
Appeal Decision

Site visit made on 3 March 2023

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 APRIL 2023

Appeal Ref: APP/P5870/W/22/3305594
48 Golf Side, Cheam SM2 7EZ

- 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 Mrs Ayesha Baba against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2021/02023, dated 8 October 2021, was refused by notice dated 18 July 2022.
 - The development proposed is demolition of existing bungalow and erection of a new two storey detached dwelling with detached double garage.
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Decision

1. The appeal is allowed, and planning permission is granted for demolition of existing bungalow and erection of a new two storey detached dwelling with detached double garage at 48 Golf Side, Cheam SM2 7EZ in accordance with the terms of the application, Ref DM2021/02023, dated 8 October 2021, and the plans submitted with it, subject to conditions in the attached schedule.

Procedural Matters

2. There were several neighbour site visit requests. However, based on the evidence submitted and the main issues in dispute, in conjunction with what was visible whilst walking the perimeter of the site and from other public vantage points, it was not necessary to enter neighbouring properties.
3. A Section 106 Agreement was submitted with the appeal, and this has been accepted as a potentially legally binding document. The Section 106 Agreement seeks to secure planning obligations relating to biodiversity.
4. The Council were asked to provide policies and any supplementary guidance relating to the planning obligations, to determine whether they were necessary and otherwise met the relevant tests. This has formed a main issue under the appeal.
5. The Council were also asked to provide supplementary guidance relating to the Burton Estates Area of Special Local Character, which was referenced in the parties' evidence but not provided with the appeal. This has helped inform the assessment of character and appearance under the relevant main issue.

Main Issues

6. The main issues are:

- (a) the effect of the proposal on the character and appearance of the area, including the heritage significance of the Burton Estates Area of Special Local Character; and
- (b) whether planning obligations relating to biodiversity are necessary and otherwise meet the relevant tests.

Reasons

Character and Appearance

- 7. The site is located at 48 Golf Side in Cheam and comprises a post war era bungalow on a spacious plot with an appreciable degree of openness. This is despite having an otherwise close relationship with the neighbouring dwelling directly adjacent at 50 Golf Side.
- 8. The site is located within the Burton Estates Area of Special Local Character (the ASLC)¹. Although this is not a statutory designation, the accompanying character appraisal sets out that the ASLC derives some of its special character and heritage significance from its collection of large, individually designed family homes in the Arts & Crafts style², and rich landscaping.
- 9. My site visit confirmed that the immediate vicinity of the site is consistent with the special character and heritage significance of the ASLC, containing several buildings constructed within the Arts & Crafts style.
- 10. Despite an appreciable degree of openness on the plot, the existing bungalow at the site does not make a positive contribution to the special character or heritage significance of the ASLC.
- 11. This is because, as set out within the character appraisal, buildings are typically two storeys in height and bungalows are not generally characteristic of the ASLC.
- 12. The proposal would demolish the existing bungalow, and based on my previous assessment of context, and despite the existence of a limited number of bungalows elsewhere within the vicinity, this would not harm the special character or heritage significance of the ASLC.
- 13. The proposal would also introduce a two storey dwelling that conforms to the Arts and Crafts style and scale of other dwellings within the ASLC. It would be centrally positioned on the plot, and its footprint would be of broadly similar proportions to the existing bungalow.
- 14. Even if there would be a slight increase in footprint, the plot coverage and depth of the proposal would still be comparable with other dwellings within the ASLC.
- 15. The new dwelling would incorporate a stepped down approach at each of its side elevations, which would help taper the built form and appearance of massing, scale, and height within the street scene.

¹ Which is a non-designated heritage asset under Paragraph 203 of the Framework.

² asymmetrical and picturesque building compositions.

