



Appeal Decision

Site visit made on 21 February 2023

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 March 2023

Appeal Ref: APP/P5870/W/22/3303879

25 Ringstead Road, Sutton SM1 4SJ

- 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 M Sajid Ali, Prime Homes against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2021/01579, dated 22 July 2021, was refused by notice dated 9 February 2022.
 - The development proposed is demolition of building and erection of a 2 storey building with accommodation in basement and the roof comprising 7 flats.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) whether or not the proposal would provide an appropriate mix of housing types;
 - ii) the effect of the proposal on the character and appearance of the area, including with regard to the effect of the proposal on trees;
 - iii) the effect of the proposal on the living conditions of the occupiers of neighbouring dwellings with particular regard to outlook, light and privacy;
 - iv) the effect of the proposal on highway safety;
 - v) whether or not the proposal would make adequate provision to reduce carbon emissions and water use;
 - vi) whether or not the proposal would make adequate provision for drainage; and
 - vii) the effect of the proposal on biodiversity.

Reasons

Housing Mix

3. The appeal site includes a detached four-bedroom dwelling which it is proposed to replace with a block of 7 flats. Four of the proposed flats are shown to have three-bedrooms. This would ostensibly address the requirement within Policy 9 of the Sutton Local Plan 2018 ('The SLP') for developments on sites outside of Sutton Town Centre to provide a minimum of 50% three-or more bedroom dwellings, unless it is demonstrated that this would be unsuitable to the location or not viable.

4. However, the appellant does not dispute that 3 of the flats described as three-bedroom would have single bedrooms that would not meet the minimum size requirements specified within Policy D6 of the London Plan 2021 ('the LP'). They assert that the difference would be marginal, but while the shortfall may not be large, it would still constrain the rooms' practical ability to accommodate furniture, storage and circulation space that would be likely to be reasonably required and which the standards seek to cater for. Having regard to their restricted size, I find that the bedrooms would not be of suitable quality. Notwithstanding that the overall internal area of the dwellings would meet minimum standards, I am not satisfied that these flats would offer adequate accommodation to meet the needs of households requiring three-bedrooms. As a consequence, I find that they would be more reasonably regarded as two-bedroom dwellings.
5. On that basis, the proposal would provide only one three-bedroom dwelling, equivalent to less than 15% of the total. No substantive evidence has been provided to demonstrate that provision of a minimum of 50% three-bedroom dwellings would be unsuitable to the location or unviable, and the proposal would accordingly conflict with Policy 9 of the SLP.
6. The Council's evidence includes an assertion that the scheme would result in the loss of a single family dwelling with no provision of three-bedroom properties. However, it has only argued that 3 of the 4 flats described as three-bedroom would have bedrooms that would not meet minimum standards, and it has not provided compelling evidence to demonstrate that the other flat would not be suitable for a family. Given also the overall increase in the number of dwellings on the site, there would not be a net loss of residential accommodation. Irrespective of my conclusions in relation to the other main issues below, I do not therefore find that the proposal would conflict with the objective of Part a of Policy 10 of the SLP which indicates that the loss of residential accommodation will be resisted unless the loss results in better-designed, higher-quality new housing or the provision of an essential community facility.
7. In addition, the further criteria at Part b of Policy 10 relate to development involving the conversion of existing dwellings to new self-contained housing units. From the evidence before me, I am not persuaded that they would be directly relevant to the appeal which proposes replacement rather than conversion of the existing dwelling. Policy H1 of the LP is also cited in the Council's first reason for refusal, but the conflict with this policy which relates to increasing housing supply is not clearly explained in its evidence.
8. Nevertheless, these factors do not obviate the conflict with Policy 9 of the SLP on account of the lack of suitable three-bedroom dwellings, and I conclude on this main issue that the proposal would fail to provide an appropriate mix of housing types.

Character and Appearance

9. There are a mix of bungalows; two-storey detached, semi-detached and terraced dwellings and maisonettes; as well as larger blocks of flats along Ringstead Road. Together with the varied form, scale and architectural appearance of the buildings, this provides for a diverse street scene. Nevertheless, the larger flatted blocks are generally located on the higher ground between the junctions of Ringstead Road with Carshalton Road and

Croft Road. In addition, the buildings are typically positioned on relatively consistent building lines set back from the street behind open frontages that often include mature landscaping which complements large street trees. These factors result in an overall rhythm and sense of coherence to the street scene, and provide for attractive and verdant views along it.

