



Appeal Decision

Site visit made on 12 August 2019

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 3 September 2019

Appeal Ref: APP/P5870/W/19/3224943

2 Talbot Road, Carshalton SM5 3BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant [outline] planning permission.
 - The appeal is made by Charterwood Homes Ltd against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2019/00069, dated 14 January 2019, was refused by notice dated 12 March 2019.
 - The development proposed is demolition of the existing detached dwelling and erection of 8 dwellings, vehicular and pedestrian access, car parking and secure cycle storage and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council has confirmed that the appellant's submissions in relation to energy use and generation have satisfied their concerns as expressed in reason 5.

Main Issues

3. The main issues in this appeal are;
 - The effects of the proposal on the significance of the heritage assets and character of the area
 - The effects of the proposal on trees
 - The living conditions of future occupiers of the proposed development.

Reasons

Heritage and Character

4. The appeal site currently accommodates a detached 2 storey dwelling and its generous garden. The site sits immediately adjacent to the grade II* listed All Saints Church and the boundary with it is marked by the grade II listed wall.
5. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the Act requires special attention to be

- paid to the desirability of preserving or enhancing the character or appearance of the conservation area. Paragraph 132 of the National Planning Policy Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Considerable importance and weight should be given to any harm to the significance of listed buildings.
6. The existing house is vacant and in a dilapidated state and its garden is overgrown. Setting aside its neglected state, its design is not sympathetic to the qualities of the conservation area, although the spaciousness of the appeal site is a positive contributor to its character. The existing house would be replaced with a terrace of 3 properties across the front part of the site and a terrace of 5 houses would run at right-angles down the depth of the site.
 7. The appellant points out that the appeal site and its neighbour at No 4 have uncharacteristically large plots. Whilst I can see that these plots are larger than neighbouring houses, I can also see that the conservation area as a whole is made up of a variety of plot sizes and land uses including significant areas of open land. Rather than appearing as an anomaly, I consider that the size and openness of the plot is a positive feature, particularly so in its position adjacent to the graveyard of the listed church.
 8. Whilst the frontage terrace seeks to replace the general form of the existing house, the terrace at the rear would virtually destroy any sense of openness. I appreciate that garden areas would be provided for the houses but the currently open rear garden would be dominated by the 5 houses and its attractive openness would be lost. The houses at the rear would be readily perceived from the adjacent graveyard and also from the neighbouring garden. I consider that the development within the rear of the site would be uncharacteristic and harmful to the character and appearance of the conservation area and would significantly reduce the openness at the rear which is a positive aspect of the area.
 9. In relation to the graveyard, the houses would be seen from parts of this large area around the church and very close to the listed boundary wall. I consider that the proposed houses would be seen to visually encroach upon the open character of the churchyard due to their proximity and also to have a dominating effect on the listed boundary wall. In this way I consider that the proposal would have a harmful effect on the setting of both listed buildings and would reduce their contributions to the character and appearance of the conservation area.
 10. The frontage of the appeal site currently contains areas of hard-surfacing, as well as some plants. However, it was difficult to recognise the extent of the hard-surfacing due to the encroachment of plants in significant areas. I also note that the submitted survey of the appeal site indicates some areas denoted as hard-surfacing, grass, "unmade", and areas which were obstructed. Notwithstanding this the appellant indicates that the proposed hard-surfacing would be an improvement over the existing situation and one where landscaping could be provided. The proposal also includes the provision of a bin-store structure to one side of the frontage. The bin-store would be over 3m tall and, whilst it would be set to one side of the frontage, I consider that it would be an obvious and incongruous feature. I have taken account of the

representations in relation to the car parking area and whilst it is not clear how far the existing hard-surfacing extends, it is clear to me that the cars generated by the proposal would be very likely to be significantly more numerous than for a single house, as currently exists. Therefore, the presence of a significant area of hard-surfacing along with parked vehicles would have a quite different effect on the locality than the existing use (if it were occupied) and one that would be alien to this street. In this way I find that the proposed frontage would also have a harmful effect on the character and appearance of the conservation area and street-scene generally. As a result, there is conflict with Policies 13, 28 and 30 of the Sutton Local Plan (LP). I consider that the harm to the heritage assets would be 'less than substantial harm' as set out in the National Planning Policy Framework. I give considerable importance and weight to this matter in the determination of this appeal.

