

Appeal Decision

Site visit made on 16 March 2022

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5TH April 2022

Appeal Ref: APP/P5870/W/21/3281440

1 Northdown Road, Sutton SM2 6DY

- 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 Dr Zubair Ahmed against the decision of the Council of the London Borough of Sutton.
 - The application, Ref. DM2020/02114, dated 4 February 2021, was refused by notice dated 6 August 2021.
 - The development proposed is the demolition of garage and erection of a two-storey detached house with parking, cycle and refuse areas (Amended plans).
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of garage and erection of a two-storey detached house with parking, cycle and refuse areas at 1 Northdown Road, Sutton SM2 6DY in accordance with the terms of the application, Ref. DM2020/02114 dated 4 February 2021 subject to the conditions in the attached Schedule.

Main Issues

2. I have determined the appeal on the basis of amended plans submitted on 29 March 2021 and the main issues are (i) the effect of the proposed development on the character and appearance of the area, and (ii) the effect on the living conditions for the occupiers of No. 2 Northdown Road as regards their outlook.

Reasons

Character and Appearance

3. On the first issue, the appeal site comprises a severance of part of the rear garden of No. 1 Northdown Road, with an existing former garage to be demolished and replaced by a dwelling with access to Avenue Road, immediately to the south of the first of a number of semi-detached properties of the same design. Ostensibly, the site can initially be perceived as being too small for a detached house with a planning judgement this would be out of keeping with a residential area exhibiting a more spacious development pattern. This is the argument put forward clearly and fully in the officer's report and I recognise it has some credence. I have also noted the objections of local residents on similar lines.
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4. However, I saw on my visit that No. 1 Avenue Road adjoining the site is the first dwelling in a series of semi-detached houses of similar design and external materials. The rhythm of this side of the road does not start until after the rear garden of No. 1 Northdown Road, whilst opposite the site are bungalows and two large buildings (including the Hopscotch Day Nursery in a former industrial building) with their hard surfaced frontages. And southwards past the junction there is a three-storey residential terrace on a minimal building line to the road, a church, and a left turn into Station Road with its local shopping centre.
5. This variety of context is significant, because in advocating its case that the site would be too small and the development incongruous, the Council has to a large extent equated the harm caused with the appearance of the proposed house in its immediate setting and local surroundings. In this regard it is considered that *'the dwelling would appear cramped....'* However, in my view this assertion is only partially true, as there are factors both for and against the visual impact and feasibility of development to be weighed in a 'planning balance'.
6. Turning initially to the case in favour of the appeal scheme and firstly as regards the site's setting, the dwelling would become the first property on this side of Avenue Road with No. 1 the second. On the southern flank there would remain a relatively open area of 16m width between the new boundary fence and the rear elevation of No. 1 Northdown Road – a considerable gap not replicated in the rest of the road. This would not support a perception of the building being unduly 'squeezed in' the street scene.
7. Secondly, within the site itself the building would be positioned just under a metre from both its side boundaries and have a gap of 1.8m to the single storey side elevation of No. 1 Avenue Road. Whilst these distances are less than the gaps between the semi-detached pairs in the road, I do not regard them as being inadequate in themselves. Nor are they too short for the proposed building's context, given that it would be of considerably less bulk and massing and with a lower height than neighbouring properties. Unlike the Council, as a detached dwelling and the first house in the road I do not see this lower height of the proposal as a drawback, especially given the context of bungalows opposite.
8. Thirdly, the gap between the new dwelling and No. 1 would widen at first floor and level to 6.8m as a result of the design including a single storey element to mirror the appearance of No. 1. Above the eaves, both roofs slope away from one another and overall, the proposal would achieve a spacious relationship with its neighbour. Together with the proposed similarity of fenestration and external materials between the two dwellings, I regard the design as being of a good standard and that a successful effort has been made for it to harmonise with the street scene.
9. Finally, because the existing front building line of the road would be maintained, the distance from the pavement to the front wall would essentially be the same as that for No. 1. This is another indication of a development in keeping with its surroundings.
10. On the other side of the argument is the absence of a rear garden, with a distance of only about 2m between the rear elevation and the boundary at the bottom of the rear garden of No. 2 Northdown Road. This is due to the depth of

the appeal site being confined to the width of No. 1's rear garden rather than including additional land to the west.