10. Given the diversity in the street scene, the presence of a block of flats on the appeal site would not necessarily be uncharacteristic. The design of the development would also include architectural details common to other blocks of flats nearby, and I have no firm reason to find that it could not be finished in high quality external materials that would be sympathetic to the surroundings.
11. However, the development would be deeper than the ground-floor of the dwelling currently on the site, and each of the roof and lower ground, ground and first-floor levels would be substantially deeper than the two-storey part of the existing building. The additional depth would result in a much greater volume of development. In addition, the roof would be a mansard design, and would include a very large flat section which would be set in only fairly slightly from the eaves and which would extend over the majority of the total width and depth of the building. Although the height of the roof above ground would be broadly comparable to the existing roof ridge, this would add considerable scale and mass to the upper part of the building in comparison to the hipped roof of the dwelling. Despite sitting largely below the adjoining ground, the lower-ground floor level would also be visible from Ringstead Road so that the building beneath the roof would appear from the street to be fully three-storey. In my judgement, the scale, mass and form of the resulting development would appear excessively bulky and top-heavy.
12. The visual impact of the scale and bulk of the building would be further exacerbated by the stark contrast with the much more modest scale of the two-storey building at 21-23 Ringstead Road and the bungalow at 27 Ringstead Road which neighbour the site, and it would dominate its surroundings.
13. Moreover, the front part of the building would effectively adjoin the narrow driveway that would separate it from the boundary with Nos 21-23, and spacing between the building and the boundary with No 27 would also be modest. As a result, it would appear to fill the majority of the width of the plot which is narrower than the typical plots to the larger flatted buildings on the street. In addition, I saw that the other flatted blocks on this side of Ringstead Road were of generally modest depth. While there is a rear projection to 9 Ringstead Road which extends beyond the rear of the adjacent buildings, I saw that the roof to this part of the building is set down, and slopes up from the eaves to a central ridge, significantly tempering its overall mass. Having regard to the depth of the proposed development far beyond its neighbours and its considerable upper bulk and mass, I find that it would appear markedly larger on its plot than these examples, and the development would in my judgement be an oversized and disproportionate addition to the street.
14. The appellant refers to a recent approval for development at 22 Cedar Road, but this is some distance from the site within Sutton Town Centre, and there is little evidence to demonstrate direct comparison with the individual circumstances of the appeal scheme.
15. Given these factors, I find that the development would not represent a high standard of design. It would stand out as a discordant and unsympathetic

feature at odds with its surroundings, and it would detract from the character and appearance of the area.

16. In addition, the appellant has not submitted any substantive evidence considering the effect of the proposal on trees. Based on my observations at my visit, I see no firm reason to disagree with the Council's comments that a mature Birch tree on the rear boundary of the site and a lapsed Beech hedge along the southern boundary are not of sufficient arboricultural or landscape value to constrain the development. Given their limited visibility and contribution to the character and appearance of the area, I am also satisfied that even if they were removed and notwithstanding the details on the submitted plans, adequate replacement planting could be provided as part of a detailed landscaping scheme secured by an appropriately worded planning condition.
17. However, the development would be close to a mature Yew tree near the front of the site. Having regard to its proximity and the significant excavation that would be required to form the lower-ground floor level, I consider that the health of this tree could be adversely affected by the proposal. I recognise that the National Planning Policy Framework ('the Framework') advises local planning authorities to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.
18. Be that as it may, it is unclear in the absence of objective arboricultural evidence whether or not the development would be within the root protection area of the tree, and I cannot be sure that any protection measures would be effective. Given the smaller area of the frontage and the proximity of the driveway and windows to the proposed dwellings, I also consider the scope for adequate replacement planting to be uncertain. Accordingly, I cannot determine that planning conditions would be effective in preventing or mitigating detriment to this tree, and I am not therefore satisfied that the development could be made acceptable through the use of conditions. The tree is one of many along the street and is not specifically protected by tree preservation order, but it nevertheless contributes to the verdant views along Ringstead Road. This contribution would be diminished were it to be lost or its health harmed causing some further, albeit in my view very modest, harm to the character and appearance of the area.
19. For these reasons, I conclude that the proposal would cause unacceptable harm to the character and appearance of the area, and it would conflict with Policy 28 of the SLP and Policy D3 of the LP. Broadly and amongst other things, these policies seek a high standard of design and development that makes the best use of land while responding positively to local character, local distinctiveness and the street scene. It would also be contrary to requirements within Policy 28 of the SLP and Policy G7 of the LP seeking the retention of existing trees wherever possible as part of development.

