



Appeal Decision

Site visit made on 8 June 2022

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2022

Appeal Ref: APP/P5870/W/21/3285523

71 Holland Avenue, Cheam SM2 6HT

- 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 & Mrs S White against London Borough of Sutton.
 - The application Ref DM2021/00550, is dated 16 March 2021.
 - The development proposed is two bedroom dwelling house on garden land to rear of host property.
-

This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 23 June 2022.

Decision

1. The appeal is dismissed and planning permission for two bedroom dwelling house on garden land to rear of host property is refused.

Preliminary Matters

2. Outline planning permission is sought but with access, layout and scale to be considered at this stage. I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - the effect on the character and appearance of the area,
 - whether satisfactory provision is made for a reduction in carbon emissions, sustainable drainage and water efficiency,
 - the effect on the living conditions of neighbouring occupiers with particular regard to privacy at 69 Holland Avenue,
 - the quality of living conditions for future occupiers.

Reasons

Character and Appearance

4. 71 Holland Avenue is a corner property with its main frontage to Holland Avenue and a secondary, side elevation to Dorset Road with the extent of the rear garden clearly evident. The plot is wider, but a similar length, to others in Holland Avenue.

5. Holland Avenue has a clear linear pattern of development and mainly comprises detached dwellings fronting the street with generous gardens to the rear, and this continues to the adjoining Avenue Road. 54 Holland Avenue has a smaller rear garden, but respects the pattern of development in other respects. At the junction of Holland Avenue, Avenue Road and Dorset Road this pattern of development is clearly apparent, evidenced by 3 of the 4 properties around this crossing, including the appeal site, having side elevations and gardens along Dorset Road. The extent and position of this garden space creates an open character to this location.
6. The wider character of Dorset Road is varied and includes dwellings fronting the road, such as those at nos 1 and 4-12, a large care home at 5 Dorset Road as well as an ambulance station and three storey block of flats to the east of the site. Albeit that the immediate setting of the appeal site is characterised by the secondary side elevations and gardens to corner plots within the traditional linear pattern of development in the surrounding roads, as described above.
7. The development would subdivide the rear garden of 71 Holland Avenue to introduce a dwelling fronting Dorset Road. This would reduce the garden area to the host property.
8. The introduction of a dwelling and its associated plot in this location would harmfully erode the distinctive linear pattern of development to Holland Avenue, which is particularly evident in this highly visible corner plot. It would also undermine the pleasant sense of openness in this location. As such it would unacceptably harm these features which make an important contribution to the character and appearance of the area. I have taken into account that the plot is wider than others in the road, and that the host property would be maintained. Nevertheless, these matters do not overcome the notable harm identified above.
9. Therefore, the proposed development would be harmful to the character and appearance of the area. This would be contrary to Policy D3 of the London Plan 2021 (LP) and Policies 13 and 28 of the Sutton Local Plan 2016-2031 (2018) (SLP). Together these provide criteria to achieve the highest standard of design using a design led approach and detail that planning permission will not be granted for the development of back garden land which makes an important contribution to the character and appearance of the surrounding area. As well as to the advice in the Supplementary Planning Document Creating Locally Distinctive Places (2008) which provides further detail as to how good urban design which respects and improves the site and surrounding area can be achieved.
10. Policy D4 of the LP mainly provides advice as to the analysis and scrutiny of design. Therefore, the policies set out above are more relevant to this main issue.

Carbon Emissions, Sustainable Drainage and Water Efficiency

11. Policies SI 2, SI 4, SI 5 and SI 13 of the LP and Policies 31, 32 and 33 of the SLP require development to achieve specific CO2 emissions demonstrated by an energy statement, manage surface water run off as close to source as possible through details of a site drainage strategy and SUDs, be adaptable to the future impact of climate change, minimise adverse impact on the urban heat island and minimise the use of mains water.

