
Appeal Decision

Site visit made on 21 September 2021

by John Wilde CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 13th October 2021

Appeal Ref: APP/P5870/W/21/3269612

2 Copse Hill, Sutton SM2 6AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Mark Hendy (Shanly Homes Ltd) against the Council of the London Borough of Sutton.
 - The application Ref DM2020/00632, is dated 1 May 2020.
 - The development proposed is the redevelopment of 2-4 Copse Hill and 52-54 Brighton Road to provide part four, part six and part seven storey height building comprising 55 studio, one and two bed flats with access from Copse Hill, associated car parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application was submitted in outline with only landscaping reserved for later determination.
3. The Council failed to determine the application within the prescribed timescale and consequently there was no decision letter issued. They have not issued putative reasons for refusal, but from the reading of their appeal statement the following matters constitute the main issues in this appeal.

Main Issues

4. The main issues are:-
 - a) The effect of the proposed development on the character and appearance of the area,
 - b) Whether or not there would be sufficient outdoor amenity and play space of a suitable standard,
 - c) Whether or not the mix of units would be in accordance with the requirements of the local development plan, and
 - d) The effect of the proposed development on flooding.

Reasons

5. The appeal site is an area of land situated to the west of Brighton Road and between Grange Vale to the north and Copse Hill to the south. The western boundary of the site would abut the curtilage of No 6 Copse Hill. The proposed development would result in the removal of four two storey properties and replace them with 55 apartments, contained in a building ranging from four to seven storeys. The area is identified in the Sutton Local Plan 2016-2031 (LP) as an Area of Potential Intensification.

Character and appearance

6. In the immediate area of the appeal site there is a range of housing, predominately two storey traditional houses but also several large multi-storey blocks of flats, up to eleven storeys. Most properties are set back from the road frontage and, despite the amount of built form, the area has a relatively verdant feel, brought about by the number of mature trees and shrubs.
7. The proposed building would undoubtedly be large. At the northern and southern extremities it would extend to within a short distance of Grange Vale and Copse Hill respectively. On the western boundary the proposed car parking would extend close to the boundary with 6 Copse Hill and although there would be a small amenity area in the north-west corner, this area has been reduced in size by the insertion of a cycle parking building since the previous iteration of the scheme.
8. The appeal building would be set back from Brighton Road, further than in the previous iteration of the scheme, but not by as much as the large multi-storey developments to the north and south¹. These latter buildings are also set in larger, landscaped plots. The majority of the plot in the appeal scheme would be taken up with the proposed building or car parking. All of these above factors point towards an overdevelopment of the site.
9. In arriving at this conclusion I acknowledge that the two tower blocks immediately to the north of Leith Towers are relatively close together and close to Leith Towers itself, but such an arrangement is of its time. It should not necessarily be seen as an example of good design, or one that should be taken as a compelling precedent for similar development. My attention has also been drawn to the glass fronted building further to the north that has its front elevation close to Brighton Road. This is however an office block that lies where the built environment transitions to a more urban form.
10. In respect of the actual design of the building, in general I agree with the Inspector in the previous appeal² with respect to the articulation of the main elevations. The fact that the proposed building would be several storeys lower than the two tower blocks either side and would have the top storey set back, coupled with the existing foliage along Brighton Road and the set back of the building would prevent the building appearing as a dominating presence within the street scene.
11. However, I do note that the west elevation presents large areas of a blank façade that would, notwithstanding the existing foliage, be readily noticeable from the garden of 6 Copse Hill, with the separation distance being the

¹ Leith Towers and Dunfold Court respectively

² APP/W/20/3249085

relatively short width of the north-west outdoor amenity space. I assume that the blank areas of elevation are to ensure that privacy of the occupiers of 6 Copse Hill would not be impinged upon. However, the necessity for this once again indicates to me that the plot is too small for the proposed development.

