



Appeal Decision

Site visit made on 24 November 2020

by Martin Small BA(Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th December 2020

Appeal Ref: APP/P5870/W/20/3257261

4 Belmont Road, Wallington, SM6 8TB

- 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 A Shariff against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2020/00335, dated 1 March 2020, was refused by notice dated 15 June 2020.
 - The development proposed is described as a storey and a half rear garden 2 bedroom unit.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) the effect of the proposed development on the character and appearance of the area;
 - ii) the effect of the proposed development on the living conditions of the occupiers of the appeal and neighbouring properties, with particular regard to privacy and outlook;
 - iii) whether the proposed development would provide satisfactory living conditions for future occupiers, with particular regard to privacy; and
 - iv) the effect of the proposed development on the safe and convenient use of the highway.

Reasons

Character and appearance

3. Belmont Road is a mature residential area comprising predominantly 2-storey detached and semi-detached dwellings fronting and set back from the street. The properties have gardens and hardstandings to the frontages and larger gardens to the rear. The road is within an Area of Special Local Character (ASLC) containing rectilinear 'street blocks' of primarily Victorian and Edwardian housing. Although plot sizes in the street block in which the appeal property is located vary, the older properties retain their original plot sizes. Overall, the pattern of development is largely regular. I find that the key characteristics of the ASLC are the historic dwellings and their uninterrupted rear gardens, not just the frontages presented to the street.

4. The appeal property is a semi-detached dwelling in use as a house in multiple occupation (HMO). The proposal would result in backland development and the subdivision of the rear garden of the property. Such development is not common in the area and the proposal would erode the characteristic spaciousness in the centre of the street block. Whilst a reasonable garden area would be retained for the appeal property, the truncation of the rear garden would result in the remaining plot size of the appeal property being at odds with those of other historic properties in the street block. The limited space around the proposed dwelling would result in a cramped form of development.
5. The appellant refers to 11a and 11b Melbourne Road which have smaller plot sizes than the appeal property but these are not backland developments. The context for these properties is therefore different to the proposal before me and they do not justify the appeal scheme. Although the rear of 2 Belmont Road is mainly used for parking rather than as a garden, it retains spaciousness.
6. The proposed dwelling would be hidden from Belmont Road, but would be visible from the neighbouring properties to either side, the rear of properties on Melbourne Road and partially from a public car park between the two roads. Notwithstanding the building to the south-west of the appeal site, the proposal would appear incongruous due to its siting within an uncharacteristic backland location.
7. I therefore conclude that the proposal would be harmful to the character and appearance of the area. Accordingly, in this respect it would conflict with Policies 3.4, 7.4 and 7.6 of the London Plan¹. These policies seek to optimise housing potential and set out that development need not necessarily replicate local architectural character. However, in combination and amongst other things, they also require development to have regard to and complement local context and character.
8. The proposal would also conflict with Policies 13, 28 and 30 of the Sutton Local Plan 2016-2031 (2018) (the Local Plan). Rear gardens are important to the character and appearance of the borough and Policy 13 thus seeks to protect them from development. Policy 28, amongst other things, sets out that new development should respect the local context and respond to local character. Policy 30 of the Local Plan seeks to protect the historic environment of the borough, including ASLCs.
9. Furthermore, whilst the National Planning Policy Framework (the Framework) promotes the effective use of land, it also requires account to be taken of the desirability of maintaining an area's prevailing character, including residential gardens. As the proposal would not be appropriate, it would conflict with paragraph 127 c) of the Framework, which requires decisions to ensure that developments are sympathetic to local character.

Living conditions of the occupiers of the appeal and neighbouring properties

10. There would be potential views from the proposed dwelling and its garden into upper floor windows in the rear elevations of the appeal and neighbouring properties, resulting in a loss of privacy. I have considered whether a condition requiring the first-floor windows in the appeal property to be obscure-glazed

¹ The Spatial Development Strategy for London Consolidated With Alterations Since 2011 (2016)

were planning permission to be granted would be appropriate. However, whilst this would prevent these views it would mean bedroom 2 having no outlook. This would result in unacceptably poor living conditions for the future occupiers of the proposed dwelling, a matter to which I return below.

