



Appeal Decision

Site visit made on 13 April 2011

by Kevin Ward BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4 May 2011

Appeal Ref: APP/A5840/A/11/2143363
292 Walworth Road, London SE17 2TE

- 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 Bower Trading Ltd against the Council of the London Borough of Southwark.
 - The application Ref 10-AP-2796, is dated 16 September 2010.
 - The development proposed is the construction of a four storied building, plus basement, comprising 330m² of A1/A3 use at basement and ground floor, with 9 self contained residential units located at first, second and third floor levels (comprising 1 x studio, 6 x one bed and 2 x two bed units); with cycle and refuse storage at ground floor and hard and soft landscaping.
-

Decision

1. I allow the appeal and grant planning permission for the construction of a four storied building, plus basement, comprising 330m² of A1/A3 use at basement and ground floor, with 9 self contained residential units located at first, second and third floor levels (comprising 1 x studio, 6 x one bed and 2 x two bed units); with cycle and refuse storage at ground floor and hard and soft landscaping at 292 Walworth Road, London SE17 2TE in accordance with the terms of the application Ref 10-AP-2796, dated 16 September 2010 subject to the conditions set out in the schedule attached to this decision.

Procedural Matters

2. I have adopted the description of the proposed development used by the Council and on the appeal form in the interests of clarity.
3. The Council has confirmed that had it determined the planning application it would have been refused. The Council's concerns relate to the effect on the outlook from the flats in the former police station and the lack of an archaeological evaluation.
4. The Core Strategy was adopted on 6 April 2011. I understand that Policies 3.1, 3.2 and 3.19 of the Southwark Plan (the UDP) have not been superseded. In terms of the appeal proposal, the Council has not highlighted any conflict with specific policies in the Core Strategy.

Main Issues

5. Although adjacent, the appeal site is not within an Archaeological Priority Zone. In light of Policy 3.19 of the Southwark Plan (the UDP) there is no specific

requirement for the planning application to have been accompanied by an archaeological assessment and evaluation therefore. I also note that the Officer's report to the Walworth Community Council meeting of 9 February 2011 accepts that a condition could be imposed to require an archaeological evaluation prior to the commencement of development. The appellant has now commissioned work to this effect. Whilst I accept that the Council has good reason to believe that the site may contain archaeological remains, I am satisfied that this is a matter that can be adequately addressed through a condition.

6. There is significant local opposition to the appeal proposal. Amongst the key areas of concern is the impact on the character and appearance of the area particularly in relation to the principle of building on open land.
7. Taking the above factors into account I consider therefore that the main issues are the effect of the proposed development on:
 - a) The character and appearance of the area.
 - b) The living conditions of the occupiers of the flats in the former police station in relation to outlook.

Reasons

Character and appearance

8. The appeal site had a long history as the garden to the former police station. A condition to ensure that the site was retained as an open landscaped area was imposed on the planning permission to change the use of the police station to a church and community centre in 1995. The Council considers that this previous permission was not validly implemented and therefore the condition ceased to have effect. Planning permission was in any case granted in 2001 subject to a planning obligation for the conversion of the building into flats. That application site did not include the garden area and the Council has confirmed that it considers the former police station building and the current appeal site to have been separate planning units for some time. There is no longer a functional link between them.
9. Although obscured to some extent by the fence/hoarding currently in place, the appeal site provides an element of greenery and openness in an otherwise densely developed area. It also allows views from Walworth Road of the former police station which is a substantial building of some historic and architectural merit.
10. However, the site is not identified as Borough Open Land, it is in private ownership, there is no public access and it does not provide a recreational resource. It is currently very overgrown. Although well vegetated, there is no evidence that the site is of particular value in terms of biodiversity. I understand that the former police station is included in the draft local list but as this has not yet been published for consultation, it carries little weight. In any case, whilst the direct view of the former police station from Walworth Road would be lost, it would remain a prominent feature along Carter Place due to the setting back of the proposed building from the site boundaries. Some views of the building from the corner of Walworth Road and Carter Place would also be retained. Given the context of surrounding development the setting of the listed building at 305 Walworth Road would not be materially affected. The

loss of views of the listed building from the former police station is not in my opinion a significant factor.

