



Appeal Decision

Site visit made on 21 May 2024

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2024

Appeal Ref: APP/A5840/W/23/3328456

3 West Square, Southwark, London SE11 4SN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Kamlesh Janani against the decision of the Council of the London Borough of Southwark.
 - The application Ref is 22/AP/3308.
 - The development proposed is described as "Demolition of detached dwelling house, construction of 3 x three storey townhouses with roof top gardens".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Amended plan titled "Proposed Floor Plans" - drawing number 3WS/PL/003 Revision B has been submitted with the appeal. This plan did not form part of the planning application. The amendments to the floor plans show a substantial difference which include alterations to the proposed layout, the size of the rooms on the second floor and size of the roof garden. There is no indication that this amended plan has undergone a formal consultation process, particularly with interested parties. Accepting the submission of this amended plan would cause procedural unfairness that would prejudice some parties. I have therefore assessed this appeal based on the plans that the Council made their decision which are detailed in the decision notice.

Main Issues

3. The main issues are the effect of the proposal on affordable housing; whether the proposal would preserve or enhance the setting, character or appearance of the West Square Conservation Area and adjacent listed building; the effect of the proposal on the living conditions of future occupiers of the development with regards to indoor and outdoor space, and outlook; and the effect of the proposal on trees.

Reasons

Affordable housing

4. A financial viability appraisal has been submitted which concludes that the proposed scheme is at the limit of viability, indicating that whilst the scheme can deliver CIL obligations it would not be viable should affordable housing contributions be included.
5. Policy P1 of the Southwark Plan 2022 (SP) relates to social rented and intermediate housing stating that development creating less than nine homes must provide this type of accommodation or a financial contribution towards it.

Whilst Policy P1 does indicate that viability appraisals and reviews are required for all developments it does not specifically state that independent third party reviews of the viability appraisals are a requirement.

6. Undertaking a viability appraisal is not an unusual approach to demonstrate whether a scheme can afford to include an affordable housing contribution. However, Policy P1 does not specifically state that this approach would exempt a scheme from affordable housing contributions. So, although the submitted evidence demonstrates that the proposed scheme would be unviable with affordable housing contributions included, the proposed development nevertheless does not provide social rented and intermediate homes or financial contributions towards these. Therefore, the proposed development does not strictly accord with Policy P1 of the SP.
7. The Council's officer report refers to a "Southwark's Development Viability SPD". This document has not been submitted and I have determined the appeal on the evidence before me.

Conservation Area and listed building

8. The appeal site comprises of a two storey detached property situated within the West Square Conservation Area (WSCA). The Charlotte Sharman School (the school building) to the west of the appeal site is grade II listed.
9. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. Also, in accordance with the duty imposed by Section 72(1) of the Act I am required to pay special attention to the desirability of preserving or enhancing the character of the conservation area. Moreover, paragraph 205 of the National Planning Policy Framework (the Framework) states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
10. The WSCA, within the immediate setting of the appeal site, is characterised by residential properties of Georgian style with the school building, its grounds and associated buildings being a focal point in the street scene. The residential properties are large, three to four storey high, with Georgian architectural detailing that form the West Square and are located on the east of the road leading to St. George's Road. In my view the significance of the WSCA is derived from the architectural character, design and styles of the buildings with the school building and its grounds being a defining focal point.
11. The grade II listed school building was built around 1884-5 with the listing suggesting it was built for the School Board for London. The building is a mix of yellow and red brick with black brick plinth, has an irregular L-shape plan with long elevation to Geraldine Street, between West Square and St. George's Road. The two upper storeys are articulated by blind segmental-arched arcade with the second floor windows having segmental heads and the first floor windows having flat arches. The ground floor has rectangular windows surmounted by segmental pointed arches with keystones. The listed building has historical and architectural significance within the area.

12. The buildings immediately to the east of the school building, which includes the existing appeal building, are of two storey construction. The size of these buildings contributes towards the school building retaining its prominence and focal position, particularly when viewed from parts of West Square. The built form immediately to the east of the school building plays an important role in the significance of the setting of the grade II listed school building within the wider WSCA townscape.
13. The proposed development, given its size, massing and proximity to the school building, would be a large dominating structure that would significantly detract from the special qualities of the school building. The scale of the proposed development would sit uncomfortably with the two storey form of the building immediately to the north.
14. The design, scale, height and architectural detailing of the proposed development would be in keeping with the existing Georgian properties in the area. The proposal is also set back from the highway to the east and from the building to the north which provides an element of buffer as well as opportunity to introduce soft screening and planting. However, the height and scale of the development combined with its location being in close proximity to the school building, would result in a towering form of built development that obscures views of the school building having a harmful effect on its setting.
15. Whilst some views of the school building would be maintained, the proposal would prevent views from parts of West Square. These views have great importance in terms of the setting of the grade II listed school building and the WSCA within the townscape of this area. The proposed development would be an incongruous structure that would significantly harm the appearance of the WSCA and the setting of the grade II listed school building.
16. The proposal would not preserve or enhance the setting, character and appearance of the WSCA or the grade II listed school building. The proposal would be contrary to Policies P13, P14, P15, P19, P20 and P21 of the SP which seeks development to have high design standards that preserve or enhance the setting, character or appearance of conservation areas, their settings, and the special significance of listed buildings.
17. The proposal would lead to substantial harm to the WSCA and the setting of the grade II listed building, and thereby the significance of the heritage assets.
18. The proposal would result in the demolition of the 1950's building currently on the site. This building and its architectural style and detailing is at odds with the design of the surrounding built development and does not contribute positively to the character and appearance of the WSCA or the setting of the grade II listed school building. I have had regard to the appellants statement of case which details that the proposal would provide high quality sustainable living environment, by making an efficient use of the relatively large site and providing much needed family accommodation for the local area. The proposal would also provide roof gardens for each property which is not necessarily present in the area. Given the number of properties proposed, including the demolition of the existing building, the proposal would have public benefit of minimal weight.
19. These public benefits would not outweigh the substantial harm to the WSCA and the grade II listed building which I have identified above. The proposal would,

