appeal on the basis that the development described above has, in part, already occurred.

Main Issues

5. The main issues in this appeal are:

- Whether the proposed development would preserve or enhance the character or appearance of the Sun in Sands Conservation Area, having regard to the setting of a group of locally listed buildings, and including any effect on trees;
- Whether the development would provide adequate living conditions for future occupiers, with regard to internal space standards; and,
- The effect of the proposal on assets of archaeological significance.

Reasons

Conservation Area; Setting of locally listed buildings; and, Trees

6. Until recently, the appeal site formed part of the rear private garden area of No. 112 Shooters Hill Road, located along the southern side of Shooters Hill Road at its junction with Eastbrook Road. Built in circa 1864, Nos. 112 to 130 Shooters Hill Road are included on the Royal Greenwich Local Heritage List as a group of buildings of local architectural and historic interest. Although not statutory listed, the property is considered to be a non-designated heritage asset. In this regard, the Framework requires that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm and the significance of the heritage asset.
7. The local listing describes the non-designated heritage assets as a group of three-storey plus basement houses in yellow stock brick with yellow/cream Gault brick fronts and gabled slate roofs with wide overhanging eaves. All have projecting stuccoed bays to the basement and ground floor with cornices and open balustrades over with stuccoed string courses and window and front door surrounds. To the rear, the properties enjoy large gardens with mature trees and foliage that provide a spacious setting from which the architectural and historic significance of these heritage assets is appreciated. The site also falls within the Sun in the Sands Conservation Area (the CA).
8. The special historic and architectural interest of the CA is described in the Sun in the Sands Conservation Area Character Appraisal (the CACA). This notes how the area grew up as a small 19th century hamlet focused on the Sun in the Sands public house. Amongst other things, the CACA highlights the survival of a substantial number and selection of historic buildings with most of the original street plot and building layouts largely intact and legible throughout the CA. As a result, the historic grain of development is well preserved and relatively spacious when compared to adjacent streets outside of the CA. It is also of note that there are no open public spaces within the CA and therefore the CACA advises that back gardens should be retained as they provide the only sizably significant green spaces in the area.
9. The appeal site makes a valuable contribution to the character and special interest of the CA through its undeveloped state which maintains a spacious verdant feel to the area. It also positively contributes to, and allows public views of, a significant area of green space, and a grouping of mature trees, to the rear of properties along Shooters Hill Road and Eastbrook Road. The site is also highly visible from Eastbrook Road on the approach to Shooters

Hill Road, facilitating views of the rear of the group of locally listed properties.

10. The appeal proposal would see the erection of a three-storey detached house with four bedrooms and a small side garden. The proposed dwelling would be constructed from reclaimed London stock brick and other traditional materials, including timber framed sliding sash windows, in an attempt to reflect materials found in the locality.
11. The proposed dwelling would be sited within an area of largely undeveloped former rear garden land. Whilst its height would be no greater than that of Nos. 3 and 5 Eastbrook Road, it would, nonetheless, be a large building with a sizable footprint and be of a contemporary appearance with a part lead, part natural grey slate mansard roof broken by four front facing lead-clad flat top dormers. It would also sit noticeably forward of the building-line set by the neighbouring property at 1 Eastbrook Road.
12. As a result, the house would be a prominent addition to the street scene and would obviously intrude into the historic rear garden area of No. 112 Shooters Hill Road, contrary to the historic and orderly pattern of development in this part of the CA. Its presence at this location would therefore disrupt the open and verdant character of the area and harmfully reduce views through this part of the CA. As a consequence, the proposal would also significantly erode the setting of the adjacent group of non-designated heritage assets, thereby harmfully diminishing their historic and architectural significance.
13. Whilst noting the presence of some more recent and less traditional forms of development along Eastbrook Road, the proposal's form and appearance would substantially depart from the more refined and historic buildings which dominate the area. This would draw significant attention to the building, emphasising its presence, and compounding the harm to the CA.
14. With regard to trees, the Council has advised that a number of mature trees have been removed from the site without consent. The appellant does not dispute this and instead suggests that the appeal ought to be determined on the basis of an absence of trees, with any enforcement action being considered separately away from this appeal.
15. However, I am mindful that anyone who cuts down, uproots, tops, lops, wilfully destroys or wilfully damages a tree in a conservation area, or permits such work, without the proper consent having been secured pursuant to section 211 of the Town and Country Planning Act 1990 (the Act) is guilty of an offence, unless an exemption applies. The appellant has claimed no exemption. Accordingly, under section 213 of the Act, the landowner has a duty to replace the trees by planting replacements of an appropriate size and species at the same place as soon as they reasonably can, and the Council has the power to enforce this duty.
16. Whilst the approved landscaping scheme¹ relating to the planning permission to convert No. 112 into four flats² would allow the removal of some of the mature trees, it does not appear that the trees were felled pursuant to the implementation of that scheme and therefore their removal is likely to constitute an offence.

