



Appeal Decision

Site visit made on 28 November 2022

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2022

Appeal Ref: APP/P5870/W/22/3301714

7-9 Cheam Common Road, Worcester Park KT4 8TL

- 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 planning permission
 - The appeal is made by BMK Constructions Ltd against the Council of the London Borough of Sutton.
 - The application Ref DM2021/01564, is dated 19 July 2021.
 - The development proposed is the erection of two additional storeys for the provision of additional four residential dwellings and the extensions at first floor to the existing apartments.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council has indicated that, had it determined the application, it would have refused planning permission for 6 reasons relating to harm to the character and appearance of the area, harm to the living conditions of neighbouring occupants by reason of overlooking, harm to the living conditions of future occupants by reason of a lack of privacy to unit 1 and lack of private amenity space to units 1 and 3, and insufficient information to demonstrate that the new dwellings would be designed to limit water consumption and energy use.
3. I have had regard to these matters in determining what I consider to be the main issues in this appeal.

Main Issues

4. The main issues are the effect of the development on:
 - The living conditions of neighbouring occupants, with regards to overlooking to 5 Cheam Common Road
 - The living conditions of future occupants, with regards to privacy and outdoor amenity space
 - The character and appearance of the area
 - Construction standards for water consumption and energy use.

Reasons

Living conditions of neighbouring occupants

5. The Council's concern relates to overlooking to the rear window and patio area of the adjoining first floor residential flat at 5 Cheam Common Road.
6. At present, a degree of privacy between the flats is provided by fencing or trellis between their respective patio areas. That would not be the case if the balconies to proposed units 4 and 6 were open. Although the line of sight to the rear window in the neighbouring flat would be very oblique, the patio area would suffer from direct overlooking to the detriment of its users.
7. I have considered whether privacy screens would overcome this harm. I consider that they might, but in turn they would then present a structural bulk that would have an overbearing impact on the neighbouring flat, and potentially harmfully reduce the level of light to its rear window.
8. With regard to the balconies to units 4 and 6, there also appears to be discrepancies between the plans, elevations and 3D views on the submitted drawings. The floor plan for the third floor (002 Rev G) shows a full width balcony for unit 6, while the 3D view (005) shows no such balcony. The south-east side elevation (013 Rev A) shows only a blank side elevation with no balcony to unit 4. These discrepancies serve to reinforce my concerns at the impact on the neighbouring flat, either by overlooking, or by the proposed building having an overbearing effect upon it.
9. I conclude that the development as proposed would cause harm to the living conditions of the occupants of the neighbouring first floor flat at 5 Cheam Common Road, for the reasons given above. It would therefore conflict with Policy 29 of the Sutton Local Plan 2018 (the 'Local Plan'), which seeks to prevent adverse effects to those occupying adjoining or nearby properties.

Living conditions of future occupants

10. Policy 9 of the Local Plan requires an adequate amount of private amenity space in new residential development, with the Sutton Urban Design Guide suggesting this should be 25sqm for flats. The Council also makes reference to an alternative minimum standard of 5sqm of private outdoor space for 1-2 person dwellings and an extra 1sqm for each additional occupant.
11. Units 1 and 3 would not have any private outdoor space, despite them being the largest of the proposed flats. In the case of unit 1, the development would result in the loss of outdoor space that it currently enjoys. Depending on the plan discrepancies outlined above, unit 6 may also not have sufficient amenity space. This would fail the required minimum standard, and result in inadequate living conditions for future occupants.
12. Policy 9 says that what constitutes an adequate amount of amenity space will be considered on a case-by-case basis, which implies a degree of flexibility in the application of the space standard. However, the lack of any outdoor space at all would not be acceptable. The availability of public open space some 15 minutes away as referred to by the appellant is not sufficient to compensate for the lack of private outdoor space provision.

