



Appeal Decision

Site visit made on 25 February 2020

by Martin Small, BA (Hons), BPI, DipCM, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th March 2020

Appeal Ref: APP/H5960/W/19/3241630

Electricity Sub Station 10 m from 51 St Ann's Hill, 2 m from unnamed road, St Ann's Hill, London, SW18 2EZ

- 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 Edward Church against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref: 2019/3085 dated 15 July 2019, was refused by notice dated 17 September 2019.
 - The development proposed is described as 'reduce the garden with accordance to planning policy, to provide external amenity of 15m². The rear of the garden as shown on our application TP - 2019/1035 (Existing drawings) is a single storey shed measuring 3 – 4m of single storey high to ridge 2m. Proposed development provides for 2-bedroom 2-bathroom house of contemporary design resulting in 75m² broken down as follows. GF = 36m² LGF = 39m² Living/kitchen/dining = 33m² External garden = 11m².'
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant refers to the emerging London Plan¹. Since the lodging of the appeal, the Mayor of London issued his intention to publish the new London Plan, incorporating changes in response to the Panel Inspectors' recommendations, to the Secretary of State on 9 December 2019. These changes include a reduction in the 10-year housing target for the borough set out in the new London Plan. However, as that target is still proposed to be increased from that in the current London Plan (2016)² it has not been necessary to consult the parties on this change. I have had regard to this latest version in the determination of this appeal and, in accordance with paragraph 48 of the Framework, I afford the emerging new London Plan substantial weight. I consider the implications of the new London Plan under Other Matters below.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;

¹ The Spatial Development Strategy for Greater London

² The Spatial Development Strategy for London Consolidated with Alterations since 2011

- whether the proposed development would provide suitable living conditions for future occupiers of the proposed dwelling;
- the effect of the proposed development on the living conditions of the future occupiers of the ground floor residential unit within the development approved by planning permission 2019/1035.

Reasons

Background

4. Planning permission was granted in June 2019 under Ref: 2019/1035 for the demolition of the existing house at 51 St Ann's Hill (No. 51) and the erection of three storey (plus basement) building to provide 2 x 1-bedroom and 1 x 3-bedroom flats with rear terrace at first floor level, front balcony at second floor level and associated bin and cycle storage. I observed during my site visit that works on this development had commenced but had not been completed.

Character and appearance

5. The appeal site forms part of the current rear garden of No. 51. The garden and those of the neighbouring properties on St Ann's Hill, Swaffield Road and Bassingham Road are enclosed by the surrounding dwellings to three sides with limited views out other than to the east. Although there is space between the rear elevations of these dwellings, I observed during my site visit a number of outbuildings in some of the gardens. Whilst these buildings form part of the character of the area, they reduce the openness of the area and give it a somewhat cluttered appearance. As a consequence, it is important to retain the remaining open garden areas in order to provide relief from, and opportunities for planting to soften, the surrounding built form. In addition, with the exception of 64 Bassingham Road (No. 64), these existing buildings are of a generally smaller and less substantial construction than the proposed dwelling and of a markedly different nature and appearance.
6. Paragraph 3.22 of the Wandsworth Local Plan Development Management Policies Document (2016) (DMPD) notes that the open spaces between buildings are an integral part of the character and appearance of much of the borough and consequently the development of back gardens is generally regarded as an inappropriate form of development in the borough. This reflects paragraph 2.22 of the Council's Housing Supplementary Planning Document (2015) (SPD) which notes that gardens make a significant contribution to the character and appearance of the borough and paragraph 3.34 of The London Plan which recognises the importance of back gardens. Although the London Housing Strategy (2018) does not restrict building on garden land, the recognition of the importance of gardens accords with the guidance in the London Plan Housing Supplementary Planning Guidance (2016) (SPG) on private garden land development.
7. Although the rear garden of No. 51 is larger than the majority of the others in the immediate vicinity, the proposed dwelling would occupy the majority of the garden, leaving a much reduced open area. The remaining garden would be smaller than the majority of those in the area, including those of 41 – 45 St Ann's Hill notwithstanding the appellant's contention that these would be comparable in area. The garden of the proposed dwelling would be substantially smaller than those in the vicinity. The remaining and proposed

gardens would therefore be inconsistent with the character and appearance of the area and, as a consequence, the proposed development would appear cramped and exacerbate the area's cluttered appearance.