Living Conditions

20. The existing dwelling on the appeal site is of greater height and scale than 27 Ringstead Road. However, I have already found that the significant increase in the depth of development in comparison to the two-storey part of the dwelling and the roof design would result in a substantial increase in the overall bulk and mass of the building on the site, particularly at the upper level. I

cannot therefore agree with the appellant that the development would not be materially different to the existing situation.

21. The appellant indicates that the development would not breach a 45 degree splay line taken from the closest rear windows to Nos 21-23 or 27. I also note that it would not be built up to the boundaries of the site, although separation to the boundary with No 27 would be very modest. Even so, it would be deeper than both adjacent neighbours, and I consider having regard to the much greater height of the building than the deepest parts of the neighbours that the difference would be significant. In my judgement, the depth combined with the height and bulk of the building in this proximity would result in a highly dominant and significantly more imposing form of development when seen from the neighbouring windows and gardens, and it would be overbearing. Although I consider it would not significantly increase the sense of enclosure given the open views that would be retained to the rear, I find that there would be harm to outlook for the occupiers of Nos 21-23 and 27 in comparison to the existing situation.
22. Notwithstanding that it may not intrude a 45 degree splay line from the rear of No 27, this neighbour is located to the north of the site and it seems to me that the much greater scale of development close to the boundary would also be likely to result in some overshadowing and a reduction in natural light. There is no substantive evidence before me to the contrary, nor to demonstrate that the effect of any light loss would be insignificant. The appellant's assertions to this effect are therefore unsupported, and I can give little weight to them. The position of Nos 21-23 to the south and the greater separation provided by the driveway would be likely to moderate effects on natural light to these neighbours, but this is not compelling evidence of a lack of harm to No 27.
23. In addition, there would be 3 first-floor windows to the side of the building facing towards Nos 21-23. The 2 rearmost windows in particular would afford elevated views directly down over the private amenity space immediately to the rear of the neighbouring dwellings at much closer proximity than is currently possible from surrounding dwellings. I accept that some mutual overlooking is not unusual in residential areas. However, this is not typically at such close quarters as would result here. Boundary fencing and vegetation would do little to screen views given the height of the windows, and I find that the relationship would result in greater overlooking and a pronounced loss of privacy which would be detrimental to the living conditions of the occupiers of Nos 21-23.
24. The rearmost first-floor windows facing towards Nos 21-23 would serve a kitchen and a bedroom, and in the case of the bedroom would be the sole source of outlook for the room. Fitting these windows with obscure glazing below 1.7m from finished floor level would effectively restrict outward views so that they would offer no meaningful outlook, and would be likely to harmfully diminish living conditions for occupiers of the dwelling. Given the additional considerations that it could raise, I therefore find that use of obscure glazing would not offer an appropriate means to mitigate the harmful overlooking and loss of privacy for the occupiers of Nos 21-23.
25. For these reasons, I conclude that the proposal would cause unacceptable harm to the living conditions of neighbouring occupiers through loss of outlook and privacy, and it has not been demonstrated that there would not be further

harm to the occupiers of No 27 through loss of light. It would accordingly conflict with Policy 29 of the SLP which sets out that permission will be granted for development unless it adversely affects the amenities of occupiers of adjoining or nearby properties, taking into account factors including overlooking, outlook and sunlight, daylight and overshadowing.

