



SP

Appeal Decision

Site visit made on 15 November 2012

by **M. F Aldous BA (Hons) Dip Mgt MRTPI**

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

Decision date: 4 December 2012

Appeal Ref: APP/A5840/A/12/2180386
88 Brandon Street, London SE17 1ND.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Suresh Patel against the decision of the Council of the London Borough of Southwark.
 - The application Ref 11-AP-2903, dated 3 October 2011, was refused by notice dated 7 February 2012.
 - The application sought planning permission for the demolition of existing public house with residential above, and to erect a new four storey building comprising of 9 flats (5 No one bedroom and 4 No two bedroom flats) with A1 use on the ground and basement floors without complying with a condition attached to planning permission Ref 10-AP-1253, dated 25 August 2010.
 - The condition in dispute is No 9 which states that: "The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans: 542/PL/06A, 542/PL-07, 542/PL/08A, 542/PL/09C, 542/PL/10B, 542/PL/11B, 542/PL/14A, 542/PL/15, 542/PL/16A and 88R-01."
 - The reason given for the condition is: "For the avoidance of doubt and in the interests of proper planning."
-

Procedural Matters

1. The site has a fairly complex recent planning history, which is a little confusing and requires some clarification. Planning permission was given in 2008 for the proposal described above (08-AP-1698). Subsequent to that, minor variations were approved (10-AP-1397 and 10-AP-1253). These included the Council taking the opportunity to attach further conditions which included condition 9 to 10-AP-1253 which required the work to be undertaken in accordance with various approved and named plans. With regard to the plans, and specifically in relation to this appeal, the plans showed the disposition of window openings and that they were to be of timber frame construction.
2. The building has now been completed, but not in accordance with the approved plans, as I saw on my site visit. Of particular relevance to this appeal is that all window openings have been completed using UPVC materials. As submitted the planning application sought the retention of the UPVC windows. The Council treated the proposal as seeking variation to the relevant conditions previously applied, as its decision notice indicates. Although this varied the description of the proposal as submitted, the Appellant has raised no concerns in this regard and I have considered the appeal on this basis.

3. Notwithstanding any lingering uncertainty about the precise description of the proposal, I am content that both parties are clear on what is proposed and have concentrated on the single planning issue which is relevant to the consideration of the current proposal.

Decision

4. The appeal is dismissed.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the building and the surrounding area.

Reasons

6. The building has not been constructed in accordance with the approved plans. The Council is aware of this and enforcement proceedings are under consideration. With particular regard to the positioning of windows I noted that there is considerable variation from what was approved. It is unclear why this has happened.
7. Although the evolution of this proposal is somewhat complex, the essential planning issue is simple, clear and unambiguous. All windows have been constructed using UPVC units and this treatment is readily visible from the public realm. This has resulted in a rather heavy and unsympathetic effect which has a negative impact in my view on the visual qualities of the building as constructed, and does degrade the original design concept which was found to be acceptable.
8. The design and appearance of the building was given very careful consideration at the time of the original redevelopment proposal, given the prominent position of the site at a junction of busy roads within the local street scene. Timber framed window openings were an approved component of this given their lighter and more elegant appearance.
9. The National Planning Policy Framework (the Framework) seeks to ensure that development is undertaken incorporating high standards of design. Although this post dates local planning policies, those relevant and cited by the Council, effectively strive to secure the same outcome and can be considered to be consistent with the national approach. Good design can act as a positive stimulant to the location in which they sit. Timber framed window openings were sanctioned in accordance with that objective.
10. Circumstances do not appear to have changed materially since the time of the original proposal, other than the publication of the Framework confirming the importance of good design. On this basis I find there to be no substantive reason to support a differing conclusion to that reached by the Council when considering the original proposal, or the subsequent minor amendment applications which were approved, and which established the plans to be used for construction purposes.
11. The heavy and unsympathetic UPVC windows that have been inserted in effect seek to perpetuate the mundane rather than strive to secure good quality development that would lift the environmental quality of the surrounding area. As such I consider the proposal for their retention as a variation to previous

approvals, to be in conflict with the Framework, saved policy 3.12 of the Southwark Plan 2007 and policy SP12 of the Council's Core Strategy 2011.

12. The Appellant argues that UPVC units require less maintenance than timber framed windows and are more durable. The Council disputes this if a long term view is taken and proper maintenance undertaken. Even if the Appellant's view were accepted, I do not consider that it represents a material consideration of sufficient weight to overcome the significant policy objection discussed above.
13. Neither do I place much weight on the assertion that many other buildings in the area have UPVC windows. I saw that this is true, although other buildings utilise timber in their fenestration, but much of this work would have been undertaken without the need for planning intervention and the result is in any case almost invariably negative in terms of the visual appearance of the buildings in question.
14. Development proposals must be viewed positively as a means of ensuring good design quality and providing opportunities to improve the visual impact of structures and their contribution to the character and appearance of the surrounding area. This has resonance whether or not the site is within a conservation area or close to listed buildings. The condition sought to be varied was designed to secure this objective and nothing I have seen or read persuades me to take a contrary view.
15. For the reasons set out above, and having had full regard to all other matters raised, I therefore conclude that this appeal should not succeed.

Michael Aldous

INSPECTOR