8. Furthermore, the prevailing pattern of development is of dwellings fronting the roads. Although No. 64 is located behind these frontages, this is not consistent with the pattern of development. From the evidence before me, this was a former coach house prior to its conversion to a dwelling, which provides the rationale for its existence and siting. There is no such rationale for the proposed dwelling and its siting would thus also be at odds with the prevailing pattern of development in the area.
9. I therefore conclude that the proposed development would be harmful to the character and appearance of the area. Although Policy 3.5 of the London Plan does not specifically restrict building on garden land, the proposal would conflict in this respect with this policy which sets out, amongst other things, that the design of all new housing developments should enhance the quality of local places taking into account a number of factors, including local character.
10. The development would also conflict with Policy IS 3 of the Wandsworth Local Plan Core Strategy (2016) (the Core Strategy) which, notwithstanding that it sets out that designs and layouts that make efficient use of land will be promoted, also requires the layout, form and design of new buildings and the spaces around them to contribute positively to the local environment. It would also conflict with Policy DMS 1 of the DMPD which, amongst other things, requires the layout and arrangement of buildings to ensure a high level of physical integration with their surroundings and the scale, massing and appearance of the development to provide a design and layout that contributes positively to local spatial character.
11. Additionally, the development would conflict with criterion iv. of Policy DMH 4, which requires that proposals for new build accommodation provide a layout and building form that reflects local character. Furthermore, the proposed development would not accord with the Council's Housing SPD nor the London Plan Housing SPG in this respect. Nor would it accord with paragraph 127 c) of the National Planning Policy Framework (the Framework), which requires planning decisions to ensure that developments are sympathetic to local character as the proposal, given my conclusion above, would not represent appropriate innovation or change.

Living conditions

12. The proposed dwelling would have two-bedrooms which would both meet the minimum standard for a double or twin bedroom set out in the Technical housing standards – nationally described space standard (NDSS) of 11.5 m². Although the appellant suggests that the second bedroom would be more likely to accommodate one person, there is no mechanism before me to ensure this would be the case. The proposed dwelling would therefore have the potential to accommodate 4 persons.
13. The NDSS minimum gross internal floor area for a 2-storey 2-bedroom 4 person is 79 m². The proposed dwelling would have an internal floor area of approximately 75 m². Notwithstanding the flexibility of the dwelling to

accommodate 3 persons, it would therefore fall short of the minimum standard for 4 persons and would thus conflict in this respect with Policy 3.5 of The London Plan and Policy DMH 6 v. of the DMPD, which require compliance with the NDSS.

14. A lightwell would provide natural daylight to the main bedroom on the lower ground floor and both bedrooms would receive natural daylight from a small patio area. However, given the restricted area of the patio and its siting relative to the arc of the sun, the bedrooms would receive very little sunlight. Given their function, I do not find that this, by itself, is sufficient reason for withholding planning permission. However, the patio would only be approximately 4.2 m² enclosed by retaining walls approximately 3 m high topped by a wall approximately 2.4 m high to one side and a fence approximately 2 m high to another and by the walls of the proposed dwelling, rising to approximately 5.4 m high, to the other two sides. In my judgement, this would result in an unsatisfactory outlook for these rooms, notwithstanding that from the evidence before me, no specific standard for outlook is set out in the development plan.
15. The proposed living/kitchen/dining area on the ground floor would look out onto the garden, which the Council's Delegated Report notes would comply with the minimum standards set out in Policy DMS 7 of the DMPD. The rear boundary of the property would be approximately 2 m from the rear elevation of the proposed dwelling, which would constrain its outlook. However, as this rear boundary would be formed by a fence approximately 2 m high, I do not consider that this would be significantly harmful to the living conditions of the future occupiers of the dwelling. The appellant has drawn my attention to other developments where a restricted outlook has been considered acceptable, but I do not have the full details of these developments and it is an established principle that each application should be considered on its own merits.
16. As regards the effect of the proposed development on the living conditions of the future occupiers of the ground floor residential unit within the development approved by planning permission 2019/1035, the drawings submitted with the proposal before me also show that approved development, annotated 'Approved scheme'. These show a living/kitchen/dining area at ground floor level to the rear of the new building glazed to two sides, including that facing the proposed dwelling. This area would look out at the blank wall of the dwelling, approximately 2.7 m away and 2.4 m high.
17. Although the appellant has not submitted a daylight / sunlight report, I am satisfied that the two glazed elevations of the living/kitchen/dining area with the main elevation facing south-west would ensure that this area would benefit from an acceptable level of natural daylight and sunlight. In addition, given the distance to the proposed dwelling relative to the height of the dwelling, the dwelling would not be overbearing or result in an outlook that would be significantly harmful to the living conditions of the occupiers of the property with this living/kitchen/ dining area.
18. I therefore conclude that the proposed development would be harmful to the living conditions of the future occupiers of the dwelling in respect of internal floorspace and unsatisfactory outlook for the bedrooms. In addition to the conflict with Policy 3.5 of The London Plan and Policy DMH 6 of the DMPD in

