



Appeal Decision

Site visit made on 28 March 2023

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 APRIL 2023

Appeal Ref: APP/P5870/D/22/3308649
248 Foresters Drive, Wallington SM6 9LE

- 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 Dr Neil Carter against the decision of London Borough of Sutton.
 - The application Ref DM2021/01949, dated 23 September 2021, was refused by notice dated 19 July 2022.
 - The development proposed is addition of new vehicular access with new dropped kerb and alteration to existing boundary and forecourt areas.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on the character and appearance of the area with particular regard to trees, and highway safety.

Reasons

Character and Appearance - trees

3. Soft landscaped front gardens, street trees and the green open space opposite the appeal site contribute to the green leafy character of this area of Foresters Drive and Plough Lane. The front garden of the appeal site incorporates trees and bushes. Of particular relevance is the Pine Tree (T7) with a Tree Preservation Order (TPO) close to the existing vehicle entrance which due to its size and prominent location is highly visible. These make a positive contribution to the character and appearance of the area described above.
4. The proposed development would create a parking space within the root protection area (RPA) of T7. This would be constructed as a cellular confinement system, which is described as avoiding the need for major excavation. Other works including the removal and replacement of the boundary wall and creation of visibility splays would fall within the RPA. The turning area, which is specified to be gravel on compacted hardcore, is immediately adjacent to the edge of parts of the plotted RPA.
5. There is dispute between the Council's and the Appellant's professional advisors as to the accuracy of the RPA. It has been plotted as a circle, however this tree is located close to the boundary wall with the pavement and road beyond and a marked change in ground levels between these and the garden area. Therefore, the RPA does not take into account the site conditions which are likely to require a deviation from the circular plot.

6. Consequently, given their proximity, areas such as the turning circle and a larger part of the parking area would be likely to be within the RPA. As such I have inadequate assurances that roots of the TPO'd pine tree would be sufficiently protected and therefore that this tree would be retained as part of this development. As such, it is likely that the proposed development would result in the loss of a tree which makes a positive contribution to the character and appearance of the area.
7. Circular RPAs were plotted for previous applications on this site¹. However, the development proposed in those circumstances related to a new dwelling further from the Pine Tree than the appeal scheme. Therefore, the circumstances in those cases are different to that before me now.
8. Consequently, the proposed development would have a harmful effect on the character and appearance of the area with particular regard to trees. As such it would be contrary to Policy G7 of the London Plan (2021) and Policy 28 of the Sutton Local Plan 2016-2031 (2018) (LP). Together these require that development should retain trees of value where possible.

Highway Safety

9. There is a pronounced bend in the road outside the appeal site. The current access has visibility of 2m x 20m when looking to the right, albeit no accidents have been recorded. This access would be closed if the appeal scheme were allowed.
10. The proposed access would achieve visibility splays of 2m x 43m to the right, but 2m x 31m to the left, which is less than the 43m that would normally be required on a 30mph road. However, the observed speeds on Plough Lane for a previous application² were lower than 30 miles per hour and this resulted in a 22m splay requirement. Notwithstanding this, and even though this would not meet the Councils Footway Crossover Policy, in this particular case the proposed access would increase the visibility splays for this property and would therefore not be harmful to highway safety.
11. As such the proposed development would have an acceptable effect on highway safety. Consequently, it would be in accordance with Policy 36 of the LP which seeks to minimise adverse effects on the highway network. Policy 37 of the LP mainly relates to parking in terms of the amount that should be provided. As such the policy above is more relevant to this main issue.
12. Whilst I do not find harm to highway safety, this is a neutral factor that therefore does not outweigh the harm to the character and appearance of the area identified above, contrary to the development plan.

Conclusion

13. The proposal would not accord with the development plan and there are no other considerations to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that this appeal should be dismissed.

H Miles INSPECTOR

¹ DM2018/02177 & D2015/72951

² DM2018/02177