13. The Council has also raised a concern that the rear bedroom to unit 1 would lack privacy because of the shared landing from the staircase. The first floor plan appears to show that there would be separate accesses from the staircase landing to units 1 and 3, with some form of barrier between them. Given the relatively small amount of activity that would take place here, I consider that such an arrangement would not give rise to an undue loss of privacy to the bedroom of unit 1. If future occupants were concerned at a lack of privacy, they would be able to resort to blinds or net curtains, as are commonly used in such situations.
14. Notwithstanding my finding on the issue of privacy for future occupants, I conclude that the lack of private outdoor space in some of the units in the proposed development would be harmful to the living conditions of future occupants. It would as a result conflict with Policy 9 of the Local Plan.

Character and appearance

15. The appeal site forms part of a district centre based around the junction of the A24 London Road and A2043 Cheam Common Road. It is flanked on all four sides by a mixture of buildings with commercial premises on their ground floors and office or residential accommodation above. The character of the area is one of a suburban shopping centre, dominated by the busy road junction.
16. The building of which the appeal site forms part is one of the lower buildings in the centre. I do not consider that adding 2 floors to the end portion of the building would ruin a balanced composition as suggested by the Council. The building is not symmetrical in form at present, being made up of 3 elevations of unequal length. Extending the end portion would leave the other two elevations, which do exhibit a degree of symmetry, untouched. There is no objection in principle to a taller building here, the district centre lying within an Area of Tall Building Potential and an Area of Potential Intensification as defined in the Local Plan.
17. The proposed second floor would echo the design of the building in brick with similarly spaced and proportioned windows, and a string course and parapet above. The third floor would be set back in the form of a mansard roof. While there is a commonality to the brickwork and detailing at first floor level across the wider building, that in itself is not sufficient to prevent extension or alteration of the end portion, so long as the finished building is able to incorporate those features which are to be retained in a satisfactory manner.
18. Care would need to be taken in achieving a good match in brick colour and the quality of detailing presently found on the existing building. This would also need to extend to the straightening of the dentil course above the arched window head. However, subject to those matters being achieved, I consider the resulting building would present itself to the public realm as a coherent whole, different in height and massing to the retained portion, but not harmful because of that. There are other buildings in the centre of differing heights which abut one another, and the proposed development would be seen in a similar light.
19. I conclude that the development would not harm the character and appearance of the area, and would therefore comply with Policy 28 of the Local Plan, which among other criteria requires new buildings to respect the local context and integrate visually with the townscape and streetscape.

Construction standards

20. Policies 31 and 33 in the Local Plan require new development to respond to climate change in a variety of ways. This includes measures to minimise water consumption and reduce CO₂ emissions by more efficient energy standards.
21. The submission documents do not provide any information on how these matters would be achieved in the appeal scheme, but the first could be satisfactorily addressed by imposing a condition triggering the relevant optional building regulation, and the second could be achieved by requiring further details to be submitted for the approval of the Council.
22. Although as submitted the proposal does not comply with Policies 31 and 33 of the Local Plan, in accordance with paragraph 55 of the National Planning Policy Framework it could be made acceptable by the imposition of conditions in so far as these matters are concerned. The appellant has indicated that they would have no objection to such conditions being imposed. I do not therefore consider that these shortcomings would prevent the development being viewed favourably.

Other Matters

23. Concern has been expressed in a representation about the development blocking light to a café at 4 Cheam Common Road. The café is on the opposite side of the A24 London Road to the appeal site, and I am satisfied that no appreciable loss of sunlight or daylight would occur as a result of the development.

Conclusion

24. While I consider that the development would not harm the character or appearance of the area, and that matters relating to construction standards could be secured by condition, the benefits of increasing housing supply by the addition of 4 units would not outweigh the harm I have identified would be caused to the living conditions of neighbouring occupants and future occupants of some of the flats. The development would therefore conflict with the development plan when taken as a whole, and there are no material considerations which indicate otherwise.
25. Consequently, I conclude that the appeal should be dismissed.

Guy Davies

INSPECTOR