



Appeal Decision

Site visit made on 27 August 2019

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 October 2019

Appeal Ref: APP/P5870/W/19/3230983

22 to 34 High Street, Cheam SM3 8RL

- 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 Adam Islam against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2018/02225, dated 12 December 2018, was refused by notice dated 14 February 2019.
 - The development proposed is a development of 6 flats (4 x 2 bedroom flats, 1 x 1 bedroom flat, 1 x studio flat) with the provision of refuse and cycle facilities together with six car parking spaces using existing vehicular access.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - the character and appearance of the site and the surrounding area including the likely long-term effect on trees;
 - the living conditions of the occupiers of neighbouring dwellings, with particular regard to privacy and the location of the proposed refuse storage area, and;
 - the living conditions of future residents, with particular regard to the provision of amenity space.

Reasons

Character and Appearance

3. The site is located within an area of mixed character that comprises of the mostly commercial, two and three storey properties of Cheam High Street and Station Way and the residential properties of Tabor Gardens and Cheam Mansions. The surrounding area is generally defined by buildings fronting the adjacent roads, with large plots that extend substantially to the rear of the buildings. The appeal site is an irregularly shaped parcel of land that includes a 2 storey building that fronts Cheam High Street with a single storey storage building to the rear. The majority of the site is currently used as informal parking. The site is bound by fencing which is elevated on two boundaries due to the changing ground levels and substantial retaining bunds. A finger of land at a higher ground level is included within the appeal site which extends from the main part of the site to Tabor Gardens.

4. The Council's submissions indicate that the site is within the Cheam Conservation Area and the Cheam Village Conservation Area, the extent of which appear to be the same and no explanation has been provided of the difference between the two conservation areas. The Conservation Area boundaries pass through the site resulting in the existing building being within these heritage assets, but the rear part of the site and the link to Tabor Gardens being outside. The Conservation Areas cover an extensive area which derives its significance from Cheam Park, the historic townscape surrounding Park Road, Park Lane and Maldon Road and several other key buildings. I have paid special attention to the desirability of preserving or enhancing the character and appearance of the area.
5. The proposal seeks permission for a building that would consist of 6 flats over 3 floors with parking provided between the proposed and existing buildings. Refuse and cycle storage would be provided on the finger of land that links to Tabor Gardens and the plans show that a new retaining wall would be formed.
6. Due to the presence of existing buildings, the development would not be visible from Cheam High Street and only fleeting views of the proposed development would be possible from the roads of Station Way and Tabor Gardens. Clear views of the development would however be possible from within the Tabor Gardens dwellings and their gardens and the development would also be conspicuous from the grounds to the rear of the adjacent public house, which is within the Conservation Areas. A belt of landscaping between the appeal site and the properties of Cheam Mansions means that, provided this is retained, there would be limited visibility of the proposed development.
7. The proposed building would be in particularly close proximity to the side boundaries of the site and the proposed retaining wall. There would also be only a small gap between the rearmost part of the building and the adjacent landscaping belt. This would result in the built form appearing to fill the rear part of the site to an extent that is not consistent with the spaciousness that exists at the rear of the majority of the existing buildings. The shape and backland location of the site and the scale of the building would result in the development appearing to be unduly tight and constrained at the site, in a manner that is at odds with the character of the surrounding area.
8. Some of the materials proposed to be used in the development appear to have been chosen to reference the materials of other buildings within the surrounding area and there are examples of hipped gables and gable ends within the area. However, the amalgamation of roof types, with a lower section of linking roof, a bay feature to the front and extensive glazing would undermine the benefits of using appropriate materials. In this regard, the proposed development would not sufficiently address or reflect local character.
9. The changing ground levels help to reduce the scale of the built form when viewed from the higher ground, but this is not sufficient to address the concerns that have been raised above. Furthermore, whilst the site is currently a parking area that makes a limited contribution to the character or appearance of the area, the absence of built form helps create a sense of spaciousness to the rear of the adjacent buildings. In this respect I consider that the visual benefits arising from the development of the site do not outweigh the harm that is caused by the built form that is proposed.

10. The proposed development would be outside, but immediately adjacent to the Conservation Area and conspicuous from the rear of several properties that are within the Conservation Area, including the rear of the adjacent public house which is accessible to the public and represents a building of some visual significance. The proximity of the development to the shared boundary and the presentation of a deep side elevation to the Conservation Areas would have an enclosing effect on the adjacent site. This would not maintain or enhance the setting of the Conservation Areas and would cause less than substantial harm to the heritage asset. This harm would not be outweighed by other benefits of the proposal.
11. As set out above, a belt of trees and vegetation exists at the boundary of the site that continues to the rear of the adjacent public house and the properties of Station Way. The evidence indicates that the proposed building would enter the root protection areas of 2 trees and the proposed car parking spaces would be within the root protection area of another tree. The new retaining wall shown on the ground floor plan also appears to extend into the root protection area of 3 trees, but this has not been shown on the tree protection plan.
12. The appellant states that none of the trees would be required to be removed and that only a small part of the root protection area would be affected. However, few details of the foundations of the proposed building have been provided and the effect of the proposed retaining wall and associated changes to ground levels has not been adequately addressed within the Arboricultural Impact Assessment and Method Statement. I therefore consider that inadequate information has been provided to demonstrate that the proposal would not have a harmful effect on the trees at the boundary of the site.
13. Furthermore, the proposal would be likely to impose additional pressure to prune or reduce the adjacent trees in the future in order to provide clearance from the building or reduce the shading of the amenity spaces and habitable rooms. As set out above, the trees contribute positively to the character of the area and would provide mitigation that would be beneficial to the living conditions of neighbouring residents. A likely increase of pressure to undertake works to the trees would therefore reduce the benefits brought about by the presence of the trees in this location.
14. The proposal would therefore have an unacceptable effect on the character and appearance of the site and the surrounding area, including the adjacent Conservation Areas, and also have an unacceptable effect on the trees adjacent to the site. The proposal is therefore contrary to policies 1, 28 and 30 of the Sutton Local Plan 2018 (SLP) which require, amongst other things, that development is of a suitable scale and massing, respects the local context and responds to local character and heritage assets. Policy 28 of the SLP also states that provision should be made for the retention of existing trees that are important by virtue of their significance within the local landscape.
15. The Council has stated that the proposal contradicts policy 7.3 of the London Plan 2016 (LP) but as this policy relates to crime reduction, I give it little weight in the context of the objections that have been raised by the Council in their first reason for refusal. Similarly, whilst the Council has cited Supplementary Planning Document 14 – Creating Locally Distinctive Places (UD SPD) in the first reason for refusal the extract that I have been provided does not relate to the issues that form the basis for the Council's objection. This