respect of internal space standards that I identify above, the development would therefore conflict with Policy DMS 1 c. of the DMPD, which sets out that development should not harm the amenity of occupiers / users through, amongst other things, unsatisfactory outlook. I acknowledge that this policy was not cited in the Council's reason for refusal relating to this matter, but there is reference to it in the Council's Delegated Report.

19. The proposed development would also conflict with Policy DMH 4 ii. of the DMPD which, whilst not specifically referring to outlook, does require the provision of a satisfactory environment for housing. Furthermore, the proposed development would also conflict with paragraph 127 f) of the Framework which requires planning decisions to ensure that developments create places with a high standard of amenity for future users.

Other Matters

20. The Council's reasons for refusal included inadequate provision for the storage of refuse bins / recycling sacks and that it had not been demonstrated that future occupiers would have a safe and suitable access to the site. Guidance on the provision for refuse / recycling is set out in the Council's Refuse and Recyclables Supplementary Planning Document. Although the Council maintains that the store with space for one dustbin and one recycling sack shown on the submitted drawings is inadequate, it accepts that this matter could be resolved by a condition were planning permission to be granted. I concur with that view and this matter is therefore not determinative in this appeal.
21. Access to the proposed dwelling would be via a private road running between No. 51 and the side garden on 45 St Ann's Hill. The appellant has evidence of the right to use this access, although this is disputed by the Council. Whether or not the appellant is legally entitled to use this access is a matter between the parties and outside my jurisdiction. Furthermore, as I have found conflict with the development plan in respect of the main issues, this matter is not determinative in this appeal.
22. The Framework sets out the Government's objective of significantly boosting the supply of housing. Although it is common ground between the parties that the Council can currently demonstrate a 5-year supply of deliverable housing sites, the Council's housing target does not represent a maximum. The appellant draws my attention to the new London Plan which, at the time of the appeal being lodged, set out a 27% increase in the 10-year housing target for the borough over that set in the current London Plan. Although this target has been significantly reduced in response to the Panel Inspectors' recommendations the new London Plan still requires an increase in the number of houses to be completed between 2019/20 and 2028/29.
23. The London Housing Strategy, to which the appellant also draws my attention, highlights the need for new homes in London. The Strategy explains that many of the Mayor's housing policies as set out in the Strategy are reflected in the draft London Plan. However, although I give the new London Plan substantial weight given its advanced stage of preparation, it has yet to be published in its final form and it therefore carries less weight than the existing development plan, with which I have found conflict as explained under the main issues. Nevertheless, the provision of an additional dwelling would be a benefit.

24. The development would contribute to the local economy through its construction and from the future occupiers of the dwelling working and spending in the area, which would also be a benefit.
25. Whilst paragraph 117 of the Framework promotes an effective use of land in meeting the need for homes and other uses, it also requires decisions to safeguard and improve the environment, which the proposal would not do. I therefore find no support for the proposal from this paragraph taken as a whole and I find that the proposal would not help achieve the environmental objective for the planning system set out in the Framework.

Planning Balance and Conclusion

26. The proposed development would contribute to the housing supply in the borough, which would be a social benefit. The proposed development would also have an economic benefit. However, these would be only very modest benefits and, even in combination, would not outweigh the harm in respect of the main issues that I have identified above and the consequent conflict with the policies of the development plan in these respects. Furthermore, the proposal would not help achieve the environmental objective for the planning system. It would therefore not represent sustainable development. This harm could not be addressed by conditions.
27. Therefore, for the reasons given above and having regard to the other matters raised, I conclude that the appeal should be dismissed.

Martin Small

INSPECTOR