Highway Safety

26. The proposal includes 6 parking spaces at the rear of the site. There is no dispute between the main parties that the number of spaces would accord with relevant standards, and I have no firm reason to find differently.
27. However, the driveway to access the spaces would be of insufficient width to allow two vehicles to comfortably pass. I appreciate that the driveway and highway access are existing. Nevertheless, I observed internal and external obstructions, and vegetation growth to the front of the doors of many of the garages currently present to the rear of the appeal site which suggest to me that they are not well used for parking. From their condition, it also appeared to me that many of the vehicles stationed to the rear of the appeal dwelling's garden may not have moved for some time. Given these factors and the front drive which would offer convenient parking for the appeal dwelling, I consider that existing vehicle movements along the driveway access would be likely to be very low, and there is no substantive evidence before me to the contrary.
28. As 6 dedicated parking spaces serving dwellings, I consider that the parking proposed on the site would be likely to see more regular use resulting in a significant increase in the total number of vehicle movements along the driveway relative to the existing baseline. The number of vehicle movements may remain fairly low overall, but would nevertheless increase the risk that vehicles could attempt to use the access simultaneously, and consequently the prospect of vehicles reversing from the driveway out onto Ringstead Road. Such manoeuvres would result in greater potential for conflict with other road users and pedestrians to the detriment of highway and pedestrian safety. I cannot therefore agree with the appellant's contention that there would be no real change to highway safety conditions.
29. There are examples of other developments nearby which have rear parking accessed by narrow driveways, but I do not know the full circumstances which led to these arrangements and I cannot be sure that they represent a direct parallel to the appeal proposal, including in respect of relevant development plan policy and guidance. In any event, these examples are not a compelling reason to allow further development that would be detrimental to highway and pedestrian safety.
30. I therefore conclude that the proposal would cause unacceptable harm to highway and pedestrian safety, and it would conflict with Policy 36 of the SLP insofar as it broadly seeks, amongst other things, to minimise adverse impacts on the highway network. The Council's reason for refusal also cites Policy 37 of the SLP, but this relates more to levels of parking provision, and from the information before me it does not provide a basis to come to a different view.

Carbon Emissions and Water Use

31. The appellant suggests that the development would reduce CO₂ emissions through on-site energy efficiency measures and renewable energy sources

which could be via a solar panel array on the roof slope. However, no Energy Statement which is a requirement for new dwellings under Policy 31 of the SLP has been provided. Without detailed calculations of energy demand and emissions, I can also have little confidence that these measures would be sufficient to meet the requirement specified by SLP Policy 31 for minor residential developments to achieve at least a 35% reduction in regulated CO₂ emissions on site over Part L of the 2013 Building Regulations. Because I cannot be sure that compliance would be achievable in this case, I find that it would not be appropriate to defer this matter to a planning condition.

32. There are also no details before me to demonstrate compliance with Policy 33 of the SLP which includes a requirement that domestic water consumption in new dwellings should be limited to 110 litres per person per day. However, the target water consumption limit is consistent with the 'optional requirements' for water efficiency set out in Part G of the Building Regulations. While the requirement is optional, I consider its inclusion within Building Regulations to offer a greater certainty that standard measures to comply with the requirement are a realistic prospect. Moreover, I note that Policy SI 5 of the LP cited in the Council's reason for refusal states that proposals should through the use of planning conditions minimise use of mains water in line with the Optional Requirements of the Building Regulations. In contrast to CO₂ emissions where SLP Policy 31 imposes a more stringent requirement than the Building Regulations, I am satisfied in this context that it would be reasonable to secure implementation of water efficiency measures by way of a planning condition were the proposal otherwise acceptable.
33. Although I therefore find that the proposal would make adequate provision to reduce water use in accordance with Policy 33 of the SLP and Policy SI 5 of the LP, I conclude that adequate provision to reduce carbon emissions has not been demonstrated, and the proposal would conflict with Policy 31 of the SLP. It would also be contrary to Policy SI 2 of the LP which amongst other things broadly seeks to minimise greenhouse gas emissions.

Drainage

34. Policy 32 of the SLP requires development to incorporate effective sustainable drainage measures. It identifies minimum performance standards for these measures, and on previously developed sites, seeks peak run-off rates and volumes for the 1 in 100 year event that generally achieve greenfield run off rates for the same event. It also requires that the site drainage strategy can contain the 1 in 30 year event (plus climate change) without flooding and that any flooding occurring between the 1 in 30 and 1 in 100 year event (plus climate change) will be safely contained on site.
35. To manage surface water, the appellant indicates that hardstanding on the site would be permeable paving, that wall mounted rainwater harvesters would be provided, and that flow from roofs would be dealt with by infiltration. However, the Council's Sustainability Officer has outlined that further details of the proposed drainage would be required, including evidence which would be necessary to demonstrate that the minimum performance standards specified in SLP Policy 32 would be met. In the absence of this information, I am unable to determine whether adequate and effective drainage could be provided at the site, and I cannot be sure that flood risk either on the site or elsewhere would not be increased.