16. This taper would also help retain an appropriate relationship with the neighbouring dwelling directly adjacent at 50 Golf Side, where the two storey element would be an appreciable distance from the shared boundary.
17. As such, the relationship and separation between the proposal's single storey element and the existing dwelling at 50 Golf Side would not be dissimilar to the relationship with the existing bungalow at the site.
18. Moreover, despite some limited changes in land levels, the relationship between the proposal and the existing dwelling at 50 Golf Side would not be dissimilar to the relationship between other two storey dwellings within the ASLC.
19. In terms of the relationship with dwellings along The Drive and Sandy Lane, the proposal would maintain significant separation distances, and the existing situation would not change to any meaningful degree.
20. The proposal would introduce a detached garage; however, it is subservient in scale and massing, and its location within the site would not impact on the street scene or perception of openness.
21. Altogether, whilst on its face a plot with a two storey dwelling may be less open than one with a bungalow³, the principal consideration is whether the proposal would conform with the openness that is characteristic of the ASLC.
22. As such, based on my preceding assessments I can only conclude that the proposal would be consistent with the openness of other dwellings within the ASLC and would not be incongruous or dominant.
23. Overall, the proposal would not harm the character and appearance of the area or the heritage significance of the ASLC. Consequently, it would not conflict with Policy D3 and D4 of the London Plan, Policy 28 and 30 of the Sutton Local Plan 2018, the Council's adopted Supplementary Planning Document 14: Creating Locally Distinctive Places 2008 or The Burton Estates Area of Special Local Character Appraisal 2017.
24. Among other things, these set out that the council will grant planning permission for new development, including new buildings, provided it is of a suitable scale, massing, and height to the setting of the site, and that development within an ASLC conserves and, where practicable, enhances those elements which contribute to the ASLC's character or appearance.

Planning Obligations relating to Biodiversity

25. The appellant has submitted a biodiversity net gain assessment in support of the proposal, based on the Defra Biodiversity Metric 3.0. It establishes that whilst the proposal introduces some new features, the loss of existing features would result in a net change in biodiversity of -0.06 units, or -17.65%. This is also consistent with the Council's own biodiversity net gain metric calculator.
26. The planning obligations comprise a financial contribution of £5,614.20, which is a proportional tariff calculated in accordance with the Council's Biodiversity Strategy 2020-2025 and designed to fund offsite biodiversity enhancements to compensate for the net loss in onsite biodiversity.

³ Due to inherent differences in height associated with each type of building and amount of built form

27. As such, the planning obligations are necessary, directly related to the development; and fairly and reasonably related in scale and kind to the development, and the proposal would be in accordance with Policy 26 of the Sutton Local Plan 2018 and its Biodiversity Strategy, which among other things seeks to protect and enhance biodiversity.

Other Matters

28. A significant number of interested parties made representations in response to the proposal. Many of the matters raised relate to the main issues dealt with earlier in the decision. Other matters raised are dealt with below.
29. Based on my findings under the main issue, the proposal would retain an appropriate relationship with neighbouring dwellings in terms of separation distances. There would also be a sensitive approach to the placement of windows in the side elevations⁴ of the proposed dwelling.
30. It follows that the privacy and outlook of neighbouring occupiers would be preserved and remain consistent with what already exists within the neighbourhood.
31. Residual risks of overlooking, and other limited impacts relating to noise and disturbance, could be sufficiently mitigated using planning conditions. For example, by controlling the type of glazing, extent of opening and restrictions on the use of the flat roof.
32. The Daylight, Sunlight, and Overshadowing Assessment submitted in support of the proposal confirms that such matters are acceptable and that the relevant Building Research Establishment guidelines would be met.
33. There were several representations in relation to construction impacts, including the protection of trees, however these matters can be dealt with by planning conditions to make the proposal acceptable in planning terms.
34. Whilst I note representations about parking impacts, I am satisfied that the proposal would meet parking standards, which is clear from the evidence submitted by the parties, and would not lead to an unacceptable impact on parking or highway safety.

Conditions

35. The Council suggested 17 conditions and the appellant had an opportunity to respond during final comments, including in relation to pre commencement conditions, and did not raise any objections.
36. The suggested conditions have been considered against the Framework and Planning Practice Guidance, some were subject to minor amendments in consultation with the parties in the interests of clarity and good practice.
37. All the conditions set out in the attached schedule are considered necessary to make the development acceptable in planning terms. Standard conditions setting out time limits for commencement and securing compliance with the approved plans are necessary to provide certainty.

⁴ Particularly in respect of the swimming pool in the rear garden of 50 Golf Side.

