



Appeal Decision

Site visit made on 13 March 2019

by Euan FS Pearson BA(Hons) BTP FRGS MRICS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2019

Appeal Ref: APP/P5870/W/18/3212032
220-222 London Road, Hackbridge SM6 7EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Rea against the decision of the London Borough of Sutton.
 - The application Ref DM2018/00106, dated 23 January 2018, was refused by notice dated 20 March 2018.
 - The development proposed is demolition of existing garage and erection of a new two bedroom dwelling comprising basement and ground floor level with two off street parking spaces for the new dwelling and one off street parking space for 220 London Road, refuse and bike store.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development on the application form, submitted to the Council, has been materially varied by the Council, when issuing its decision. I refer to that more detailed description as it has been used on the appeal form.

Main Issues

3. The main issues are:
 - 1) the effect of the proposed dwelling on the street scene in Park Road and the character and appearance of the area;
 - 2) the effect of the proposed development on the protected tree immediately adjacent to the site;
 - 3) whether the proposed development would provide acceptable living conditions for future residents with regard to the adequacy of the amenity space and potential noise disturbance from vehicles; and
 - 4) the effect of the proposed development on the living conditions of the occupants of 220 to 224 London Road with regard to the adequacy of the amenity space.

Reasons

4. I have found nothing of any particular relevance to the proposed development in the Supplementary Planning Document: Design of Residential Extensions 2006 as it relates to extensions/alterations to existing houses, and I have not taken it into account.

Effect on street scene/character and appearance

5. The appeal site comprises a pair of semi-detached Georgian houses (220 and 222 London Road), converted into flats, with gardens to the rear that abut Park Road. In the western third (approximately) of the appeal site, there is a single storey garage and area of hardstanding, accessed from Park Road. This provides off street parking for occupants of the flats.
6. It is proposed to demolish the garage then construct a flat roofed, single storey dwellinghouse with basement, amenity space and parking for two cars; all within this western third. The right hand space would be for use of occupants of No 222. In addition, a third parking space is proposed to be created within the rear garden of No 222, enclosed by timber fencing, for the use of occupants of No 220.
7. Although part of a corner plot, the appeal site fronts Park Road and as a result is visually related to the street scene in that road rather than to London Road. The surrounding area is of mixed character, with consistency in the appearance of the dwellings fronting onto London Road, but a mix of design styles, plot sizes, and building lines evident in the street scene along Park Road. Notwithstanding this mixed character, houses are all of relatively traditional appearances, and I consider they blend well to create a pleasant character.
8. The proposed development would result in the creation of a single storey dwelling above ground with a basement element. Whilst I agree with the Council that single storey dwellinghouses in themselves are not an objectionable design solution, the proposed dwellinghouse would have a flat roof and narrow frontage. For all intents and purposes, it would appear as an outbuilding and would not take the opportunity to enhance or improve the character of the area or this particular part of the Park Road street scene.
9. Further, the gardens of the terraced and semi-detached building fronting London Road, either side of Park Road, are of similar lengths. The proposed development would result in the erosion of the garden lengths of these dwellings and there are no other examples of similar development to that proposed within the surrounding area. As such it would introduce an alien form of development which would not respect the local urban grain or pattern of development.
10. I therefore conclude, on this issue, that the proposed development would be totally at odds with the prevailing pattern of development in the area and would materially harm the character and appearance of the street scene in Park Road.

11. Accordingly, the proposed development would not comply with Policy 28 of the London Borough of Sutton Local Plan 2018 and Supplementary Planning Document: Creating Local Distinctive Places 2008 (Design Principle 1) which require, amongst other things, development to be of the highest design standard including respecting local context and making a positive contribution to the street scene.
12. Paragraph 127 of the National Planning Policy Framework 2019 (the Framework) states out that developments should add to the quality of an area, be visually attractive as a result of good architecture and layout and be sympathetic to the surrounding built environment. Paragraph 130 states that permission should be refused for development of poor design, taking into account any local design standards or style guides in plans or supplementary planning documents. I conclude that the proposed development would fail to meet these policy objectives.