11. This has two potentially adverse consequences. Firstly, this limited site depth would cause a cramped relationship, albeit only between the proposed dwelling and its rear boundary. And although it was impractical for me to carry out any form of survey, I accept the Council's assertion that this is not a feature that regularly occurs in this relatively spacious part of the Borough. However, I also agree with the appellant's argument that in views from Avenue Road over No. 1 Northdown Road's fence (the only public vantage point) a passer-by would be unable to discern that the new house has no back garden. Even less likely would be a perception that this causes meaningful harm to the character and appearance of the area. In short, the proposed house would not appear cramped, incongruous, or out of keeping and I note that this was essentially the conclusion of the Inspector in the 2013 appeal (Ref. APP/P5870/A/13/2190067).
12. The second drawback is the somewhat contrived replacement of the private external amenity space in the front garden. This would be a small area, fairly close to the road, and even with screening have only limited privacy. In the event, there is some mitigation in that whether the front garden would in practice be used for amenity purposes would entirely depend on the individual preference of a prospective occupier. And with this, there is the certainty that the absence of a private back garden would be clearly evident at the time of that person(s) choice as to whether the property as a whole met their own particular needs.

Outlook from Rear Garden of No. 2 Northdown Road

13. Turning to the second issue, the Council's objection is that the close proximity of the house to the boundary of No. 2 Northdown Road would both limit the outlook and lead to an undue sense of enclosure when the occupiers of that property are using their back garden. The effect on the garden of a new house in this position was a matter addressed by the Inspector in the 2013 appeal and indeed was the determining factor.
14. The appellant's case provides details of that refused scheme and a comparison with the development in this appeal and this shows that the latter would be a less bulky building. Furthermore, because the part of the building 2m away from the boundary with No. 2 Northdown Road would have a cat slide roof, the eaves height would be at only 3.5m and the main ridge of 6.6m would be 5.6m away from the boundary.
15. I do not regard this relationship as creating an undue sense of enclosure for an area that would be the most rearward part of a large garden. In addition, the part of the garden closest to the house tends to be the most used for amenity purposes and in this case, given the substantial length of this garden and the effective intervening tree and shrub screening, I find that the effect on No. 2's outlook would not be enough to warrant a refusal of consent.

Conclusions

16. In my following conclusions I weigh the planning balance. On the first issue, I conclude that although the appeal proposal has the drawback of not having a rear garden, this will not significantly affect the character and appearance of the

area. It might be suggested that a multiple repetition of the development of sites of this or similar size would have a cumulatively adverse effect, but in each case an application would need to be decided on its individual merits. And in my view the occurrence of the favourable context and circumstances for development outlined in paragraphs 6-9 of this Decision would be infrequent.

17. There is the additional factor the fact that although the Council has met its housing targets, this does not nullify the economic and social benefits of an additional dwelling in a sustainable location. Nor does it preclude the need to give weight to the thrust of Government policy in the National Planning Policy Framework 2021 ('the Framework') that Local Planning Authorities should approach decisions on proposed development in a positive and creative way and should promote an efficient use of land in meeting the need for homes.
18. On the second issue, whilst I have taken account of the Council's views and those of the occupier of No. 2 Northdown Road, I conclude that the evidence clearly demonstrates that the visual impact of the building and its effect on outlook would not be such as to be reasonably regarded as harmful.
19. For these reasons I conclude the planning balance clearly weighs in favour of the appeal scheme. Accordingly, there would be no harmful conflict with Policies 13, 28 & 29 of the Sutton Local Plan 2018; Policies D3 & D4 of the London Plan 2021; the Council's adopted Supplementary Planning Document 14: 'Creating Locally Distinctive Places', and Section 12: 'Achieving Well-Designed Places' of the Framework. I shall therefore allow the appeal.

Conditions

20. The Council has suggested a number of conditions if the appeal is allowed and no representations on them have been made for the appellant. I therefore regard this as tacit acceptance of the pre-commencement conditions and the elements of duplication which I refer to below. Overall and with common sense to override any inconsistency in the duplication I consider the conditions to be reasonable and necessary.
21. A condition requiring the development to be carried out in accordance with the approved plans and documents is needed for the avoidance of doubt and is in the interests of proper planning. A condition requiring details of external materials will safeguard visual amenity. A refuse storage and recycling scheme will prevent harm to the street scene and ensure adequate recycling, whilst a cycle storage condition will encourage this mode of transport
22. A construction logistics condition will maintain highway safety and protect local amenities, whilst a condition relating to sustainability and energy is in accord with local and national policies, including addressing climate change. In both cases there appears to be some, but by no means complete, duplication in the Council's suggested conditions. However, in the absence of an opportunity to consult with the appeal parties and noting there is no major conflict, I consider that the inclusion of all the suggested conditions is appropriate to ensure an appropriate level of regulation.
23. A surface water drainage condition will prevent localised flooding, whilst landscaping, tree protection and boundary treatment conditions will maintain amenity and assist in ensuring that the development has a satisfactory

appearance. Finally, a contamination safeguarding condition will protect against harm to public health and the environment.