does not, however, affect my conclusions in respect of the abovementioned policies of the SLP.

Living Conditions of Neighbouring Occupiers

16. The site is adjacent to the residential properties of Tabor Gardens and near to Cheam Mansions, all of which are set within large plots and therefore the building and habitable rooms therein would be well separated from the proposed building. There is a belt of dense vegetation between the appeal site and the rear of Cheam Mansions which mostly obscures views between sites.
17. Balconies are proposed on the front and rear elevations and whilst the building would be set at a lower ground level, the balconies would still enable sideways views into the neighbouring properties of Tabor Gardens. However, there would be significant separation distances between the balconies and the habitable rooms of the neighbouring dwellinghouses, the balconies would be adjacent to the parts of the neighbouring gardens that are least likely to be used and already overlooked by other properties to some degree and there are sheds within the gardens that would provide some mitigation. Therefore, the level of overlooking that would arise would not be such that the development would cause a significant reduction in the living conditions of the occupiers of the Tabor Gardens properties. The addition of privacy screens to the balconies would therefore not be necessary to make the development acceptable.
18. The existing belt of vegetation adjacent to the site would prevent overlooking of the occupiers of Cheam Mansions. Even if this landscaping were to be removed in the future, the angle of outlook from the balconies relative to the habitable accommodation within the adjacent buildings and the communal nature of the neighbouring amenity space means that the effect on the privacy of the neighbouring residents would not be unacceptable.
19. The proposed refuse and bicycle storage location would be adjacent to the rear gardens of the Tabor Garden properties but would not be visible from within the gardens of those dwellings due to the presence of fencing at the adjacent boundaries. I have not been made aware of any standards being applicable to define how close refuse stores may be to other residential properties. In this instance, I do not consider that the number of refuse stores or their proximity to the adjacent dwellings would cause harm to the living conditions of the neighbouring occupiers as a result of odour, litter accumulation or disturbance caused by associated collections.
20. The proposal would therefore not have an unacceptable effect on the living conditions of the occupiers of neighbouring dwellings, with particular regard to privacy and the location of the proposed refuse storage area. The proposal therefore accords with policies 28 and 29 of the SLP which requires, amongst other things, that development is of the highest standard of design and does not have an adverse effect as a result of overlooking, loss of privacy, odours, litter accumulation and refuse collection and storage.

Living Conditions of Future Occupiers

21. Amenity space would be provided for the ground floor flats in the form of 2 amenity areas to the rear and smaller patio areas to the front. The first floor flats would be served by balconies to the front and rear and the second floor flats would be served with a balcony and a terrace. No objection has been

raised by the Council to the amount of amenity space that would be provided and I concur that the quantity of amenity space would be proportionate to the proposed accommodation.

22. Whilst the amenity space would be substantially enclosed by the retaining walls, boundary enclosures and surrounding vegetation, which would limit the outlook from the amenity areas and the light received, I do not consider that the living conditions of the future occupants would be harmfully affected to an extent that would be unacceptable. Five of the flats would have patios or balconies to the front and therefore, whilst this is not private space, these areas would be usable without the constraints that have been identified by the Council. Most of the future occupiers would therefore not be wholly reliant on the more enclosed areas of the site but would have the option to use these spaces.
23. The development would not therefore be unacceptable in terms of the living conditions of future residents, with particular regard to the provision of amenity space. The proposal is therefore in accordance with policy 9 of the SLP which states that residential development will not be supported if it does not provide an adequate amount of private amenity space.

Other Matters

24. The appellant has identified that the site benefits from moderate transport links and that pre-application advice has been sought and acted upon. It has also been set out that the proposal would provide living accommodation that would comply with the Technical Housing Standards – Nationally Described Space Standard (2015) and be served by good circulation spaces, daylight and outlook. An example of another development has also been mentioned, but insufficient details of this have been provided for it to be afforded weight in the assessment of this proposal. These matters do not, however, outweigh the harm that I have found to the character and appearance of the site and surrounding area.

Conclusion

25. Bringing together my conclusions on the main issues I have found that the development would have an unacceptable effect on the character and appearance of the site and the surrounding area, including the adjacent Conservation Area, and be likely to have a harmful effect on the trees adjacent to the site. However, the development would not cause undue harm to the amenities of neighbouring residents and would be able to provide satisfactory living conditions for future occupants.
26. Despite the material considerations that have been identified and the absence of harm in some respects, I consider that these factors are outweighed by the harm caused to the character and appearance of the site, the surrounding area and the Conservation Area and the effect the development would be likely to have on adjacent trees that contribute to the character of the locality.
27. For the reasons given above the appeal is dismissed.

Ian Harrison

INSPECTOR