therefore, fail to sustain or enhance the setting, and thereby the significance of, the designated heritage assets. It would not accord with the policies of the Framework which seek to conserve and enhance the historic environment.

Living conditions

20. The proposal is for three, three storey properties with roof gardens. Each property is similar in layout and size. There are discrepancies within the submitted evidence with regards to number of bedrooms proposed. The proposed floor plans show three bedrooms and a study for each property with this being described in the appellant's statement of case. However, the application form states that there would be four bedrooms for each unit. Whilst the proposed floor plans state that one of the rooms on the second floor of the properties would be a study, given the size of these rooms, they would be able to accommodate a single bed and therefore I consider the properties would be four bedroom units. On this basis, each proposed residential unit would be three storey, four bedroom properties that could accommodate six persons.
21. Table 1 on page 12 of the Southwark Council 2015 Technical Update to the Residential Design Standards Supplementary Planning Document (SPD) states that new three storey dwellings with four bedrooms that can accommodate six persons should have a minimum internal space of 112 square metres (sqm) with 3sqm of built-in storage. The evidence provided by the appellant on internal space sizes is contradictory as there are two figures supplied in the application form, along with a figure in the appellants statement of case and a figure in the design and access statement. All these figures for the internal space sizes differ from one another with some of the figures falling below the SPD figure of 112sqm. The Council consider that the proposed gross internal floor area would be 94.6sqm. There are rooms proposed in the properties, including bedrooms, bathrooms and built-in storage, that do not meet the minimum internal space required in the SPD. The proposed size of the roof gardens also does not meet the requirements set out in the SPD.
22. High level windows are proposed in the rooms that face west, which include bedrooms and the kitchens. These would be the only windows into these rooms and given the size and height, they would not provide adequate outlook for future occupiers of these rooms.
23. From the evidence provided, I am not satisfied that the proposed development would provide sufficient space to satisfactorily meet the day to day needs of its occupants. The proposed units would create cramped environments with habitable rooms having insufficient outlook that would adversely compromise the living conditions of future occupiers.
24. The proposal would have a harmful effect on future occupiers of the properties with regards to indoor and outdoor space, and outlook. The proposal would be contrary to Policy P15 of the SP, Policy D6 of the London Plan (LP) and the SPD which seeks development to provide a high standard of quality of accommodation for living conditions.
25. The design of the proposal would prevent overlooking onto the school playground and ensure that the proposed rooms receive sufficient levels of light. These matters, however, do not outweigh the harm identified above in respect of indoor and outdoor spaces, and outlook.

Trees

26. There is a mature Lime Tree immediately adjacent the front boundary of the site. Whilst this tree is not under a Tree Preservation Order, it nevertheless, is a tree of high amenity value that contributes significantly to the character and appearance of the WSCA and surrounding street scene.
27. An Arboricultural Impact Assessment and Method Statement (AIAMS) has been submitted which concludes that whilst the Lime Tree would be impacted by foundations of the proposed scheme, the development would be achievable by using specialist construction methods. The AIAMS also indicates that the Lime Tree would require re-pollarding to facilitate the proposed development.
28. The Lime Tree would be in close proximity to the proposed development, in particular windows into bedrooms and the living room. Due to the height of the Lime Tree and the proximity to the development, outlook from these windows and light into the proposed rooms would be compromised by the Lime Tree. Given the effect the Lime Tree would have on the living conditions of future occupiers with regards to outlook and light, there are significant concerns that there would be pressure in the future for this Lime Tree to be further pruned or removed. The loss of the Lime Tree or substantial pruning to it would adversely affect the character and appearance of the WSCA and the surrounding area.
29. The proposed development would have a harmful effect on the adjacent Lime Tree. The proposal would be contrary to Policy P61 of the SP and Policy G7 of the LP which seeks development to retain and protect significant existing trees.
30. There is another Lime Tree located further to the north however, given its location and proximity to the proposed development as well as the conclusions in the AIAMS, there is unlikely to be pressure for this tree to be removed as a result of the proposed development.

Other Matters

31. The proposal would be the development of previously-developed land that would contribute to housing supply, being in an area close to public services and facilities. The development would have adequate cycle parking and bin storage and the Council have not raised any significant concerns with regards to parking. The proposed development would have elements that are set back from the school playground, ensuring the scheme is not overbearing. These benefits and matters would not outweigh the substantial harm I have identified in the main issues.

Conclusion

32. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding.
33. For the reasons given above, I conclude that the appeal should be dismissed.

Chris Baxter

INSPECTOR