11. There is some considerable variety in terms of the height and style of buildings in the locality and a range of external materials are employed. The proposed building would continue the four storey terrace along Walworth Road up to Carter Place and broadly reflect the style and design of these existing properties in terms of roof form, fenestration and the single storey projection onto the street. The reduction in height to three storeys at the rear would assist the transition to the former police station set at a lower level.
12. The appeal proposal would introduce a new and distinct element to the streetscene. However, in my view the character and appearance of the area is sufficiently robust to accommodate such a building. The height, scale and overall bulk of the building would be in keeping with its surroundings and the detailed design and use of materials would add visual interest whilst reflecting elements of other buildings in the locality. The density of the development would be within the range expected in such an area and there would be an adequate amount of outdoor amenity space. The building would be well proportioned in relation to the site and would not represent overdevelopment. The two protected trees on the site would be retained.
13. Given the position and height of surrounding buildings, there would be a very limited visual interrelationship between the proposed building and the Sutherland Square Conservation Area. In any case, as the design and overall appearance of the building would be in keeping with its surroundings there would not be an adverse effect on the setting of the Conservation Area.
14. The proposal would create additional commercial floorspace within an established shopping frontage along Walworth Road. There is no evidence that there would be an over-concentration of such uses in the area. It would also make an important contribution to the supply of housing in the Borough in a location well related to local services and facilities and with good public transport links. The Council considers that the principle of development on the site is acceptable.
15. I appreciate the desire of many in the local community to see the site brought into use as public open space and acknowledge the historic and cultural connections between the former police station and its garden. However, I am not aware of any process underway to achieve community/public ownership or access and I must determine the appeal on the basis of existing circumstances.
16. Whilst the open and undeveloped nature of the appeal site currently makes a positive contribution in terms of the visual amenity of the locality, I consider that the loss of openness would be outweighed by the benefits of the development and in overall terms the proposal would not harm the character and appearance of the area.

Living conditions

17. The outlook from the lower ground floor windows of the former police station is already significantly affected by the close proximity of the retaining wall. The previous appeal scheme (Ref APP/A5840/A/10/2120917) included a single storey projection to the rear, close to the windows serving the existing flats. This element has been removed from the current scheme with the result that the proposed building would be set back further from these windows.

18. In the absence of the fence/hoarding that currently surrounds the site there would be open views from the windows above lower ground floor level across the appeal site towards Walworth Road. The proposed building would clearly have some effect on the outlook from these windows therefore. However, despite its height and bulk and the difference in building levels, I am satisfied that the set back of the proposed building from the existing flats would be sufficient to avoid an undue sense of enclosure or an overbearing effect. Whilst the cycle store would project closer to the existing flats, due to its limited height, this would not have any significant effect on outlook.
19. I find therefore that the proposed development would not have a significant effect on the living conditions of the occupiers of the flats in the former police station in relation to outlook.

Other Matters

20. In relation to the potential increase in on-street parking, the appellant has submitted a unilateral undertaking concerning a permit free development and a contribution to an amended traffic management order. I am satisfied that this fulfils the requirements of Regulation 122 of the Community Infrastructure Levy Regulations and meet the tests set out in Circular 05/2005 and have therefore given the undertaking significant weight in reaching my decision.
21. Given the nature of the surrounding area and the existence of other commercial and residential uses in the locality, I see no reason why suitable servicing arrangements to serve the scale of development proposed could not be put in place.
22. On the basis of information supplied by the appellant which the Council accepts, I am satisfied that the proposed scheme would incorporate measures to reduce the predicted carbon dioxide emissions by at least 20%.

