



Appeal Decision

Site visit made on 22 November 2022

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2023

Appeal Ref: APP/E5330/W/22/3298420

1 Garages Rear Of 10 Sun Lane, Blackheath SE3 8UG

- 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 J Singh against the decision of the Council of the Royal Borough of Greenwich.
 - The application Ref 21/3134/F, dated 24 August 2021, was refused by notice dated 15 November 2021.
 - The development proposed is the construction of a two storey semi-detached building consisting of 2 no. 2 bedroom, 3 persons dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed semi-detached dwellings upon the character and appearance of the area, including the Sun in the Sands Conservation Area (the CA) and locally listed buildings, with particular regard to their siting, scale and design;
 - the effect upon the operation and viability of an adjacent vehicle servicing centre, by removing vehicle areas; and
 - the effect of any displacement vehicle parking upon parking provision in the area.

Reasons

Character and Appearance

3. The appeal site is an irregular shape having two parts; one includes an open forecourt area that has a narrow frontage onto Sun Lane with a two storey relatively modest workshop building orientated towards the appeal site and a range of other low level ancillary buildings on the other side; the other, inner part of the appeal site, is further away from Sun Lane and is mainly bounded by brick walls. A Walnut tree, protected by a Tree Preservation Order (TPO) is located in one corner on the inner part of the site.
4. The appeal site is accessed from Sun Lane, which is a narrow street with terraced cottages on either side, largely in an offset arrangement due to the street's narrowness. The opening into the appeal site provides an important view into the rear areas behind Sun Lane and the neighbouring streets;

Shooters Hill Road and Old Dover Road. The protected Walnut tree is accompanied by other trees in other nearby backland locations. As stated in the Sun in the Sands Conservation Area Appraisal, adopted October 2007 (CAA) the trees within the CA make a positive contribution to its character and appearance, with the view across the appeal site also making a positive contribution, in an otherwise largely enclosed road.

5. The CA is centred on the Sun in the Sands Public House (PH), located on Shooters Hill Road. The CA includes a number of different roads to both sides of Shooters Hill Road, with varying house styles and density including terraced, semi-detached and detached properties and some commercial uses. The CA has a strong defining pattern of street frontage properties but with some varying depths of set back from the footpath edge. With the exception of some ancillary structures there has been no significant development in backland areas within the CA. Although there is some degree of variance, shallow pitched hipped roofs often with a generous overhang at eaves level are particularly characteristic of the CA.
6. No's 129, 131 and 133-139 Shooters Hill Road, near to the application site are designated as Locally Listed Buildings (LLB's) and in the language of the National Planning Policy Framework (the Framework) they can also be regarded as non-designated heritage assets. The attractive front elevations of these tall, hipped roof properties make a positive contribution to the CA, with them all orientated onto Shooters Hill Road and away from the appeal site. Although, there are some views of their rear and side elevations from both Sun Lane and the appeal site.
7. The proposal seeks to develop the inner part of the appeal site for a pair of semi-detached two storey dwellings, featuring a hipped roof with a single storey rear wing. The proposals are to be constructed in matching materials to the local area and to be a car-free development. The protected Walnut tree is shown to be retained.
8. S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires when determining proposals in conservation areas that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Paragraph 197 of the Framework, sets out matters which should be considered, including sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 199 states that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
9. The location proposed of the new dwellings set to the rear of the appeal site would introduce an alien form of residential development into this area, having limited street presence. The new dwellings would be significantly taller in height than the other low-level outbuildings that are characteristic of nearby backland areas. Moreover, their scale and height would compete with the workshop building that fronts one side of the appeal site. The proposed scale and design would also create an illegible form of development, which would be incongruous with the prevailing appearance of nearby development. Furthermore, the development of the site as proposed would also interrupt views into the appeal site from Sun Lane, including views of the

aforementioned trees and significantly reduce the positive effect this space and views into it, has upon the character and appearance of the CA.

10. I note the reference to the recently constructed properties to the rear of No's 17 and 19 Delacourt Road, however the location of these properties is very different as they have a frontage onto Sun Lane and respect its building line. I am also not persuaded by the appellant's argument that the separation distances to other properties, and the absence of window openings on the side elevations of the new dwellings make the scheme acceptable.
11. The location of the proposed dwellings would interrupt some of the views from both the appeal site and from Sun Lane of parts of the rear and side elevations of the LLB's. However, given the location of the new dwellings relative to the rear and side elevations of these LLB's, and the limited intervisibility, together with the presence of other outbuildings in these inner backland areas, I am satisfied that the proposals would not harm the settings of these LLB's.
12. In conclusion the siting, design and scale of the proposed dwellings would be harmful to the character and appearance of the area and the significance of the CA as a designated heritage asset, neither preserving or enhancing its character or appearance. This is in conflict with Policy HC1 and Policy D3 of The London Plan, The Spatial Development Strategy for Greater London, adopted March 2021 (LP); Policies DH(h), DH1, and DH3 of the Royal Borough of Greenwich, Core Strategy with Detailed Policies, adopted July 2014 (GP), and the CAA, which amongst other things, collectively require that the design of new development should be legible and contribute to the creation of high quality and distinctive places, respecting the character and appearance of the area. The proposals would also conflict with the Sun in the Sands Management Strategy, adopted October 2007 which seeks to ensure new development does not damage the CA. There is also conflict with the statutory test.

Operation and viability of an adjacent vehicle servicing centre

13. The appellant has provided a letter from Mr James Allotey of Providence Auto Centre, stating he is the owner of land to the rear of 10 Sun Lane. In the letter it is also stated that the site was previously used for parking vehicles for a temporary period and since January 2020 the business has had a site elsewhere at 36 Conduit Road for this purpose. The letter confirms that the appeal site is not currently used for vehicle parking.
14. I observed that the site was vacant and not used for car parking. In view of this, and of the Council's confirmation that there is no formal planning permission for the parking use and the confirmation from Mr Allotey, there is insufficient evidence before me to conclude that the site is used for parking as the Council contends. Neither is it reasonable in these circumstances to require the applicant to apply for a Certificate of Lawfulness to disprove the Council's contention.
15. In addition, the location of the proposed dwellings on the inner part of the site should not affect the use or operation of the forecourt and access to other buildings served by the forecourt.
16. Consequently, based on the information before me, the implications described by the Council relating to the effect of developing this site upon the viability

and operations of the nearby vehicle servicing centre cannot be determinative factors in this appeal.

17. I therefore find the proposal to be consistent with the objectives of Policy E4 and E7 of the LP and Policy EA(a) of the GP all of which support existing business uses and seek to ensure new development does not have an adverse effect on the operation of such businesses.

Effect on parking

18. As I have concluded that there is no evidence to support the earlier reason for refusal relating to the site being used for parking for the adjacent vehicle servicing centre. The issue of any displaced parking cannot also be a determinative issue on this appeal.
19. Furthermore, I note that no objections have been submitted from the Council's Transport and Highway consultee (TH) on this aspect of the proposal, and neither has the Council offered any firm evidence to support this reason. Moreover, the proposal is to be car-free and TH have stated that a condition for a local traffic order for the Council to control parking permits could be used to ensure the development is car-free. Based on the evidence before me, and subject to a suitably worded condition, I find the proposal would not adversely affect vehicle parking in the area.
20. In view of the above, I find the proposed semi-detached properties could be developed without having an unacceptable effect upon car parking provision in the local area and the proposal would be consistent with Policies T4 and T6 of the LP and Policies IM4 of the GP, that seek to prevent development that has an unacceptable impact upon car parking provision locally and encourage sustainable methods of travel. The Council have referred to Policy IM(a) in their reason for refusal No. 3, in respect of displaced parking, however that policy is aimed at major developments. I do not find that policy to be relevant to this appeal proposal.

Other Matters

21. I have had regard to the issues raised by third party comments, however as I am dismissing this appeal on one of the main issues above, it is not necessary for me to address those matters further in this appeal decision.
22. Whilst there has been some disagreement between the Appellant and the Council as to whether the character and form of the CA has changed since the 2007 appeal decision, on this site, I have assessed the proposal against the current context of development in the area and all other relevant considerations.
23. I note the approved extension to No. 123 Shooters Hill Road, near to the site to create 6 self-contained residential units, however that was designed as an extension and attached to the main property, as opposed to new build dwellings the subject of this appeal. I am therefore satisfied that this proposal is not directly comparable to that approval.

Balance

24. The proposed pair of semi-detached dwellings would fail to preserve or enhance the character or appearance of the CA. I give this harm considerable

importance and weight in the planning balance of this appeal.

25. I find the harm to the CA to constitute less than substantial harm owing to its effect being localised, although, this does not equate to a less than substantial planning objection, especially where the statutory tests are not met. Paragraph 202 of the Framework requires public benefits to outweigh such harm. In this case no arguments have been made regarding any public benefits. The construction works would provide a small contribution to the local economy. Although the scheme would provide two new houses, this would make a small contribution in broader housing supply terms. I also regard any CIL payment to be a neutral factor as it is required to mitigate the impacts of the scheme, as opposed to providing benefits beyond what is required.
26. Given the above, the identified harm to the CA is not outweighed by the very limited public benefits of the proposal and accordingly the proposal conflicts with the Framework's objectives of conserving and enhancing the historic environment.

Conclusion

27. The proposal conflicts with the development plan taken as a whole and there are no other considerations, including the Framework that indicate a decision should be made other than in accordance with the development plan. I therefore dismiss the appeal.

A Hunter

INSPECTOR