Outdoor amenity and play space

12. Drawing 1354.PLN.201A was produced in an attempt to satisfy the Council in respect of the provision of a play area. However, all that has happened is that an area previously shown as an outside amenity area is now shown as a play area. The proposed play area would be at the front of the development, bordered on two sides by roads. To ensure any form of safety and privacy these sides would have to have some form of robust fencing, which could in turn affect the character and appearance of the proposal. The boundary of the play area would also be only about 3.5m from the nearest windows of the proposed flats.
13. I acknowledge that there would be a further small outdoor area in the form of a roof terrace on the fourth floor. Access to this would however be somewhat tortuous, particularly for residents in the more northern flats.
14. I have borne in mind that landscaping is a reserved matter and that alterations could be made to the layout of the open space facilities at reserved matters stage. I also note the noise and air quality reports that the appellant has commissioned for this area. However, space is very limited such that any significant changes would be very difficult. The overall approach to outdoor amenity space seems to reinforce my colleague's assessment in his recent decision letter that the design of the scheme is predicated on the maximum number of units that can be inserted into the site with consideration such as outdoor amenity areas and play areas very much left as afterthoughts. This cannot to my mind be deemed to be good design.
15. In summary, whilst the proposed development would be acceptable in terms of the design of the road fronting elevations, the proximity to the site boundaries and the proportion of the site taken up with built form or car parking, coupled with the paucity and arrangement of outdoor amenity space leads me to conclude that it would be a cramped development out of character with the area, indicating poor design. There would therefore be conflict with policy 28c of the LP, which requires that new development is of a suitable scale, massing and height to the setting of the site.

Mix of units

16. The proposed development started as a scheme containing 55 studio, one and two bedroom flats. However during the currency of the appeal amendments were made to the layout such that the latest scheme contains five three bed flats (9% of the whole). This is an attempt to comply with LP policy 9b(ii) which requires that 50% of developments outside Sutton Town Centre should comprise three bedroom or larger units unless it can be demonstrated that this would be unviable or the particular site circumstances are not suitable for family housing.
17. I note that in the preamble to policy 9 it is shown that in terms of market housing need, 44% of people require 3 bed dwellings. I also note that the

preamble to policy 10 of the LP makes clear that 2 and 3 bedroom houses are the most required type of housing.

18. In support of the reduced percentage I have been supplied with a letter from Sequence which outlines the problems encountered in selling three bedroom flats at five other developments. The gist of the problem seems to be that people wanting three bedroom dwellings would rather have a house with outdoor amenity space than an apartment.
19. However, the LP has been subject to scrutiny and examination, is recent and is a long term document, designed to provide planning policy until 2031. To deviate from it so substantially on the grounds of one letter outlining problems on five sites in a relatively short space of time would not in my view be a reasonable course of action to take.
20. I consider therefore that conflict with policy 9 exists and the evidence to the contrary that I have been supplied with is insufficient to lead me to a different conclusion.

Flooding

21. Policy SI 13 of the London Plan 2021 requires that development proposals should aim to achieve greenfield run-off rates and ensure that surface water run-off is managed as close to its source as possible. The policy also gives a drainage hierarchy which starts with rainwater being used as a resource and ends with controlled rainwater discharge to a combined sewer.
22. The Flood Risk and Drainage Strategy report (FRDS) produced by SWP for the proposed development acknowledges this hierarchy and goes on to propose that rainwater run-off would be dealt with by infiltration into the underlying chalk by using permeable pavements. The FRDS acknowledges that no intrusive ground investigations have been carried out and that further work on the design would be carried out during the detailed design of the project.
23. Whilst the Council has concerns regarding the drainage proposals they have provided no significant evidence as to why the approach advocated within the FRDS would lead to flooding. Given that the details of the drainage scheme could be conditioned I conclude that the proposed development would not give rise to future flooding.

Planning balance and conclusion

24. I have found that the proposed development would conflict with the development plan in respect of character and appearance, the provision of outdoor amenity space and the mix of housing. My finding in respect of flooding and the benefit of 55 new dwellings does not outweigh this conflict. Therefore, having taken into account all other matters raised, I conclude that the appeal should be dismissed.

John Wilde

INSPECTOR