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# Appeal Decision

Site visit made on 18 October 2022

**by Stewart Glassar BSc (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 09 December 2022**

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**Appeal Ref: APP/P5870/W/21/3289262**

**292-300 Carshalton Road, Carshalton SM5 3QB**

- 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 Shaun Agutter (Hillside Motors Ltd) against the decision of the Council of the London Borough of Sutton.
  - The application Ref DM2021/01546, dated 20 July 2021, was refused by notice dated 11 November 2021.
  - The development proposed is the demolition of 292-300 Carshalton Road and redevelopment by a 3-storey building to provide nine self-contained residential flats (Class C3), cycle and car parking, landscaping and incidental works.
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## Decision

1. The appeal is dismissed.

## Application for costs

2. An application for costs was made by Shaun Agutter (Hillside Motors Ltd) against the Council of the London Borough of Sutton. This application is the subject of a separate decision.

## Main Issues

3. The main issues are a) the loss of a commercial use within the local centre; b) the effect of the proposed development on the character and appearance of the area; c) access arrangements; d) tree protection; and e) drainage.

## Reasons

### *Loss of Commercial Use*

4. The appeal site lies within the Carshalton Road Local Centre. Policy 18 of the Sutton Local Plan 2018 (Local Plan) aims to preserve the vitality and coherence of Local Centres through supporting suitable uses and seeking to maintain active frontages and thereby avoid the centre becoming disjointed.
5. Part (a) of Policy 18 supports new development in Local Centres provided that it is: (i) suitable to the scale, role, function and the character of the centre and its catchment; (ii) makes the optimum use of the site providing a town centre use or mix of town centre uses suitable to the scale of the development and its location within the centre; and (iii) provides active frontages at ground floor level and is compatible with the Council's requirements on shopping frontages.
6. Part (f) of Policy 18 refers to the submission of marketing information for 'conversions' and 'changes of use'. The proposal is for the redevelopment of the

site and is neither for the conversion of the existing premises nor for its change of use. That the use of the site would change as a result of the proposal does not in my opinion bring it within the very specific remit of part (f). I am therefore satisfied that whilst part (a) of Policy 18 is applicable to the proposal, part (f) is not.

7. Having regard to the criteria of part (a) and given that the proposal is to redevelop the site for residential units and includes no commercial uses, the scheme does not accord with the criteria.
8. However, the site is currently used for car repairs and sales. Thus, it is not currently fulfilling what might be considered a usual role or function of a local centre site nor does it have the character of operation the policy is specifically seeking to protect or support. Whilst there may be some activity at ground floor when a customer calls or a mechanic works on a car, the frontage is not likely to be particularly active and would not currently generate footfall in the same way a retail or other local centre operation would normally do.
9. The main focus of this local centre appears to be further along Carshalton Road, to the east of the appeal site. There are already one or two residential uses interspersed with commercial uses close to the appeal site, which is at the very end of the centre. The loss of this site as a commercial use would not result in the loss of a particularly active frontage nor would it create a more disjointed centre as a result. Thus, there is no substantive evidence to indicate that the scheme would therefore lead to a loss of vitality in the centre as a whole.
10. The proposal would not accord with policy in respect of introducing residential use at ground floor level into the local centre. However, the proposal would not conflict with the overall aims and objectives of the policy in respect of avoiding the loss of active frontages and creating disjointed centres whose vitality might become compromised. Weighing the above in the balance, and notwithstanding the conflict with Policy 18 of the Local Plan, I am satisfied that the proposal can be justified in this location given the nature of the current use and operations.

#### *Character and Appearance*

11. The heights and positions of the existing buildings and structures on site, together with the appearance and materials of the main two storey building, ensure that the existing premises is not particularly prominent within the street scene.
12. In contrast, the proposed development would introduce a building that sits further forward than all but one relatively small part of the existing premises. The resulting built form would have a greater bulk and mass than that which currently exists on site. It would also present a different, more contemporary design compared to the neighbouring buildings. As a result, the proposal would be more prominent and have a greater visible and physical presence than the existing situation.
13. However, prominence and visibility does not necessarily lead to harm. The existing building lines along Carshalton Road and Harrow Road would be respected. Whilst the majority of nearby buildings are two storeys with hipped roofs there is nonetheless a variety of building types and styles in the area. This includes some larger and taller buildings that incorporate flat roof designs.

