

Appeal Decision

Site visit made on 31 July 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 September 2024

Appeal Ref: APP/A5840/W/23/3334597

22 Bird In Bush Road, Southwark, London SE15 6RW

- 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 Salem against the decision of the Council of the London Borough of Southwark.
 - The application Ref is 23/AP/0321.
 - The development proposed is first floor 1 bedroom flat.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

- the effect of the proposed development on the character and appearance of the area;
- the effect of the proposed development on the living conditions of the occupiers of neighbouring properties in terms of daylight and sunlight;
- whether the proposed development would make appropriate provision for refuse storage and cycle parking; and
- whether the proposed development would make appropriate provision for affordable housing and off-site amenity space.

Reasons

Character and appearance

3. The appeal site is located on the corner of Bird In Bush Road and Radnor Road, in a predominantly residential area characterised by two-storey pitched roof dwellings of varying ages and styles.
4. The appeal site comprises a 2-storey end-terrace dwelling with additional accommodation in the roofspace. Behind the house, there is a single-storey flat-roofed office building that spans the entire width of the plot, covering approximately half of the original garden area.

5. The proposal seeks to add a first floor to the existing office building to create a self-contained flat. The extended structure would retain a flat roof, which would contain rooflights.
6. Presently, the building extends to the side boundary of the property, facing Radnor Road, where it appears as a continuation of the property's brick boundary wall, albeit slightly taller. The proposed development would significantly raise the height of this boundary wall along a considerable portion of the Radnor Road frontage.
7. Given the narrowness of Radnor Road, with its footways directly flanked by brick boundary walls, the proposed development would appear excessively tall and dominant, and would sit uncomfortably close to the street. Additionally, the 2-storey mass would project uncomfortably forward of the corresponding front elevation of the adjacent property of No 2 Radnor Road (No 2), disrupting the established building line. While the flat roof may have a smaller volume than a pitched roof, it would still appear incongruous among neighbouring development, which predominantly features pitched roofs.
8. Although there is some taller development in the vicinity, including blocks of flats up to 5 storeys, these are well separated from the appeal site and do not mitigate the adverse effects of the proposed development.
9. The appellant has expressed a willingness to amend the design of the proposal to better align the windows at ground and first floor. However, I must evaluate the proposal based on the plans before me, and no alternative designs have been submitted. In any event, even with such changes, the issues related to the scale and massing of the proposal would remain. Similarly, I am not persuaded that landscaping measures such as climbing plants would address this harm.
10. Although the Council's officer report cites no conflict in terms of land use, this does not overcome the harm I have identified above. Accordingly, the proposal would harm the character and appearance of the area by virtue of its scale and massing, which would conflict with Policies P14 and P15 of The Southwark Plan 2019-2036 – For adoption February 2022 (the SP), and Policy D3 of The London Plan March 2021 (the LP). Together these policies seek, in respect of this issue, for development to provide high standards of design, and to positively respond to context and the capacity for growth. It would also conflict with the relevant provisions of the National Planning Policy Framework (the Framework), which have similar aims.

Living conditions

11. The Council's officer report suggests the proposal would lead to adverse effects in terms of outlook, overbearing and sense of enclosure to neighbouring properties. However, because the formal decision notice only refers to daylight and sunlight impacts, my assessment shall focus on these issues.
12. As no technical assessments have been provided relating to daylight or sunlight, my assessment of this issue is based on my observations on site and the details in the available evidence.

13. Given the orientation and the trajectory of the sun, it is unlikely that the proposal would cause any meaningful loss of sunlight to No 2, which lies to the south of the site. However, the proposed development's position, height and significant projection beyond No 2's front elevation would likely reduce the daylight afforded to the ground and first floor windows on the front elevation of No 2.
14. The appellant has suggested that painting the south elevation of the appeal building white would increase the light afforded to No 2. However, based on my observations and the available evidence, I find this argument unconvincing. Therefore, I find the proposal would result in harm to the living conditions of the occupiers of No 2 through loss of daylight.
15. The appeal site lies to the south of No 20 Bird In Bush Road (No 20) and No 22 Bird In Bush Road (No 22). The existing building sits reasonably close to the rear elevations of both Nos 20 and 22, but its modest height currently minimises the impact on their daylight and sunlight. Given the proposed height, orientation and proximity to the rear-facing windows of Nos 20 and 22, the proposal would likely result in a significant loss of daylight and sunlight to these properties.
16. Due to the presence of existing development on the appeal site and neighbouring plots, the appellant claims that the loss of sunlight would be limited to approximately 45 minutes over the summer months only. However, without technical evidence to support this, my earlier conclusions remain unchanged.
17. For the reasons given above, the proposed development would result in harm to the living conditions of the occupiers of neighbouring properties in terms of loss of daylight and sunlight. This would conflict with Policy P56 of the SP which provides, in respect of this issue, that development should not be permitted when it causes an unacceptable loss of amenity to present or future occupiers or users.

