
Appeal Decision

Site Visit made on 10 September 2021

by Scott Britnell MSc FdA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2021

Appeal Ref: APP/P5870/W/21/3269447

6 Denbigh Close, Cheam SM1 2HS

- 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 M Singh against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2020/02107, dated 26 November 2020, was refused by notice dated 11 February 2021.
 - The development proposed is demolition of existing bungalow and construction of 4 no. flats with car parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal was submitted prior to the Government publishing the National Planning Policy Framework 2021 (the Framework) and the Mayor of London publishing the London Plan 2021 (the London Plan). Comments have been sought from the main parties with regard to these matters and I have taken any responses received into account in determining the appeal.
3. Mr Paul Dickinson is named on the application form as the applicant. The appellant is named on the appeal form as Mr M Singh who has confirmed that Mr Dickinson's name appeared on the application form in error. The Planning Statement submitted with the application also refers to Mr Mohan Singh as the applicant. Consequently, I consider that Mr M Singh was the applicant and so is eligible to make this appeal.
4. The appellant submitted a revised location and block plan (drawing DC-01R1) and an illustrative landscape scheme, which indicate the omission of a car parking space and the installation of green parking spaces, with the appeal. Given the minor nature of the revised drawings and as the Council and any interested parties would have had the opportunity to consider these drawings as part of the appeal process, I have accepted them. In doing so, I have had regard to the principles established by the Courts in *Wheatcroft*¹ and I consider that no party would suffer any injustice by me considering these drawings.
5. The appellant also provided further information at final comments stage and in their response to my request for comments regarding the change to the Framework. This information concerned a planning application relating to the appeal site that was approved by the Council subsequent to the submission of

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982].

this appeal. The information was submitted after the date that interested parties were given to comment on the appeal. As such, those parties have not had an opportunity to consider this information. Consequently, I have not considered this information in my assessment.

Main Issues

6. The main issues are:

- Whether the proposal would provide adequate living conditions for future occupants of the proposed ground floor flats, with particular regard to privacy;
- The effect of the proposal on the character and appearance of the area; and,
- Whether the proposal would provide a satisfactory reduction in carbon emissions and water efficiency measures, and its effect on flood risk.

Reasons

Living conditions

7. The proposal would provide a communal rear garden, the users of which could include the occupants of the proposed flats and their visitors. Given the layout of the garden, its users would be afforded close up views into the bedroom windows of the ground floor flats. This would make those rooms unpleasant to use and would cause unacceptable harm to the living conditions of their occupants, who would likely be forced to rely upon internal screening to provide privacy. Such a solution would be likely to lead to a dark and enclosed environment which would also be harmful to their living conditions.
8. The location and block plan shows that planting would be provided in front of the rear elevation of the proposed building. However, any planting would need to be sufficiently dense and high enough to provide an adequate screen to prevent the aforementioned windows from being overlooked. Given the proximity of the planting to the rear elevation of the building, such planting would appear overbearing when viewed from the bedrooms and would create an unacceptable sense of enclosure for their occupants. The provision of planting in this location, therefore, would not be a reasonable or sustainable solution to prevent the harm from overlooking that I have identified.
9. The appellant has referred me to the Officers Report in respect of refused planning application DM2020/00247², wherein similar planting was proposed. The Officer's Report in that matter indicates that the planting was requested to provide a defensible space for the ground floor windows. Moreover, that application was not refused on the grounds of a lack of privacy to the ground floor bedrooms. It appears, therefore, that the Council has taken an inconsistent approach with regards to this matter. While this is unfortunate, I find that there would be a lack of privacy afforded to the ground floor bedrooms in the proposal before me and I do not consider that the Council's previous approach justifies that harm.

² Demolition of existing bungalow and construction of a two storey detached building comprising of 4 self-contained units with car parking.

10. The appellant also suggests that the Council could have attached a planning condition requiring landscaping details to incorporate suitable planting to ensure privacy to these windows. The positioning of any planting would need to be assessed not only with regard to providing screening to the ground floor windows but also the size and usability of the communal garden. Consequently, such details are required before an informed decision can be reached.
11. I conclude that the proposal would fail to provide adequate living conditions for future occupants of the proposed ground floor flats, with particular regard to privacy. There would be conflict with Policy 29 of the Sutton Local Plan 2016 - 2031 (February 2018) (LP), which, amongst other matters, seeks to avoid development that would adversely affect the amenities of future occupiers.

