



Appeal Decision

Site visit made on 19 April 2023

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 JULY 2023

Appeal Ref: APP/A5840/W/22/3309514

106 Forest Hill Road, London SE22 0RS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Pavilion London plc against the Council for the London Borough of Southwark.
 - The application Ref 22/AP/0188, is dated 21 January 2022.
 - The development proposed is the erection of a single storey one-bedroom dwelling to the rear of 106 Forest Hill Road, with associated amenity area, cycle and refuse storage areas.
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Decision

1. The appeal is dismissed and planning permission is refused for the erection of a single storey one-bedroom dwelling to the rear of 106 Forest Hill Road, with associated amenity area, cycle and refuse storage areas.

Preliminary Matters

2. The appeal is against the Council's failure to give notice of its decision within the prescribed period. The Council's case and its putative reasons for refusal are set out in their statement of case.
3. In undertaking the site visit, I was unable to gain access to the ground floor of the building or rear part of the site. I was, however, able to see all of the rear part of the site from the rear balcony of the first floor flat. I have based my decision on the totality of the evidence from the appellant and the Council, along with what I observed from the site visit.

Main Issues

4. The main issues are the effect of the proposed development on a) the character and appearance of the area; and b) the living conditions of future occupants.

Reasons

Character and Appearance

5. The appeal site currently comprises a two storey, end of terrace building. The rear part of the plot currently forms a rear yard accessed from the ground floor accommodation, with an area beyond which is overgrown and appeared to contain various discarded items. It is part of this yard and the area beyond which are proposed to be redeveloped.

6. The property is set within a dense, mixed commercial/residential part of Forest Hill Road. Other properties in the terrace exhibited a mix of commercial uses on the ground floor, with residential uses appearing to be predominant on the upper floors. To the rear, most, if not all of the properties in the terrace, appeared to have been extended and/or have an outbuilding. To the south of the appeal site is the garden to the Watson's General Telegraph pub.
7. To my mind many of these extensions and outbuildings appeared overly large or of a poor design. Some are clearly historic but nevertheless this collectively appears to have led to a detrimental impact upon the character and appearance of the individual plots and buildings and thus this particular area as a whole. I do not have any information before me as to what led to them being created. However, that the proposed building would not extend further into the plot than many of the neighbouring outbuildings/extensions in the terrace is not necessarily, in itself, a good reason to allow the appeal.
8. The proposal would entail building over most of the appeal site. The design includes a flat roof element to the front part and pitched roof to the rear. The pitched roof would give the building a greater height and thus prominence than many other rear extensions and outbuildings in the immediate vicinity.
9. Whilst a 'backland' scheme does not in my opinion necessarily have to have a flat roof, in a context such as this, a separate dwelling would usually be expected to either be set sufficiently far from the host building so that it is read as a separate, independent building or be of a size and appearance that does not appear overly dominant. The proposal does neither.
10. Overall, I find that the introduction of this dwelling on a relatively small site, would not sit well within the immediate locality and would add to the level of incongruity that has already occurred to the rear of the terrace. Even though it would not form part of the street scene, I find that it would still harm the character and appearance of the area.
11. The proposal is therefore contrary to Policies P13, P14 and P15 of the Southwark Plan 2022 and Policy D4 of the London Plan 2021 which, amongst other things, seek to ensure developments deliver good design that responds positively to its context and fits with its location. As such, the proposal would not accord with the objectives of the Council's Supplementary Planning Document 'Residential Design Standards' 2015.
12. The proposal would also be contrary to Paragraph 130 of the Framework, which amongst other things, seeks to ensure developments are sympathetic to local character.

Living Conditions

13. The proposed dwelling would have access to a small courtyard to the rear of the unit. Based on the stated width of the building and area of the courtyard, I estimate the rear elevation would be approximately just over 2m from the site's rear boundary. This would give an extremely limited outlook. Other windows serving the dwelling would either face towards the site's boundary with the pub, which the pub has supplemented with planting that extends above the height of the existing fence, or back towards part of the proposed building and the narrow access to the building itself.

14. Even if the bedroom were only used for sleeping, the overall result would be a fairly oppressive and overbearing environment that would give future occupiers a very limited outlook from the building itself.
15. The noise survey submitted in support of the proposal notes that the design target for external amenity space is to ensure noise levels do not exceed LAeq 55dB(A). It goes on to note that the proposed amenity space could experience ambient noise levels that comply with this requirement. However, the report also notes that typical maximum noise levels of LAeq 63 and 64 dB(A) were measured on Friday and Sunday nights during the monitoring period. These are said to represent a worst-case scenario.
16. However, based on the above, it seems to me that future occupants are as equally likely to experience some noise disturbance when using the rear courtyard as not. Whilst the noise may not be constantly at the level of LAeq 63 and 64 dB(A), given the proximity of the pub garden there seems a strong possibility that it will be at a level for periods of time that would cause disturbance to future occupiers. Therefore, introducing additional residents into such a context would not be appropriate.
17. The noise report concluded that with suitable glazing and ventilation, appropriate internal noise levels for future occupiers could be achieved. However, this does not mitigate the harm I have identified in relation to the use of the outside space and the noise disturbance which could arise in relation to it.
18. I appreciate that because of the orientation and position of the space, the rear courtyard would be very private and that there would be good levels of sunlight and daylight to the unit. I also acknowledge that small courtyards/gardens are not uncommon in tightly knit urban areas and that future occupiers can choose where they live. However, I do not consider that any of those factors overcome the significant harm I have identified to the living conditions of future occupiers of the dwelling.
19. The proposal would therefore be contrary to Policy P15 of the Southwark Plan 2022 and Policy D6 of the London Plan 2021 which, amongst other things, require new residential developments to provide a high standard of accommodation and living conditions that meet the needs of future occupiers.

Other Matters

20. The issue of affordable housing has been raised by the Council, with both sides providing viability reports to support their own stance. However, even if I were to find in favour of the appellant in relation to this matter, it would not overcome the harm I have identified nor my conclusions in relation to the effect of the proposal on the character and appearance of the area and the living conditions of future occupiers.
21. I acknowledge that the proposal meets the Nationally Described Space Standards and that no objections were raised in relation to such matters as highways and the living conditions of neighbouring occupiers. However, this should be expected for any development to be considered acceptable and so does not weigh positively in favour of the proposal.
22. The scheme would provide one new dwelling that would be well located to services and facilities and would make efficient use of the land. There may be

some economic benefits associated with the construction of the dwelling and its subsequent occupation. These factors attract positive weight in favour of the scheme.

23. I note the extant permission at the appeal site to form 2 x two-bedroom apartments within the main building. However, that does not alter my conclusion in regard to the main issues of the case.
24. Whilst I sympathise with the appellant with regard to the time taken to determine the application, I have not had further regard in this decision to concerns over how the Council handled the application. This would be an administrative matter to be taken up directly with the Council. I have focused on the planning merits of the scheme in regard to the main issues of the case.

Conclusion

25. Whilst there would be some beneficial aspects of the scheme, I have found the proposal to be harmful to the character and appearance of the area and the living conditions of future occupants. These harms would be considerable and long lasting and so the weight I ascribe to them is substantial. The benefits of the scheme would therefore not outweigh the harm which would arise.
26. For these reasons, the proposal would conflict with the development plan taken as a whole. There are no other material considerations, including the Framework, which lead me to determine the appeal other than in accordance with the development plan.
27. I therefore conclude that the appeal should be dismissed.

Stewart Glassar

INSPECTOR