Refuse storage and cycle parking

18. The appellant suggests that the recessed storm porch would provide sufficient space for the storage of 2 x 240 litre wheelie bins. However, the Council's evidence sets out that proposals must also accommodate a 23 litre bin for food waste collection. This is supported by Policy P62 of the SP, which requires development to provide adequate recycling, composting and waste disposal, collection and storage facilities on site. Since the proposal does not detail how or where this additional bin would be stored, I am not convinced that adequate refuse storage could be provided without obstructing the adjacent footway.
19. The Council's statement of case acknowledges that 2 cycle parking spaces would be required, contrary to the requirement of 3 noted in the officer report. Although the submitted plans lack specific details of cycle parking, there appears to be ample internal space on the ground floor for policy compliant cycle parking. In the event that I was minded to allow the appeal, it would be reasonable to secure details of cycle parking by condition.

20. For the reasons given above, although I find no harm in respect of cycle parking, the proposal makes inadequate provision for refuse storage, with the potential obstruction of the footway resulting in harm to pedestrian safety. The proposal would therefore conflict with Policies P56 and P62 of the SP and Policy D4 of the LP which together seek, in respect of this issue, to protect amenity through the use of appropriate residential layout and good design, and to make appropriate provision for the disposal, collection and storage of waste.

Affordable housing and amenity space

21. Policy P1 of the SP requires that developments creating nine homes or fewer provide the maximum amount of social rented and intermediate homes, or a financial contribution towards the delivery of new council social rented and intermediate homes with a minimum of 35% subject to viability.

22. The appellant describes the appeal scheme as a self-build project, which could be exempt to the above contribution if a s106 agreement is entered into, requiring a financial contribution if the property is put on the market within 3 years of completion.

23. Policy P15 of the SP requires all new residential development to provide amenity space, with standards set out in the 2015 Technical Update to the Residential Design Standards (2011) (the RSPD). The appellant's statement of case notes that the proposal would share the main dwelling's garden, but no further details of this arrangement are provided, leaving me unconvinced that the development would meet the standards.

24. The RSPD notes that where development does not provide adequate amenity space, in certain circumstances a planning obligation may instead be used to provide off-site public amenity space. This is also reflected in the Section 106 Planning Obligations and Community Infrastructure Levy (CIL) Supplementary Planning Document (the POSPD).

25. To be enforceable, any planning obligation must comply with section 106(1)(a) to (d) of the Town and Country Planning Act 1990 (the TCPA). While the appellant has submitted 2 undertakings that are signed by a solicitor and purport to secure the necessary contributions, these merely express a personal commitment rather than a binding planning obligation. As such, the obligations do not fall within the scope of section 106(1)(a) to (d) of the TCPA. Therefore, I am not provided with a suitable mechanism to secure the necessary contributions.

26. I therefore conclude that the proposal would fail to make appropriate provision for affordable housing and off-site amenity space and would conflict with Policies P1 and P15 of the SP, as well as the RSPD and POSPD, the aims of which have previously been set out.

Other Matters

27. The appellant has provided detailed evidence regarding correspondence with the Council, expressing frustration over communication and alleged conflicting responses during the determination period. However, my role is to determine the appeal based on the proposal before me. While I acknowledge the appellant's concerns, they do not alter my findings on the main issues.

28. The proposed development aims to create an independent living space for the appellant's son, addressing local affordability and availability challenges, particularly for young people and first-time buyers. The proposed development would contribute to addressing this issue by delivering an additional residential unit in a sustainable location, thus making a small contribution to the supply of housing. However, any such benefits are limited to a single unit and do not outweigh the previously identified harm.

Conclusion

29. The proposal would conflict with the development plan as a whole and there are no material considerations to lead me to a decision other than in accordance with the plan. Accordingly, for the reasons given above, the appeal should be dismissed.

P Storey

INSPECTOR