12. I am not provided with evidence as to whether or how the proposed development would satisfy these criteria including with regard to carbon emissions and sustainable drainage. Given this lack of clarity, a condition would not be reasonable in these circumstances. Therefore, in the absence of such information I am not satisfied that the requirements of these policies would be met.
13. Policy SI12 refers to flood risk and I have no reason to believe that this site is at particular risk from flooding. Therefore, I do not find conflict with this policy. However the lack of harm in this regard is a neutral consideration.
14. Consequently, the proposed development would not make satisfactory provision for a reduction in carbon emissions, sustainable drainage and water efficiency. Therefore, in this respect, it would be contrary to Policies SI 2, SI 4, SI 5 and SI 13 of the LP and Policies 31, 32 and 33 of the SLP, the aims of which are set out above.

Living Conditions

15. The rear of the proposed development would face the rear garden of 69 Holland Avenue. The proposed layout and scale indicates that first floor windows would be 9m from the boundary with no.69. Although appearance is a reserved matter, there is no dispute that windows to this elevation would be likely.
16. First floor rear windows to the proposed dwelling would result in views to the rear part of the neighbouring garden, although views towards the dwelling would be at an obscure angle and some distance away. However, the garden to 69 Holland Avenue is already somewhat overlooked by first floor windows at neighbouring properties. Suitable boundary treatment could also reduce any overlooking. Consequently, the proposed development would not lead to a harmful loss of privacy over and above the existing situation.
17. Due to the proposed separation of the development from other nearby properties, the appeal scheme would not result in harm to the living conditions of neighbouring occupiers.
18. Therefore, the proposed development would have an acceptable effect on the living conditions of neighbouring occupiers with particular regard to privacy at 69 Holland Avenue. As such, in this respect, it would be in accordance with Policy 29 of the SLP which seeks to avoid adverse effect on the amenities of those currently occupying nearby properties, including with regard to overlooking.

Quality of Accommodation

19. Policy D6 of the LP requires 79sqm of internal floorspace, with 2sqm of built in storage for the proposed dwelling and a floor to ceiling height of 2.5m for at least 75% of this space.
20. Overall the proposed development would have an internal floor space of 83.3sqm. Part of the first floor accommodation is shown within a pitched roof and I am not provided with information regarding the ceiling heights. However, taking into account the scale of the part gable end to the side elevation and provision of dormers, the fact that the internal floorspace exceeds the

requirements and the scale of the hipped roof I am satisfied that the accommodation would be acceptable in this regard.

21. Therefore, the proposed development would provide appropriate quality living conditions for future occupiers. In this respect it would be in accordance with Policy D6 of the LP, the aims of which are set out above.

Other Matters

22. An appeal for a dwellinghouse adjacent to the host property at 71 Holland Avenue was refused and dismissed at appeal¹. However, due to the position of the proposed new dwelling, that scheme is notably different to the one before me now. Therefore, it does not alter my conclusion.
23. The appeal scheme would provide accommodation for a relative to support a disabled member of the family. I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The Act sets out the relevant protected characteristics which include disability. The proposal would advance equality of opportunity between persons who are disabled and those who are not and this is a benefit of the proposed development.
24. However, the host dwelling is a substantial family home and consequently there would be space to accommodate family members without the need for the proposed dwelling. Consequently, the appeal scheme would not represent the only or least harmful option to provide the support required. Furthermore, due to the scale of the development, the benefit identified above would be mainly a private benefit.
25. The proposed dwelling would make an efficient use of land in a somewhat accessible location and would provide a small unit of accommodation, which would make a positive contribution to housing supply in the borough. However, given the scale of the development the benefit in these respects is limited. I do not find harm with regard to the living conditions of existing occupiers or the quality of accommodation for future occupiers. Nevertheless, the lack of harm in these regards is a neutral factor.
26. I have taken into account the limited benefits set out above. However, the appeal scheme would result in unacceptable harm to the character and appearance of the area, as well as inadequate provision for a reduction in carbon emissions, sustainable drainage and water efficiency as described above. As such, the benefits would not outweigh the multiple, notable harms identified. Therefore, in such circumstances, there is a clear reason in the public interest that the proposed development should not be permitted.

Conclusion

27. The proposal would not accord with the development plan and there are no other considerations to indicate that the appeal should be determined

¹ LPA ref: B2012/65383

otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

H Miles

INSPECTOR