11. The appellant suggests that existing mature vegetation and boundary treatments would mitigate overlooking. A line of tall shrubs provides partial screening of the rear of the appeal property and overgrown vegetation to the eastern boundary of the site provides partial screening of the rear of the neighbouring property. However, there is no guarantee that this vegetation could or would be retained for the life of the proposed development. A condition to retain the vegetation for the life of the development would be unreasonable and would only engage when the development was implemented. It would therefore not prevent any prior removal of the vegetation. Furthermore, vegetation may die or become diseased and need to be removed.
12. Whilst a condition could be imposed were planning permission to be granted to secure new planting as shown on the plans, there is limited room for effective screening. New planting would take some time to become established during which time there would be unacceptable overlooking. Consequently, I do not consider that reliance on vegetation to provide screening would be an acceptable measure to mitigate the loss of privacy. Fencing would provide screening at ground level but would not prevent views into the upper rooms of the neighbouring properties.
13. Access to the proposed dwelling would be through the garden to the appeal property, which would result in a further unacceptable loss of privacy for the occupiers of that property. Whilst the access could potentially be separated from the garden, this is not the proposal before me.
14. Given the separation distance between the appeal property and the proposed dwelling, I am not persuaded that the proposal would result in an unacceptable loss of outlook from the rear windows of the former. However, although views from the rear garden of the appeal property are curtailed by the properties on Melbourne Road, the height of the proposed dwelling relative to the depth of its garden would result in an unacceptable loss of outlook from the garden. I acknowledge that the proposal would not result in any harmful loss of sunlight or daylight for the occupiers of neighbouring properties, but the absence of planning harm is not a benefit of the proposal and therefore carries neutral weight in my decision.
15. I therefore conclude that the proposal would be harmful to the living conditions of the occupiers of the appeal and neighbouring properties due to a loss of privacy and outlook. Accordingly, in this respect, the proposal would conflict with Policy 29 of the Local Plan which seeks to protect the living conditions of the occupiers of nearby properties. Furthermore, the proposal would also conflict with paragraph 127 f) of the Framework which requires decisions to ensure that developments create places with a high standard of amenity for existing and future users.

Living conditions of the future occupiers

16. The proposed dwelling would be overlooked by windows in the rear elevations of the appeal property and the neighbouring properties. This would result in a harmful loss of privacy for its garden and potentially its upper floor through the

rooflights. The proposed dwelling would provide adequate internal and external space in terms of area and functionality. However, again, the absence of planning harm is not a benefit of the proposal and therefore carries neutral weight in my decision.

17. I therefore conclude that the proposal would not provide satisfactory living conditions for future occupiers with regard to privacy. Accordingly, in this respect it would conflict with Policy 29 of the Local Plan which seeks to ensure satisfactory living conditions for future occupiers. The proposal would also conflict with paragraph 127 f) of the Framework in this regard.

Highways

18. The proposal includes no provision for off-street parking. The single parking space to the front of the appeal property is required to be kept as an accessible car parking space by a condition on the approval for the use of the property as an HMO.
19. Policy 37 of the Local Plan sets out that proposals for car-free development should, amongst other things, normally be located within an area with a PTAL of 5 or 6. The appeal property is in an area with a PTAL of 4. However, as I observed during my site visit, it is within easy walking distance of a range of shops, facilities and services in Wallington town centre, Wallington railway station and bus stops.
20. Nevertheless, although parking on Belmont Road has not been restricted by the Council and the Council's Senior Highways Engineer did not specifically object to the proposal, the evidence of local residents is that parking on Belmont Road is an issue. Policy 37 puts the onus on applicants to demonstrate that a proposal would not result in an increase in on-street parking which would adversely affect traffic flow. The appellant has not provided any conclusive evidence to this effect. The existence of a public car park close to the appeal site is not an appropriate solution as I have no means before me of ensuring that the future occupiers of the proposed dwelling would park there.
21. I am therefore not persuaded that an exception to the normal requirements of Policy 37 is justified in the circumstances of this case. I thus conclude that it has not been demonstrated that the proposal would result in an acceptable effect on highway safety and convenience with respect to on-street parking. Accordingly, the proposal conflicts with Policy 37 of the Local Plan in this regard.

Other Matters

22. The Council's Five-Year Housing Land Supply Assessment 2020-21 to 2024-25 indicates that the Council has in excess of a 5-year supply of deliverable housing sites. The appellant suggests that this figure is debatable due to its inclusion of sites without planning permission, sites with planning permission but not yet started and windfall development. However, the appellant has provided no evidence that housing completions on any of these sites will not begin within 5 years and therefore should be discounted.
23. As the adopted Local Plan has been tested at Examination and is less than 5 years old, there is no requirement to use the emerging housing targets in the

draft new London Plan². Therefore, in the absence of evidence to the contrary, I see no reason to dispute the Council's position. Accordingly, paragraph 11 d) of the Framework is not engaged through footnote 7. Even if I were to conclude that there is a shortfall in the 5-year housing land supply, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of an additional dwelling to the borough's housing supply.

24. Nevertheless, the Government is seeking to significantly boost the supply of housing. However, one additional dwelling would make a minimal contribution to the housing supply in the borough and the associated social and economic benefits would be very limited. These benefits are not sufficient to outweigh the harm I have identified to the character and appearance of the area, the harm to the living conditions of the occupiers of the appeal and neighbouring properties and the unsatisfactory living conditions of future occupiers of the proposed dwelling.

Conclusion

25. I find that the proposal would conflict with the development plan taken as a whole and there are no other considerations, including the provisions of the Framework, to outweigh this finding. Therefore, for the reasons given above, and having had regard to the other matters raised, the appeal should not succeed.

Martin Small

INSPECTOR

² Spatial Development Strategy for Greater London