Martin Andrews

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this Decision;
- 2) The development shall be carried out in accordance with the following approved plans and documents: 01, 02, 04B, 05D, 06D, 07D, 08B, 09D and 10D, Arboricultural Report, Design and Access Statement, Surface Water and SUDs Assessment and Water usage Calculations;
- 3) Prior to the commencement of development (excluding demolition) the type and treatment of the materials, including samples, to be used on the exterior of the building shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall be used in the construction of the development hereby approved, completed prior to its occupation and retained thereafter;
- 4) Prior to occupation of the development hereby approved, full details of refuse and recycling storage shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to occupation of the development and retained thereafter;
- 5) No development shall begin, including demolition and site clearance works, until a Construction Logistics Plan (CLP), to include details of: (a) loading and unloading of plant and materials; (b) storage of plant and materials; (c) programme of works (including measures for traffic management); (d) provision of boundary hoarding, behind any visibility zones of construction traffic routing; (e) hours of operation; (f) means to prevent deposition of mud on the highway have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved statement;
- 6) The development hereby approved shall be constructed in accordance with the approved Sustainability and Energy Statement (Ref: 303446) prepared by Dynamic Energy Assessors and dated 17 August 2020). Prior to first occupation, as-built' Standard Assessment Procedure (SAP) outputs shall be submitted to the Local Planning Authority and approved in writing to demonstrate that the development has achieved the required reduction in CO2 emissions. All of the approved measures shall thereafter be retained;
- 7) The development hereby approved shall be constructed in accordance with the approved Surface Water and SuDS Assessment report (Ref: Rev 0) prepared by Base Energy Ltd (14 December 2020). Prior to first occupation of the development, written confirmation that the approved site drainage and flood risk management measures, including SuDS, have been implemented as part of the development as built shall be submitted to the Local Planning Authority and approved in writing. All of the approved measures shall thereafter be retained;
- 8) Prior to the commencement of development, an Energy Statement incorporating 'as-designed' Standard Assessment Procedure (SAP) outputs shall be submitted to the Local Planning Authority and approved in writing which demonstrates how the proposed dwelling will apply the Mayor's energy hierarchy (use less energy, supply energy efficiently and use renewable energy) to achieve at least a 35% reduction in CO2 emissions below the target emission rate (TER) based on Part L1A of the 2013 Building

Regulations and at least a 10% reduction in total emissions (regulated and unregulated) through on-site renewable energy generation. The development shall exceed the minimum Part L1A emissions standards through energy efficiency measures alone;

- 9) Prior to the occupation of the development, full details of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscaping and tree planting shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards (in particular, BS 3882: 'Specifications for Topsoil, Recommendations' (2015) and BS 8545: 'Trees from Nursery to Independence in the Landscape, Recommendations' (2014) or other recognised codes of good practice). The works shall be carried out prior to the occupation of any part or relevant phase of the development or in accordance with the timetable agreed with the Local Planning Authority. Any tree(s) or plants that (within a period of five years after planting) are removed, die, or (in the opinion of the Local Planning Authority) are damaged or defective shall be replaced as soon as is reasonably practicable with others of a similar size/species/number as originally approved, unless the Local Planning Authority gives its consent to any variation;
- 10) Prior to occupation of the development hereby approved, full details of the position, design, materials and type of boundary treatments/means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to occupation of the development and retained thereafter;
- 11) Prior to first occupation of the development hereby approved, full details of the secure cycle storage facilities shall be submitted to, and approved in writing by, the Local Planning Authority which shall show their positioning within the site, the size and materials of the enclosure and the means of access. The approved details shall be implemented on site prior to the first occupation of the development hereby approved and thereafter permanently retained in accordance with the approved details;
- 12) If during implementation of this development, contamination is encountered which has not previously been identified, the additional contamination shall be fully assessed and a specific contaminated land assessment and associated remedial strategy shall be submitted to and agreed in writing by the Local Planning Authority before the additional remediation works are carried out. The agreed strategy shall be implemented in full prior to completion of the development hereby approved;
- 13) No development shall commence, including demolition and site clearance works, until a Construction Management Plan (CMP), to include details of: (a) provision of boundary hoarding; (b) hours of operation; (c) means to control dust and emissions to air; (d) means to control noise and vibration has been submitted to, and approved in writing by, the Local Planning Authority. The CMP shall be in accordance with the GLA's Supplementary Planning Guidance 'Control of Dust and Emissions during Demolition and Construction'. The development shall be constructed in accordance with the approved statement;

- 14) All trees on and adjacent to the site shown to be retained shall be protected in accordance with the Arboricultural information submitted with the application (the Arboricultural Method Statement and Tree Protection Plan) and shall follow recommendations in British Standard BS 5837: 'Trees in Relation to Design, Demolition and Construction – Recommendations' (2012). There shall be no materials stored within the Construction Exclusion Zone (CEZ), and the Tree Protection Fencing (TPF) and other measures shall only be removed on completion of development. On completion of development, the applicant (or their heirs or successors in title) shall submit photographic evidence of compliance with BS5837:20.