36. The management of surface water could have implications for the layout and scale of development on the site. From the currently submitted information, I am unable to say with any confidence that it would be possible to provide adequate and effective drainage while also accommodating the development applied for. Given this uncertainty, it would not be appropriate to defer consideration of this matter to a planning condition.
37. I therefore conclude that it has not been demonstrated that the proposal would make satisfactory provision for surface water drainage, and I cannot be sure that flood risk would not be unacceptably increased. In this regard, the proposal would conflict with requirements within Policies 32 and 33 of the SLP and Policies SI 12 and SI 13 of the LP broadly for effective management of surface water and the minimisation and mitigation of flood risk.

Biodiversity

38. In addition to detracting from the character and appearance of the area, loss or harm to trees could be detrimental to ecological value in the vicinity of the site. The proposal also includes the demolition of the existing dwelling which could provide habitat for some species, and no firm evidence has been provided to the contrary. Without a detailed assessment considering potential ecological constraints on the appeal site and the effects of the proposal, I have no firm basis to determine that biodiversity at or in the vicinity of the site would not be unacceptably harmed. Similarly, while the appellant comments that planning conditions could require a full tree survey report, landscaping scheme, and a biodiversity net gain assessment, it is far from clear that any harm to the existing biodiversity value on the site could be effectively mitigated, far less that an overall enhancement to biodiversity could be provided. Given the significant uncertainty in relation to these matters, I am not persuaded that it would in this case be appropriate to defer consideration to planning conditions.
39. I therefore conclude that there is insufficient information to demonstrate that biodiversity would be conserved or enhanced, and the proposal would conflict with Policy 26 of the SLP. This policy sets out that permission will be granted for developments that create, conserve or enhance biodiversity, and that new development should incorporate opportunities to enhance biodiversity wherever possible.

Planning Balance

40. The proposal would make efficient and effective use of a previously developed site in a reasonably accessible location to deliver a net gain of 7 dwellings. The development plan includes provisions seeking to optimise housing delivery on suitable and available brownfield sites, and delivery from small sites. In addition, the Framework refers to boosting significantly the supply of housing, and highlights that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. It further promotes the effective use of land and the development of under-utilised land including to meet needs for housing, and indicates that development of windfall sites should be supported, giving great weight to the benefits of using suitable sites within existing settlements for homes.
41. The site is not within an area specifically identified for intensification within the development plan, but the provision of additional homes which could

accommodate an increased number of households is an important benefit in light of these objectives, and I afford it great weight. However, the development would make only a very small contribution to the supply of housing, and the extent of the benefit would be limited. Moreover, I have found that the proposal would fail to provide an appropriate mix of housing types, and this would moderate the overall benefit arising from the provision of additional housing.

42. There would be some economic and social benefits associated with the development, both temporary from job creation and additional expenditure during the construction period as well as longer term including through support for the local economy and services by future occupiers. The Framework advises that significant weight should be placed on the need to support economic growth and productivity, but the small scale of the development means that the contribution it would make and the resulting social and economic benefits would be very limited. While I note that the proposal would generate a Community Infrastructure Levy payment and Council Tax revenue, there would also be a corresponding increase in demand on local services and so this is not a factor to which I attach positive weight.
43. Conversely, the proposal would fail to provide an appropriate mix of housing types and would cause unacceptable harm to the character and appearance of the area, to the living conditions of neighbouring occupiers, and to highway safety. These are significant shortcomings of the proposal, and I afford them each significant weight. I afford further weight to the failure to demonstrate that effects on biodiversity would be acceptable, and that there would be adequate provision for drainage and to reduce carbon emissions.
44. I have had regard to comments submitted by interested parties in support of the proposal, but I find that the cumulative adverse impacts of the development would far outweigh the modest benefits. Given also the degree of conflict with a range of policies, I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached.

Conclusion

45. For the reasons given above, I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR