



Appeal Decision

Site visit made on 12 January 2023

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2023

Appeal Ref: APP/P5870/W/22/3303782

2 Tilehurst Road, Cheam SM3 8PB

- 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 Harryharinis Limited against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2022/00766, dated 21 April 2022, was refused by notice dated 23 June 2022.
 - The development proposed is demolition of garage and sheds, erection of a detached two storey dwelling, erection of a two-storey side extension to the existing property, relocation of vehicle crossover, parking, cycle and bin storage areas.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of garage and sheds. Erection of a detached two storey dwelling, erection of a two-storey side extension to the existing property, relocation of vehicle crossover, parking, cycle and bin storage areas at 2 Tilehurst Road, Cheam, SM3 8PB in accordance with the terms of the application, Ref DM2022/00766, dated 21 April 2022, subject to the conditions set out in the schedule at the end of this decision.

Applications for costs

2. An application for costs was made by Harryharinis Limited against the Council of the London Borough of Sutton. This is the subject of a separate Decision.

Preliminary Matters

3. The description in the banner heading and decision above is taken from the appeal form and decision notice as it more precisely describes the proposal than that on the application form.
4. The appellant submitted a Parking Stress Survey in support of the appeal. The Council has had an opportunity to consider the survey information and has confirmed this is acceptable and that they are minded to withdraw reason for refusal (6) concerning the shortfall in parking provision. No concerns have been raised by third parties in respect of car parking issues. I therefore do not consider any injustice would occur should I determine the appeal based on this information and I am satisfied the sixth reason for refusal has been overcome.

Main Issues

5. The main issues in this case are therefore:
 - The effect of the proposal on the character and appearance of the area;

- Whether the proposal would provide satisfactory living conditions for future occupiers, with particular regard to outlook, privacy and the provision of external amenity space; and
- The effect of the proposal on the living conditions of the occupiers of 126 Malden Road and 4 Tilehurst Road, with particular regard to outlook and privacy.

Reasons

Character and Appearance

6. The appeal site comprises a modest detached dwelling set across two floors and its associated curtilage. It is in a prominent corner position at the junction of Tilehurst Road and Malden Road. The surrounding area comprises a mix of detached, semi-detached and terraced two storey dwellings.
7. On the appeal site's side of Malden Road, dwellings are primarily in a terraced arrangement with dual-pitched roofs and a side facing gable at the end of the terrace. Chimneys are common and windows have a vertical emphasis. Some dwellings feature accommodation in the roof space, including front and rear facing roof lights and rear facing dormers. Each features a modest set back from the footpath, accommodating a small front garden and / or parking space, enclosed by low fences, walls or vegetation. Rear gardens are typically narrow and somewhat elongated.
8. Along the Tilehurst Road frontage, the neighbouring dwellings are semi-detached with hipped roofs and sit perpendicular to neighbouring dwellings on Kingsdown Road. External amenity space is therefore primarily provided to the front and side. The existing dwelling on the appeal site features a distinctive gambrel roof with a wide, front facing, multi-pane dormer window at first floor. Its stature is therefore more modest than that of its neighbours.
9. The proposal would include erection of a two-storey detached dwelling, with accommodation in the roof space, on land that currently forms the side garden area of the existing dwelling. The proposed dwelling would feature windows and doors on both its Malden Road and Tilehurst Road elevations. It would therefore positively respond to the perpendicular arrangement of the streets.
10. On the Tilehurst Road frontage, the proposed dwelling would be modestly set back from the footpath, in line with the adjacent dwelling. It would have a dual pitched roof with a gable end facing Tilehurst Road and a chimney. Windows on the Malden Road elevation would have a vertical emphasis and align with the rooflights above. Its design would be distinct from the adjacent dwelling however it would sit close to and in line with the existing end-of-terrace dwelling on Malden Road. Its form and appearance would thus reflect the prevailing characteristics of the neighbouring terrace, providing a visual continuation of this frontage.
11. An acceptably sympathetic boundary treatment for the rear amenity space of the new dwelling can be secured by planning condition, to limit its height to no more than the existing fence, and to provide soft landscaped screening.
12. The proposed extension to the existing dwelling would comprise a continuation of its existing form at ground and first floor, including its distinctive roof. Though not subordinate to the main dwelling, the extension would integrate

well with the appearance and form of the main dwelling, and would not detract from the street scene, given the uniqueness of the existing design.

13. The proposed extension would also entail provision of three smaller dormer windows along the front elevation, to replace the existing larger dormer. Dormer windows to front elevations are uncommon along Tilehurst Road. However, given the distinctiveness of the dwelling and as it already includes a front dormer, this would not appear unduly incongruous. As such, the design and scale of the proposed dormers would be sympathetic to the character of the property and in the context of the dwelling's extended size would not appear excessive or top heavy.
14. I therefore conclude that the proposal would not unduly harm the character and appearance of the area. As such, it would accord with Policies 7, 13 and 28 of the Sutton Local Plan 2016-2031, adopted February 2018 (the Local Plan). These policies seek, among other things, to ensure development responds positively to the character and appearance of the area, including through protecting garden space, incorporating well-designed soft landscaping, and achieving suitable density.
15. Policy D4 of The London Plan, adopted March 2021, seeks to deliver good quality design including through the use of design and access statements. The proposal is adequately supported by a statement covering design matters applicable to various development plan policies and guidance. Also, Policy 9 of the Local Plan concerns housing mix, housing standards and internal space standards. Policy 29 of the Local Plan concerns the living conditions of existing and future occupiers. As such, I do not find any direct conflict with these policies in respect of this main issue.

Living Conditions of Future Occupiers

16. The proposal would include the provision of external amenity space for both the existing and proposed dwellings. For the proposed dwelling, this would be located on the Malden Road frontage and extend around the corner and across part of the Tilehurst Road frontage. For the existing dwelling, while a considerable portion of its existing external amenity space would be lost to the new dwelling, the demolition of the existing garage would allow reprovision of some external amenity space in its place. This would also wrap around the existing dwelling and across part of its Tilehurst Road frontage.
17. While Policy D6 of the London Plan sets out minimum standards for private outdoor space, the Council's Creating Locally Distinctive Places Supplementary Planning Document (SPD14) sets higher standards, and the London Plan indicates local standards should take precedence. SPD14 indicates that dwellings with 3 or more beds should seek to provide the Council's minimum standards of accessible private garden space of 70m².
18. Policy 9 of the Local Plan indicates planning permission will not be granted for new residential development which does not provide an adequate amount of private amenity space. This will be considered on a case-by-case basis with reference to the standards set out in SPD14 and taking into account local character. The supporting text to this policy acknowledges however that, in some cases, particularly in Areas of Potential Intensification (API), these local standards may be considered too onerous. Therefore, it is considered more appropriate to use SPD14 as a guide, rather than minimum standards.

19. There is no dispute that the site is within an API, where Policy 9 recognises the local standards may be too onerous. The proposed external amenity space arrangement is not dissimilar to the arrangement of the existing pair of semi-detached dwellings on Tilehurst Road adjacent to the appeal site. Despite the prevalence of large rear gardens locally, it is also not uncommon for corner plots to have constrained or unconventional external amenity space provision. Furthermore, the provision of private external amenity space to the rear of some of the mid-terrace dwellings along Malden Road is stunted by rear parking spaces and so is not considerably greater than that proposed.
20. While the proposed amount of external space would be somewhat lower than many neighbouring properties and fall short of the standards set out in SPD14, the proposed arrangement and amount of provision would not be unduly uncharacteristic in the local context. The amount of private external amenity space proposed is also considerably higher than the minimum standards required by the London Plan. As such, subject to the provision of adequate boundary treatment in the form of fencing and soft landscaping, these spaces would be sufficiently adequate and private for future occupiers.
21. The proposal includes the provision of four roof windows serving a second-floor bedroom. These windows would be angled and the two facing the existing dwelling would be at a height at which outlook is likely to be curtailed. However, the other two windows facing Malden Road, which serve the same room, are larger and at a height which would not considerably restrict views. As such, the outlook for future occupants of this bedroom would not be unacceptably compromised.
22. I therefore conclude that the proposal would provide satisfactory living conditions for future occupiers in terms of outlook, privacy and the provision of external amenity space. As such, it would accord with Policy 9 of the Local Plan and Policy D6 of the London Plan. These policies seek, among other things, to ensure that an adequate amount of private amenity space is provided in new residential developments.

Living Conditions of Neighbouring Occupiers

23. The proposed new dwelling would be situated in line with the front and rear elevations of the neighbouring dwelling at 126 Malden Road. It would thus not project beyond its front or rear facing windows and so would have no appreciable effect on the existing outlook from this neighbouring dwelling.
24. The proposed extension to the existing dwelling would be located adjacent to the far end of No 126's rear garden. It would sit close to the boundary like the existing dwelling. However, its mass would be somewhat moderated by its roof form, which slopes away from the boundary. Given its distance from rear facing windows, the effect on the outlook from No 126 would be limited and the relationship would be similar to that of other corner/end-of-terrace dwellings.
25. I recognise that, in combination, the proposed new dwelling and extension would increase the sense of enclosure experienced within the rear garden of No 126 to some degree. However, the rear garden of No 126 is relatively long and would remain substantially open on two sides. Gaps would be retained on either side of the existing dwelling on the appeal site and this arrangement would not be dissimilar to other corner/end-of-terrace gardens. Given the

above combination of factors, I find that the proposed development would not harm the outlook from 126 Malden Road.

26. Regarding privacy I find as follows. While there is already a first-floor window in the existing dwelling facing 4 Tilehurst Road, the proposal would bring this closer to No 4. Also, the distance between the proposed window and those at No 4 would fall short of the guidance separation distance for facing windows in the Council's Design of Residential Extensions Supplementary Planning Document (SPD4). The offset of the facing windows would not in itself be sufficient to overcome this. However, obscure glazing and fixing shut of several windows within the appeal development, to be secured by planning condition, would safeguard the privacy of occupants of No 4.
27. The provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), referred to by the appellant, do not apply in this instance. The evidence before me does not indicate the provision of the GPDO would provide a realistic fallback position and this therefore does not lead me to a different conclusion on this matter.
28. I conclude that the proposal would not harm the living conditions of the occupiers of 126 Malden Road and 4 Tilehurst Road in terms of outlook and privacy. It would accord with Policy 29 of the Local Plan which seeks, among other things, to safeguard the living conditions of neighbouring residents.

Conditions

29. The Council has suggested conditions should the appeal be successful. I have considered these and amended where necessary to accord with the national Planning Practice Guidance and the tests for conditions set out in Paragraph 56 of the National Planning Policy Framework. In addition to the standard time limit condition, I have attached a condition to specify the approved plans and details, including the fire safety strategy, as this provides certainty.
30. Conditions covering glazing and fixing of specific windows in the development are necessary to safeguard the privacy of residents. Conditions regarding materials, boundary treatments and landscaping will safeguard the character of the area. A condition covering construction logistics and management is required in the interests of highway safety, and the living conditions of neighbouring residents. Conditions regarding an energy statement, CO2 emissions and cycle parking are necessary in the interests of environmental sustainability. A condition covering surface water management is required in the interests of sustainable water management. A condition regarding contamination is necessary to prevent harm to human health and pollution.
31. I have not attached a condition for noise assessment and mitigation as there is no compelling evidence before me to indicate the area is particularly noisy. Nor does planning policy before me explicitly require such details be provided. Such a condition would thus not be necessary or relevant in this instance.
32. A condition to secure wildlife and nesting features is required in the interests of biodiversity. However, I have not attached a condition for a Biodiversity Enhancement and Management Plan (BEMP), for the following reasons. It is unclear where the prescriptive requirements of the suggested BEMP condition derive from. The appellant's biodiversity statement indicates that compensatory provision can be accommodated on site through removal of the

existing garage and other structures and hard surfaces. Also, the landscaping condition can be used to ensure that compensatory garden land is provided.

Conclusion

33. The proposed development would adhere to the development plan as a whole and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal succeeds.

Ryan Cowley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and details:

S001: GROUND FLOOR PLAN (AS REVISED)

S002: FIRST FLOOR PLAN (AS REVISED)

S003: SECOND FLOOR PLAN (AS REVISED)

S004: ROOF PLAN (AS REVISED)

S007: SITE SECTION C: SIDE ELEVATION (AS REVISED)

S008: SITE SECTION E: SIDE ELEVATION (AS REVISED)

S009: SITE SECTION D: SIDE ELEVATION (AS REVISED)

S010: SITE SECTION F: CORNER ELEVATION (AS REVISED)

S011: SITE SECTION Y (AS REVISED)

S012: SITE SECTION X (AS REVISED)

SET W: CYCLE AND REFUSE STORAGE (MINIMUM DIMENSIONS FOR BOTH UNITS)

S005: SITE SECTION A: REAR ELEVATION (AS REVISED)

S006: SITE SECTION B: FRONT/PRINCIPLE ELEVATION (AS REVISED)

L001: LOCATION PLAN

B001: BIODIVERSITY STATEMENT

B002: PROPOSED BLOCKPLAN

Planning Fire Safety Strategy prepared by Robin Bennet dated 05/05/2022

- 3) No development shall take place, including demolition and site clearance works, until a Construction Logistics and Management Plan has been

submitted to and approved in writing by the local planning authority. This shall provide details of:

- a) loading, unloading and storage of plant and materials;
- b) programme of works (including measures for traffic management);
- c) provision of boundary hoarding, including behind any visibility zones of construction traffic routing;
- d) hours of operation;
- e) means to prevent deposition of mud on the highway.
- f) means to control dust and emissions to air;
- g) means to control noise and vibration.

The approved Construction Logistics and Management Plan shall be adhered to throughout the construction period for the development.

- 4) No development shall take place until a finalised strategy for the management of surface water run-off, has been submitted to and approved in writing by the local planning authority. This shall identify appropriate site drainage and flood risk management measures, including SuDS, in order to manage surface water run-off as close to its source as possible in accordance with the Mayor's updated drainage hierarchy. The submitted strategy must:
- a) include the results of on-site infiltration testing to BRE Digest 365;
 - b) provide full details of all proposed SuDS measures to delay and control the rate of surface water discharged from the site, including full details of the proposed rain garden or similar bio-retention measures, in providing further surface water attenuation in line with the Mayor's updated drainage hierarchy;
 - c) include revised calculations carried out by an appropriately qualified professional to show that the peak run-off rate for the 1 in 100 year 6-hour rainfall event (plus 40% for climate change) will be as close as reasonably practicable to the greenfield run-off rate for the same event; and
 - d) demonstrate that the 1 in 30 year rainfall event (plus 40% for climate change) can be contained without flooding; any flooding occurring between the 1 in 30 and 1 in 100 year event (plus 40% for climate change) will be safely contained on site; and that rainfall in excess of the 1 in 100 year event is managed to minimise risks.

The approved site drainage and flood risk management measures must be implemented before the development is first occupied or brought into use. All of the approved measures must thereafter be permanently retained.

- 5) No development shall take place until an amended Energy Statement has been submitted to and approved in writing by the local planning authority, including:

- a) roof plans showing the location and orientation of the proposed solar PV array; the number of solar PV panels; the power output of each panel and revised estimates of the electricity that each panels will generate (Appendix B); and
- b) the outcome of the full technical assessment of the proposed CHP unit, including details of the size of the unit (KWth/KWe) and associated monthly heat and electrical profiles;
- c) revised calculations, if necessary, demonstrating the CO2 savings expected to be achieved.

The development hereby permitted shall thereafter be constructed in accordance with the amended Energy Statement. The approved measures must thereafter be permanently retained.

- 6) Before the development is first occupied or brought into use, 'as-built' Standard Assessment Procedure (SAP) outputs to demonstrate that the development has achieved the targeted reduction in CO2 emissions shall be submitted to and approved in writing by the local planning authority.
- 7) No development above finished ground floor level shall take place until details/samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples.
- 8) No development above finished ground floor level shall take place until a scheme for wildlife and nesting features has been submitted to and approved in writing by the local planning authority. These will include at least:
 - a) 2 x multiple chamber swift brick (preferred) or external box under the eaves
 - b) 2 x house sparrow terraces (facing adjacent vegetation if possible)
 - c) 4 x starling box
 - d) Hedgehog holes within garden fencing (to improve connectivity in residential areas)

Full details should be provided of the feature's location, height and distance from any external lighting (which if located too close, could prevent them from being successfully used), in plan and elevation views.

- 9) Before the development is first occupied or brought into use and notwithstanding the approved details, full details of all boundary treatments proposed for the site including types, height, design, position and materials shall be submitted to and approved in writing by the local planning authority. Any replacement fencing or other built enclosure surrounding the "rear amenity space" of the new dwelling shall not exceed the height of the existing fencing in this location. The approved boundary treatments shall be implemented prior to the occupation of the new dwelling and shall thereafter be permanently retained.
- 10) Before the development is first occupied or brought into use and notwithstanding the approved details, 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 shall thereafter be permanently retained.

- 11) Before the development is first occupied or brought into use and notwithstanding the approved details, a full scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall include the provision of landscape screening to a height of 2 metres enclosing the "rear amenity space" of the new dwelling. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out prior to the occupation of the new dwelling; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 12) The extension to the existing dwelling hereby permitted shall not be occupied until the northeast facing first-floor "principle bedroom 1" window has been fitted with obscure glass and fixed shut to a height of 1.7 metres above the finished floor level of the room in which the window is installed. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be permanently retained thereafter.
- 13) The detached two storey dwelling hereby permitted shall not be occupied until the following windows have been fitted with obscure glass and fixed shut to a height of 1.7 metres above the finished floor level of the room in which the window is installed:

The 2 northeast facing ground floor "kitchen/living/dining" windows; the northeast facing first floor "bathroom 1" window; and the northeast facing first floor "bedroom 3" window in the detached two storey dwelling hereby permitted;

The southwest facing ground floor "kitchen" window; the southwest facing ground floor "bathroom 1" window; the southwest facing first floor "bedroom 3" window; and the southwest facing first floor "bathroom 2" window in the existing dwelling.

Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be permanently retained thereafter.
- 14) 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 the completion of the development hereby approved.

END