Trees

11. The existing rear garden contains a number of trees within it and immediately bordering it. Some of these have significantly sized canopies which extend over parts of the appeal site; notably those referred to as T8 (Beech), T9 (London Plane) and T20 (Ash). Each of these have branches which extend to within a couple of meters of the ground, or closer. I was able to see the trees in full-leaf and saw the full extent of their canopies.
12. The Council have made the extent of their objection clear in their statement; they state that the proposed pruning schedule is acceptable to them. The appellant points out that T8 is suffering some bark exudation, but the Council agrees the likely cause which is slow acting and one from which trees can recover. Having taken account of the representations, I consider that a number of the proposed properties would be dominated by the existing trees. The buildings and the rear garden would be subjected to a significant degree of overshadowing as well as having very large trees close to their properties which could be particularly disconcerting from a safety aspect. Even taking account of the proposed pruning, I consider that the properties at proposed plots 1 and 4-8 would be particularly affected. In my judgement this would be highly likely to result in pressure being exerted by future residents to significantly reduce or remove these trees. The appellant indicates that a Tree Preservation Order could be made which would afford protection for the trees. However, agreeing to the development could very well place the Council in a position of not being able to reasonably resist pressure from future residents, regardless of the existence of a TPO.
13. Therefore, I consider that the proposal would be likely to bring about conditions within the new properties that mean that the residents would be subjected to unacceptable shading from the trees, as well as concerns in relation to falling debris. This would be very likely to give rise to irresistible pressure to reduce or remove the trees, which would have an unacceptable effect on the locality. The appellant states that the area is one where many properties are close to mature trees and this is normal for the area. However, in my judgement, the proposal would bring about individual properties where the entire garden is affected rather than just parts of the larger gardens as is the case at present. Therefore, the proposal would conflict with Policy 28 of the LP.

Living Conditions

14. The Council considers that the distance of 11m between the rear elevation of the house on plot 1 and the rear garden of plot 4 would give rise to unreasonable overlooking of the garden. Reference is made to the Council's Supplementary Planning Document 4 'Design of Residential Extensions' which indicates that a minimum of 14m should be provided between a rear wall and a side wall of another property. The SPD relates to proposed extensions and also refers to situations where walls of houses face each other, which is not the case here (as pointed out by the appellant). Notwithstanding this, the small rear garden of plot 4 would be overlooked from the rear elevation at plot 1 which has accommodation over 3 floors. Combined with the fact that plot 1 would be on higher ground than plot 4, I consider that the level of overlooking would be unacceptable and contrary to Policy 29 of the LP.

Balance and Conclusions

15. I have taken account of the fact that the site is within an 'Area of Potential Intensification' as set out in Policy 7 of the LP. But this designation does not seek to set aside the important considerations relating to conservation areas and listed buildings, amongst others, and is acknowledged within the policy. I accept that the removal of the existing house could be seen as a positive aspect of the proposal but this would depend on the suitability of the replacement and I consider that the negative and unacceptable effects of the proposal are not outweighed by the removal of the existing property.
16. The appellant indicates other benefits of the proposal, all of which I have had regard to. Some I disagree with, including the effects on the heritage assets and some are neutral (CIL contributions are as a direct effect of the proposal and not a benefit). I acknowledge that the provision of new homes is a benefit and that the proposal would generate financial spending in relation to jobs and by future residents and generate other revenue for the Council. However, I consider that the proposal would have unacceptable effects on the listed buildings and on the conservation area by failing to preserve the setting of the former and failing to preserve or enhance the character and appearance of the latter. Additional harm would occur as a result of overlooking and on the important trees. I consider that the benefits are insufficient to outweigh the harm that I have identified.
17. As a result of my conclusions, the appeal is dismissed.

S T Wood

INSPECTOR