Conditions

23. The Council has suggested a number of conditions should the appeal be allowed. For the avoidance of doubt and in the interests of proper planning a condition to ensure that the development is carried out in accordance with approved plans is necessary. Conditions relating to the details of external materials, hard and soft landscaping, boundary treatments and the protection of trees during construction are required in the interests of the character and appearance of the area.
24. Conditions are also required to ensure the provision and retention of appropriate waste storage facilities. In order to encourage the use of sustainable methods of transport a condition relating to the provision and retention of suitable cycle storage facilities is necessary. A condition is required to ensure that the building is designed to protect the occupiers of the proposed dwellings from undue noise and disturbance from the adjacent road and nearby railway. In the interests of the living conditions of local residents and highway safety a condition relating to a construction method statement is necessary.
25. A condition relating to archaeological evaluation and assessment is necessary given the potential archaeological interest in the site. To mitigate against flood risk and in the interests of the safety of the occupiers of the proposed dwellings a condition to ensure compliance with the recommendations of the flood risk assessment submitted on behalf of the appellant is required. I have amended

and combined the suggested conditions where appropriate in the interests of simplicity and clarity.

26. As I have noted above I see no reason why suitable servicing arrangements could not be put in place and given the scale of development proposed and the nature of the surrounding area I consider that a condition requiring a service management plan is not justified. It would in any case be very difficult to enforce effectively. I also see no convincing reason in terms of the character and appearance of the proposed building or the surrounding area to justify a condition giving the Council additional control over the installation of plant, equipment or other structures on the roof.

Conclusion

27. In reaching my decision I appreciate the strength of opposition to the proposal from the local community and have taken account of the wide range of specific concerns that have been raised.
28. However, I find that the proposed development would not adversely affect the character and appearance of the area and would not have a significant effect on the living conditions of the occupiers of the flats in the former police station in relation to outlook. There are no other factors which would justify withholding planning permission.
29. For the above reasons I conclude that the proposed development would accord with Policies 3.1, 3.2 and 3.19 of the UDP and that the appeal should succeed.

Kevin Ward

INSPECTOR

Schedule of conditions for Appeal Ref: APP/A5840/A/11/2143363

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
0291/D/0/001/2, 0291/D/0/099/2, 0291/D/0/100/2, 0291/D/0/101/2, 0291/D/0/102/2, 0291/D/0/103/2, 0291/D/0/104/2, 0291/D/0/105/2, 0291/D/0/200/2, 0291/D/0/201/2, 0291/D/0/202/2, 0291/D/0/203/2, 0291/D/0/300/2, 0291/D/0/301/2 and 0291/D/0/400/2.
- 3) No development shall take place until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until full details of both hard surfacing and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include planting plans and schedules of plants, noting species, plant sizes and proposed numbers/densities. Development shall be carried out in accordance with the approved details.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 6) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the building is occupied. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place until details of measures for the protection of trees on the site during the course of construction have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) No development shall take place until details of the arrangements for the storage of domestic and commercial refuse have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. The residential and commercial units shall not be occupied until the associated refuse storage facilities have been provided. The facilities shall thereafter be retained for refuse storage and the space used for no other purpose.
- 9) No development shall take place until details of the arrangements for the secure storage of cycles have been submitted to and approved in writing

by the local planning authority. Development shall be carried out in accordance with the approved details. The building shall not be occupied until the approved cycle storage facilities have been provided. The facilities shall thereafter be retained and the space used for no other purpose.

- 10) The residential units shall be designed to attain the following internal noise levels:

Bedrooms- 30dB L_{Aeq, T^*} and 45dB L_{Amax}

Living rooms- 30dB L_{Aeq, T^*}

*T- night-time 8 hours between 23.00-07.00 and daytime 16 hours between 07.00-23.00

The residential units shall not be occupied until a test has been carried out and approved in writing by the local planning authority which demonstrates that the above noise levels have been attained.

- 11) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v) wheel washing facilities
 - vi) measures to control the emission of dust and dirt during construction
- 12) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological evaluation works in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. This scheme shall include details of reporting, disseminating information and archiving.
- 13) The development hereby permitted shall be carried out in accordance with the recommendations of the Flood Risk Assessment Report dated September 2010 produced by Ambiental Technical Solutions Ltd.