



Appeal Decision

Site visit made on 19 November 2024

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2024

Appeal Ref: APP/A5840/W/24/3349156

298 Old Kent Road, Southwark, London SE1 5UE

- 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 M Kayani against the decision of the Council of the London Borough of Southwark.
 - The application Ref is 23/AP/3374.
 - The development proposed is a single storey outbuilding.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey outbuilding at 298 Old Kent Road, Southwark, London SE1 5UE in accordance with the terms of the application Ref 23/AP/3374 subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location & Block Plan (Drawing No: 01 of 02) and Outbuilding Plans (Drawing No: 02 of 02).
 - 3) The external surfaces of the development hereby permitted shall be constructed in the materials specified in the application. Development shall be carried out in accordance with the approved details.
 - 4) The development hereby permitted shall not be used as a separate dwelling and shall only be used as ancillary accommodation to the existing residential units within 298 Old Kent Road.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of existing residential occupiers with regard to amenity space provision.

Reasons

3. The appeal site is a mid-terrace property that forms part of a row that has a variety of retail and commercial uses fronting Old Kent Road. On the upper floors and to the rear of the ground floor, the appeal property accommodates a number of flats.
4. The proposed outbuilding would be situated in an area to the rear of the main building. This space was formerly associated with the commercial unit and the aerial image in the appellant's submission shows it as a hardstanding area.

The Council has referred to this area as being an ancillary space for the residential units and that it could be utilised as an outdoor amenity space. However, and despite the application form referencing the loss of garden land, there is no evidence before me that the outdoor area where the outbuilding is proposed has served as a residential amenity space.

5. As such, the proposal would not be contrary to Part 3.4 of the 2015 Technical Update to the Residential Design Standards Supplementary Planning Document (2011) (SPD), insofar as it seeks to ensure that outdoor amenity space is not reduced to less than half of its original size. A hardstanding area can function as a communal amenity space, and there is sufficient room to accommodate items such as planters that are typically found in outdoor amenity areas if the building material that currently occupies this space were to be removed. In this instance though, the proposal would not lead to a reduction in an area that is being used or has previously been used as an outdoor amenity space for residential occupiers on the appeal site.
6. I therefore conclude that the proposal would not result in unacceptable harm to the living conditions of existing residential occupiers with regard to amenity space provision. As such, it would comply with Policy P15 of The Southwark Plan 2019-2036, the SPD and Paragraph 135 of the National Planning Policy Framework (Framework) which seek, amongst other matters, a high standard of amenity for existing and future users.

Other Matters

7. Reference has been made to historic structures that may have occupied part of the outdoor area where the outbuilding is proposed, the pattern of nearby development, as well as potential future Permitted Development rights. I am however required to determine the appeal on its own merits and can confirm that I have done so accordingly.
8. Not all the residential units within the building would have access to the proposed outbuilding and concerns have also been raised on how the residential units would share the accommodation proposed. The application is for ancillary accommodation and how the facilities within the outbuilding are shared between the flats is a management issue.
9. The appeal site is located within the Thomas A'Becket and High Street Conservation Area (Conservation Area). As the proposal would be a single storey structure situated to the rear of a larger terrace, it would not have harmful effect on the unified 18th Century nearby terrace which contributes positively to the significance of the Conservation Area. It would also utilise sympathetic facing and roofing material, and it would therefore preserve the character and appearance of the Conservation Area.

Conditions

10. I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended the suggested conditions as appropriate.
11. I have attached a materials condition in the interests of ensuring the development's acceptable appearance in order to preserve the character and appearance of the Conservation Area. A condition requiring the outbuilding to

be used as ancillary accommodation is necessary to define the permission and to prevent its use as a separate residential unit.

Conclusion

12. The proposal would accord with the development plan as a whole, and there are no other considerations, including the Framework, that indicate that I should take a decision other than in accordance with this. I conclude that the appeal should be allowed.

F Rafiq

INSPECTOR