¹ Ref. 18/2274/SD

² Ref. 17/3867/F

17. Given the contribution that trees to the rear of Shooters Hill Road make to the character and appearance of the CA, I am in no doubt that the unauthorised removal of the trees to the rear of No. 112 has been harmful to the character and appearance of this part of the CA. The proposal would remove the ability for the necessary replacement tree planting to be carried out and would therefore result in an unacceptable loss of valued trees, to the detriment of the character and appearance of the CA.
18. The harmful effect that would arise as a result of the proposal would be localised and therefore the harm to the CA as a whole would be less than substantial. However, it is incumbent upon me to give considerable importance and weight to such harm. The Framework advises that this harm must be weighed against the public benefits of the proposal. In this regard, the proposal would provide an additional dwelling that would be of benefit to the local supply of new homes. There would also be economic and social benefits accrued through its construction and subsequent occupation. However, these benefits would be modest as only a single dwelling is proposed. Accordingly, the harm to the CA is not outweighed by public benefits.
19. Consequently, I find that the proposal would fail to preserve or enhance the character or appearance of the Sun in the Sands Conservation Area. It would also have a harmful effect on the setting of a group of locally listed buildings and result in an unacceptable loss of protected trees which make a positive contribution to the character of the area. Therefore, the proposal would conflict with Policies D3, D4, D6, HC1, G5 and G7 of the LP 2021 and Policies H1, H5, H(c), DH1, DH3, DH(h) and DH(j) of the Royal Greenwich Local Plan Core Strategy with Detailed Policies 2014 (the RGLP). Together, amongst other things, these policies seek to ensure high quality design that responds to the historic environment, complements local architectural character, conserves heritage assets and their settings, takes account of established layout and spatial character, and places great weight on the preservation of trees which make a positive contribution to the area.

Living Conditions

20. In order to address the impacts of the urban heat island effect and the fact that the majority of housing developments in London are made up of flats, Policy D6 of the LP 2021 requires a minimum ceiling height of 2.5 metres for at least 75% of the gross internal area (GIA) of new dwellings. This is to ensure that new housing is of adequate quality, especially in terms of daylight penetration, ventilation and cooling, and sense of space.
21. The proposal would include accommodation within the roof space where the roof profile and angle of pitch would compromise the internal ceiling heights across this floor of the proposed dwelling. Indeed, annotations on the proposed second floor plan³ indicate that the proposed ceiling heights would fall short of the required standard across this entire floor of the proposed dwelling. Whilst the appellant considers that the area compromised by the roof profile would be insignificant, no internal section plans, or drawings have been provided to demonstrate compliance with the policy requirement.

³ Proposed Floor Plans and Site Location Plan (Drawing No. PAD/178/10) Dated Jan 2019

22. Irrespective of the total floor space exceeding the minimum GIA standards set out in Policy D6 of the LP 2021, the minimum ceiling height requirement is an additional standard to be satisfied.
23. Accordingly, the information provided fails to satisfactorily demonstrate that appropriate ceiling heights would be achieved for the proposed dwelling. Therefore, I am bound to conclude that the proposal has not demonstrated that it would provide adequate living conditions for future occupiers, with regard to internal space standards. It would therefore be contrary to Policy D6 of the LP 2021, Policy H5 of the RGLP and the guidance set out in the Mayor of London's Housing Supplementary Planning Guidance, which together require housing developments to be of high quality design and provide adequate internal space for future residents.

Archaeology

24. The appeal site is located within an Area of High Archaeological Potential (AHAP) as indicated in Figure 4 of the RGLP and designated by Policy DH(m). This indicates that there is significant known archaeological interest and potential for new discoveries. Policy DH(m) expects applicants to properly assess and plan for the impact of proposed developments on archaeological remains where they fall within AHAPs and that in certain instances preliminary site investigations may be required before proposals are considered.
25. The Framework states⁴ that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
26. However, the proposal is not supported by an archaeological desk-based assessment or field evaluation. Given the site's archaeological potential informed by its location within an AHAP, its undeveloped state, and its positioning in the relation to the original route of a Roman Road along Shooters Hill Road, I agree that the site merits further investigation. Thus, it is necessary to undertake an archaeological assessment to fully consider the archaeological implications of the proposal and identify any required mitigation.
27. Securing this by condition would not be appropriate, as an assessment and evaluation ought to take place prior to the determination of a planning application in order to predict the presence of remains and assess their potential significance. Without such evaluation and assessment, it is not possible to fully consider the archaeological implications of the proposal.
28. In the absence of this information, or conversely, any convincing evidence that it should not be required, I conclude that the effect of the proposal on assets of archaeological significance has not been shown to be acceptable. The proposal would therefore be contrary to Policy DH(m) of the RGLP, Policy HC1 of the LP 2021 and the associated policies of the Framework which together seek to protect assets of archaeological significance.

⁴ At paragraph 194

Conclusion

29. The proposed development would fail to preserve or enhance the character or appearance of the Sun in the Sands Conservation Area, would be harmful to the setting of an adjacent group of locally listed buildings and would result in the loss of protected trees which make a positive contribution to the character of the area. The proposal has also failed to demonstrate adequate living conditions for future occupiers, with regard to internal space standards, and the effect of the proposal on assets of archaeological significance has not been shown to be acceptable.
30. Furthermore, the public benefits and other matters advanced in favour of the proposal are not of sufficient weight to justify a decision other than in accordance with the development plan, with which, in respect of the above referenced policies, the appeal proposal would clearly conflict.
31. Accordingly, for the reasons set out above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

J M Tweddle

INSPECTOR