Character and Appearance

12. The Council do not object to the proposed building and I see no reason to reach a different conclusion. Rather, the Council's objection relates to the proposed parking area to the front. This area currently has no soft landscaping and is a visually harsh environment. The revised drawings show a reduction in parking spaces from five to four with additional soft landscaping. This would result in a less cramped appearance when all of the parking spaces are occupied and would provide greater opportunities for landscaping to soften the appearance of this area.
13. I also observed that there are a number of areas of hardstanding to the front of the properties in this section of Denbigh Close and on the adjacent Frederick Road. While I do not have the full details of these development before me, they nevertheless inform the context for the appeal site and how it is viewed. Given the level of parking now proposed and the provision of greater planting, as well as the surrounding context, I consider that the proposal would appear acceptable and would complement the character and appearance of the area.
14. In reaching this conclusion, I note that a number of interested parties objected to the proposal citing concerns over the level of parking and its effect on the highway. The Council did not object to the provision of five parking spaces and I note that the application was accompanied by a Parking Survey. This indicates that over the two nights that the survey was carried out, on-street parking demand in the area of the appeal site was at 57% and 67% respectively. I am satisfied given these findings that there is sufficient on-street parking in the area to accommodate any overspill parking from the proposed development. The provision of four parking spaces, therefore, is acceptable in highways terms.
15. In light of the above, I conclude that the proposal would cause no harm to the character and appearance of the area. There would be no conflict with LP Policy 28, which requires, amongst other matters, new development to respect local context and to respond to local character.

Flood Risk, Carbon Emissions and Water Efficiency

16. Policy 31 of the LP seeks to achieve the highest design and environmental standards possible and to future proof buildings in terms of a changing climate. It requires that all planning applications for new dwellings should be supported by an Energy Statement incorporating 'as-designed' Building Regulations Part L

outputs to demonstrate how the relevant targets for reducing CO2 emissions will be met.

17. LP Policy 32 states that proposed developments should avoid or minimise all sources of flood risk to people and property, taking account of climate change, without increasing flood risk elsewhere. It also states that proposed developments should incorporate effective sustainable drainage (SuDS) measures as part of the design and layout of the development in order to manage surface water run-off as close to its source as possible.
18. Policy 33 of the LP states that proposed developments should minimise vulnerability of people and property and be fully adapted and resilient to the future impacts of climate change. This includes developments achieving high standards of water efficiency.
19. The proposal does not include detailed information demonstrating how it would meet the objectives of the above policies. I have, however, been referred by the appellant to a number of planning applications relating to the site. In commenting on the planning application DM2019/00174³, the Council's Sustainability Officer indicated that details relating to carbon and energy, flood risk and site drainage, and water consumption could be secured by planning condition. The Officer Report for planning application DM2020/00247 also indicates that the Sustainability Officer had been consulted and raised no objection with regard to sustainability issues, subject to conditions to secure the relevant details.
20. It appears that the Council's approach to development at this site with regard to the issues relating to flood risk and drainage, carbon emissions and water efficiency has been inconsistent. I consider that the appellant has a reasonable expectation that the Council should approach similar development on the same site in a consistent manner. I note that the previous applications were assessed against the same LP Policies as the appeal proposal and there is no compelling evidence before me to suggest that conditions on site have changed. Although the new London Plan has been published since the application was determined, the Council have not provided evidence to explain why the details required under the aforementioned LP Policies cannot now be required by condition given their previous findings. As such, I consider that it would be appropriate, in this instance, for those details to be secured by planning condition.
21. I conclude that the proposal, subject to appropriately worded planning conditions, could demonstrate that it would not cause harm to flood risk of the appeal site or surrounding properties and that it would achieve a reduction in carbon dioxide emissions and that suitable drainage and water efficiency measures could be provided. As such, there would be no conflict with LP Policies 31, 32 and 33. There would also be no conflict with London Plan Policies SI 1, SI 2, SI 12 and SI 13 where these relate to matters considered under this main issue.
22. The Council have also referred to London Plan Policy SI 4, which is concerned with managing heat risk from development. As the Council have not raised objections relating to adverse impacts on the urban heat island, this policy is not directly relevant to my assessment.

³ Demolition of existing bungalow and construction of a pair of semi-detached two storey houses with car parking.

Other Matters

23. The proposal would contribute to the borough's housing land supply and the Government's objective of significantly boosting the supply of homes and would provide homes in a location which is close to local shops, bus routes and a railway station. There are likely to be economic benefits through the construction period and because future occupants are likely to use local services. The proposal would also result in the payment of a New Homes Bonus to the Council. However, given the quantum of development proposed, the proposal would make a limited contribution to these matters and I attribute limited weight to these benefits. Moreover in this instance the benefits of the scheme would be confined to a numerical increase, rather than in terms of quality, and the support accorded to small sites in Framework paragraph 69 to delivery from smaller sites is not unconditional.
24. The appellant also suggests that the proposal would make a contribution to the identified need for affordable family homes. However, there is no evidence before me to indicate that the dwellings would be affordable housing in the terms set out in the glossary to the Framework, nor a way in which I can legitimately secure that.

Planning Balance and Conclusion

25. The proposal would not cause harm to the character and appearance of the area and details relating to flood risk and drainage, carbon emissions and water consumption could be secured by planning conditions. However, the lack of harm in respect of these matters, and potentially in respect of all other issues subject to appropriately-worded conditions, would be a neutral factor in my assessment.
26. I have found that the proposal would fail to provide adequate living conditions for the future occupants of the ground floor flats in terms of privacy. I attribute significant weight to this harm.
27. I have also taken account of the fact that the proposal would contribute to the area's housing stock and would be likely to result in economic benefits. However, these benefits would be limited given the quantum of development proposed and would not outweigh the harm that I have identified.
28. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Scott Britnell

INSPECTOR