14. Whilst the party wall with No. 302 Carshalton Road would create a slightly awkward juxtaposition between the two properties, the overall height of the proposed building would be comparable with others in the vicinity and the area as a whole. Whilst the roof is flat, the upper storey would introduce some variation with its height and angles and together with its set back position, would avoid the structure becoming overly dominant.
15. The proposal would provide a building which turns the corner between its two street elevations and taking the above into account, the building's overall scale, mass and positioning would not be out of keeping with the site or area.
16. The size and pattern of windows and the introduction of upper floor terraces on the building's front elevation would represent new features within this part of the street scene. Whilst there is not homogeneity in terms of fenestration patterns or arrangements to the fronts of neighbouring buildings, the vertical emphasis of the proposed windows and their number presents a very different facade to the more conventional arrangements on the neighbouring buildings. This does create some visual conflict with the wider street scene.
17. The proposed buff brick would noticeably contrast with the finishes of neighbouring buildings and would draw the eye. The boundary walls, particularly on the Carshalton Road frontage, act as screens to the refuse/cycle storage areas but as a result their height adds to the contrast with the prevailing street scene. However, were I minded to allow the appeal such matters could be addressed through appropriate conditions, to ensure the finishes were less of a contrast with the prevailing palette.
18. Whilst the articulation and detailing to the front elevation would be different from the neighbouring properties, the overall appearance would not be so challenging as to be demonstrably harmful to the area.
19. Therefore, I find that the proposal would not cause harm to the character and appearance of the area. As such it would comply with Policy 28 of the Local Plan which, amongst other things, seeks to ensure developments have an appropriate character and design. Accordingly, it would be compliant with the Council's Urban Design Guide 'Creating Locally Distinctive Places' SPD14.

#### *Access Arrangements*

20. The vehicular access to the parking area is not wide enough along its entire length to allow for two cars to pass. Thus, there is the potential for two cars to meet and one to have to reverse. If the vehicle seeking to enter the site needed to reverse, it would necessitate reversing back onto Harrow Road.
21. Given the width of Harrow Road and the generally unrestricted parking along it, then depending on which direction the exiting vehicle needed to travel relative to the arriving one, any reversing onto Harrow Road might not entail a simple manoeuvre. Were there to be a more complicated manoeuvre, then it seems to me that there is a real prospect of any vehicle that might be seeking to turn into Harrow Road from Carshalton Road being temporarily unable to complete the turn until the exiting/entry manoeuvre from the appeal site was finished.
22. I acknowledge that the site would only accommodate 4 cars and the access road is not overly long. However, the entrance gates, even if automatic, would seem to add a factor likely to delay any vehicle exiting/entering the site and thus increase the potential for conflict with other road users or pedestrians.

These arrangements would be noticeably different from how the access is currently used.

23. It does not seem to me that a give way sign would necessarily prevent two cars from meeting on the access road. If the exiting vehicle were already at the gates when another vehicles sought to enter the site the give way sign would not mitigate the occurrence of a vehicle reversing onto Harrow Road. Whilst the submitted Transport Statement makes reference to the give way sign and notes that two cars could pass each other when within the site, it is silent on the likelihood of a vehicle having to reverse out onto Harrow Road and the implications of this on other road users or pedestrians.
24. A traffic light system might create more certainty than a give way sign. However, a vehicle that is already exiting the site as another seeks to enter could still result in vehicles having to wait on Harrow Road. Without further details and a greater degree of certainty that it would be more effective and safer than what is currently proposed, it would not be appropriate to simply impose a condition requiring details of a traffic light system.
25. Narrowings on lightly trafficked streets may in some instances be appropriate as traffic calming measures. However, given the nature of the proposal and its context, such a comparison would not to my mind be appropriate in this case.
26. No objection has been raised to the visibility splays, width of the crossover or use of a shared surface. Based on the evidence before me, I have no reason to come to a different conclusion in these respects. However, compliance with these matters does not overcome the concerns outlined above regarding the width of the access road itself.
27. The National Planning Policy Framework (the Framework) requires developments to provide safe and suitable access for all users (paragraph 110). It also states that if there would be an unacceptable impact on highway safety, development should be refused (paragraph 111).
28. Thus, any scheme that introduces a significant increase in the potential for conflict between road users that could result in crashes or injuries is likely to be unacceptable. In my judgement, based on the evidence before me and my own observation of the site, the nature of the proposed access introduces a significant increase in the potential for conflict between road users that could result in crashes or injuries. On this basis I find the proposed access arrangements unacceptable.
29. As such, the scheme would be contrary to Policies 36 and 37 of the Local Plan which, amongst other things, require new development to have regard to highway safety and to not cause hazards to other road users.