Effect on protected tree

13. The London Borough of Sutton (London Road, Hackbridge)(No.2) Tree Preservation Order 1997 (TPO) shows two trees (T2 and T3) just beyond the eastern boundary of the appeal site. I observed from my inspection that tree T2 is no longer present and that there are other trees in adjacent gardens. The appeal site is not within a conservation area and I see no evidence that these other trees are protected nor would they be damaged/lost as a consequence of the proposed development. The appellant submitted an arboriculture report and arboriculture appeal statement that considered only the protected tree T3.
14. The root protection area for T3 would be impacted upon by the proposed development. I accept that when laying the existing concrete hardstanding and erecting the existing garage there was an incursion, on the surface, at least. However, the proposed development involves excavation of both a basement and lightwell, to a depth of approximately 2m. BS5837:2012 states that it is essential to avoid excavating root able soil when creating such subterranean development. The arboriculture report does not include information on soils.
15. By virtue of the species characteristic (dense canopy, sap production, crown density, season leaf and debris, damage to car paint), and extreme proximity to the proposed dwelling house, T3 is likely to cause high levels of nuisance to new occupiers. It would dominate the proposed dwelling and amenity space leading to real householder pressures to heavily prune the tree to alleviate nuisance. This work would need to be repeated on a regular basis and thus have a negative impact on T3's amenity value. The combination of these factors is likely to lead to requests for tree removal and as a consequence, the proposed development would be likely to harm the protected tree adjacent to the site.
16. Ergo, I consider it appropriate to take a precautionary approach in this matter. Therefore, the proposed development is contrary to Policy 28 of the Local Plan and Creating Local Distinctive Places SPD (Design Principle 3) which require, amongst other things require retention of trees and directing roots away from buildings.

Living conditions for future occupiers

17. The proposed dwellinghouse would have an area of enclosed, private outdoor amenity space, including the patio in the lightwell, of a size that exceeds the minimum prescribed in Standards 26 and 27 of the Housing Supplementary Guidance 2016 for London. Further, I do not consider that the provision of two, disassociated, car parking spaces adjacent to this amenity area would impede its use or enjoyment, as the parking spaces being behind timber fencing, and the amenity space accessible from within the dwellinghouse by stairs in the lightwell.
18. I conclude on this issue that I am satisfied that the proposed development would provide acceptable living conditions for future occupiers. Therefore, the proposed development complies with Policy 29 of the Local Plan which prevents against development that would adversely affect the amenity of future occupiers.

Effect on living conditions of occupiers of nearby properties

19. The proposed development would include amalgamating the rear gardens of Nos 220 and 222, to create a shared garden for 6 flats thus reducing privacy amongst occupiers. In addition, the proposed introduction of a further parking space would reduce the size and alter the shape of that garden such that I consider that the amount of useable space would be insufficient and thus harmful to amenity.
20. Planning Practice Guidance, on the use of conditions, does not allow me to impose a condition requiring removal of these parking spaces, as this would not be a minor modification. Therefore, the proposed development does not comply with Policy 28(k) of the Local Plan which requires the provision of attractive, clearly defined, functional private open space.
21. I noted from my inspection that the motor vehicle repair garage on the north side of Park Road is a source of noise and disturbance with engine testing and vehicles coming/going. Therefore, I do not consider that the use of the proposed car parking spaces would significantly alter the situation. Notwithstanding this, I find that the proposed development would be harmful to the living conditions of nearby occupiers and contrary to Policy 9 of the Local Plan which requires the provision of an adequate amount of amenity space.

Other Matters

22. Concern has been expressed about the loss of off-street parking spaces for the occupants of Nos 220-222 and the general provision of on-street parking in the area. Other than the parking/waiting restrictions at the junction of Park Road and London Road, on street parking is uncontrolled, and I observed spaces were available on adjacent streets. Therefore, I am satisfied that the proposed development would not result in undue parking pressure on surrounding streets.
23. Concerns have been raised about the impact of the proposed dwellinghouse on the privacy of the occupants of 224 London Road. The design includes French windows looking southwards onto a patio and beyond. Any overlooking of No 224 could be mitigated by erecting screen fencing (or other solid feature) to a sufficient height.

24. This matter that could be dealt with by condition. Therefore, I consider that there is no infringement of the provisions of Articles 1 and 8 of the Human Rights Act 1998.
25. The appellant has drawn my attention to appeal decision Ref APP/P5870/W/17/3181472. That appeal site is some distance away, to the south east, in a different part of the London Borough. In any event, appeals are considered on individual merit.

Conclusion

26. I have concluded that the proposed development would cause acceptable living conditions for future occupiers. However, my conclusions with regard to the harmful effect on the character and appearance of the area, to the adjacent protected tree, and to the living conditions of nearby occupiers, represent significant and overriding objections which must be decisive. For this reason, I find that the proposal would not be consistent with the principles of sustainable development as it conflicts with the policies of the development plan and the Framework when taken as a whole. Therefore, I conclude that the appeal should be dismissed.

Euan FS Pearson

INSPECTOR