#### *Trees*

30. The canopy of the trees within the adjacent plot overhang the appeal site. Visually they provide some value to the area. Although the trees might benefit from some management, there is no evidence before me as to indicate that they have long term health or viability issues.
31. Given the canopy spread it is likely that the trees' roots would extend into the appeal site. Their canopy would also be likely to shade part of the appeal site, in particular the parking area. This, together with leaf and twigs falling from

the trees onto cars could result in some pressure for work being undertaken to the trees.

32. Whilst the trees would be visible from the proposed rear patio areas and communal garden, their height and position are unlikely to significantly compromise the use or enjoyment of these areas. It is therefore less likely that future occupiers using these areas would exert pressure to remove or prune the trees.
33. Whilst the trees are not formally protected, it would be appropriate to ensure as best as possible their long term health and retention. Aside from establishing a root protection zone during the construction phase, it would also be appropriate to ensure that any new surfaces in the area were installed using techniques that did as little harm as possible to the roots. An arboricultural management plan would provide a more detailed breakdown of the works which could be undertaken given that the trees are outside of the appeal site.
34. It would be preferable to have this arboricultural information as part of the initial submission. However, on balance I am satisfied that appropriately worded conditions could be imposed to seek the necessary protection and details, prior to the commencement of development. This would address the above concerns.
35. On this basis I therefore conclude that the long-term health and well being of the adjacent trees could be protected. Accordingly, the proposal would not be contrary to Policy 28 of the Local Plan which, amongst other things, seeks to ensure developments respond positively to existing trees and their contribution to an area.

#### *Drainage*

36. Policy 32 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. All development proposals should include details of how each SuDS measure, and the site drainage strategy as a whole, will be managed and maintained throughout its lifetime. It also 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.
37. The appeal site, which is not within Flood Zones 2 or 3, is already substantially hard surfaced and covered by buildings. The proposal would allow for the introduction of more porous surfaces across parts of the site, as well as providing landscaping and an opportunity to upgrade the existing drainage.
38. The appellant has provided some limited information in relation to drainage but the inclusion of this reason for refusal is due to the absence of more detailed evidence from the appellant. I understand what the relevant policies set out and the Council's wish to assess these matters upfront. However, the Council has not provided more detailed evidence of site-specific harm that would result from the proposal.
39. Whilst the main parties' positions are evenly balanced, I am satisfied that the issues could be considered at a later point by conditions without materially prejudicing the Council's position.

40. In conclusion on this matter, subject to conditions, the proposal could make satisfactory provision for sustainable drainage and flood risk management. Consequently, there would be no conflict with the development plan for the area, specifically Policies SI 5, SI 12 and SI 13 of the London Plan and Policy 32 of the Local Plan, which seek to address these matters.

### **Other Matters**

41. It is indicated that the proposed units would meet various requirements including the Nationally Described Space Standards, British Research Establishment guidelines for daylight and sunlight, Part M of the Building Regulations, parking standards and refuse storage. However, compliance with these matters would generally be expected in order for a development to be considered acceptable and therefore are not factors that should weigh positively in the scheme's favour.

### **Conclusion**

42. The Council is able to demonstrate a five year supply of housing land. However, this is not a reason to reject a site, especially a windfall site that seeks to make more efficient use of the land and boost the supply of housing, which are important elements of the Framework's overall objectives for housing. The scheme would result in an overall uplift of six units on the site. The provision of these additional units would make a modest contribution towards housing supply generally in the area.
43. The scheme would also lead to a time-limited economic benefit during the construction phase, which may give rise to extra local employment. Future occupiers may make a contribution towards supporting the services in the local area. Given the scale of the proposal, the economic and social benefits of the scheme carry modest weight in my assessment.
44. Conversely the proposed access arrangements would not provide safe or suitable access to the site for all users and would be likely to cause an unacceptable impact on highway safety. This harm would be long lasting and contrary to both the development plan and the Framework. As such, this harm is worthy of substantial weight.
45. Whilst there would not be undue harm to the local centre, the character and appearance of the area, trees or drainage, these factors would be neutral in the balance.
46. Notwithstanding that there is compliance with some development plan policies and non-compliance with other policies which is not materially harmful, it is my finding that there is nevertheless conflict with the development plan taken as a whole. There are no other considerations, including the provisions of the Framework, that outweigh this conflict.
47. I therefore conclude for the reasons given above, and having regard to all other matters raised, that the appeal should be dismissed.

*Stewart Glassar*

INSPECTOR