38. A pre commencement condition relating to materials is necessary to ensure that the materials used in the proposal are consistent with the character and appearance of the area, and that materials are considered at an early stage in the interests of construction efficiencies.
39. Details pursuant to refuse and recycling are necessary to protect the character and appearance of the area from unsightly clutter, and also protect the outlook of neighbouring occupiers. Restrictions on the glazing and opening of first floor and roof level windows are necessary in the interests of maintaining acceptable levels of privacy for neighbouring occupiers.
40. A pre commencement condition relating to a construction logistics plan has been deemed necessary to avoid the adverse effects that may arise if development was permitted to proceed without prior controls. This is due to the extent of works required at the site and potential effects on highway safety and on the living conditions of neighbouring occupiers in relation to noise and disturbance.
41. Details of hard and soft landscaping, and tree protection measures, are necessary in the interests of preserving the character and appearance of the area and to ensure the provision, establishment, and maintenance of a reasonable standard of landscape in accordance with the approved designs.
42. Limitations on construction hours are necessary in the interests of controlling noise and disturbance in the interests of the living conditions of neighbouring occupiers.
43. Compliance with the energy statement and submission of as built standard assessment procedure outputs are necessary prior to occupation to ensure that the dwelling has achieved the required reduction in CO₂ emissions before beneficial use. Compliance with the drainage strategy and confirmation of implementation is necessary prior to occupation to ensure that measures are in place to protect the water environment before beneficial use.
44. Limitations on the use of the flat roof on the single storey rear projection are necessary to preserve the living conditions of neighbouring occupiers because of potential noise and disturbance and overlooking that might occur if the use of this area was not otherwise limited.
45. A pre commencement condition relating to a construction management plan has been deemed necessary to avoid the adverse effects that may arise if development was permitted to proceed without prior controls due to the likely extent of works required at the site and potential for adverse air quality and the associated impacts on the living conditions of neighbouring occupiers.
46. A condition securing compliance with plans and retention of integrated bird boxes within the development and additional features for wildlife around the grounds, including bat boxes and hedgehog holes, and a statement of conformity, are necessary to certify that the details for each habitat and feature, as approved under the proposal, are in accordance with the submitted information pursuant to the long term biodiversity value of the land.
47. A pre commencement condition in relation to fire safety is necessary to ensure that the development incorporates the necessary fire safety measures to protect future occupiers, and that this is addressed at an early stage of the construction process as it could potentially impact on construction methods.

48. Paragraph 54 of the Framework sets out that planning conditions should not be used to restrict permitted development rights unless there is clear justification to do so. In this context it is necessary to restrict permitted development rights to avoid further extensions or works that might result in cramped development, in the interests of preserving the living conditions of neighbouring occupiers.

Conclusion

49. For the reasons given, the appeal is allowed, and planning permission granted in accordance with the conditions in the attached schedule.

Liam Page

INSPECTOR

Schedule of Conditions

1. The development must be begun not later than the expiration of three years beginning with the date hereof.
2. The approved development shall be carried out in accordance with the following drawings/details:
 - a. 21-022_DSR05 - Drainage Strategy - Report and Appendix
 - b. Daylight and Sunlight Report
 - c. Energy Statement + Water Efficiency Statement sept 21
 - d. Design and Access Statement
 - e. Preliminary Ecological Appraisal and Preliminary Roost Assessment
 - f. Report of Biodiversity Net Gain Calculations
 - g. Biodiversity Net Gain Calculations
 - h. Drawings; 01, 02 Rev B, 03, 04, 05, 06, 07, 08 Rev B, 09 Rev B, 10, 11 and 12
3. Prior to the commencement of development (excluding demolition) the type and treatment of the materials, including samples, to be used on the exterior of the building(s) shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall be used in the construction of the development hereby approved, completed prior to its occupation and retained thereafter.
4. Prior to occupation of the development hereby approved, full details of refuse and recycling storage shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to occupation of the development and retained thereafter.
5. The first floor and roof level window(s) in the northern and southern elevation(s) of the development hereby approved shall be glazed 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 in a manner that they cannot be opened and retained thereafter.
6. No development shall begin, including demolition and site clearance works, until a Construction Logistics Plan (CLP), to include details of: (a) loading and unloading of plant and materials; (b) storage of plant and materials; (c) programme of works (including measures for traffic management); (d) provision of boundary hoarding, behind any visibility zones of construction traffic routing; (e) hours of operation; (f) means to prevent deposition of mud on the highway have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the details as approved.

7. Prior to the occupation of the development, full details of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscaping and tree planting shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards (in particular, BS 3882: Specifications for Topsoil, Recommendations (2015) and BS 8545: Trees from Nursery to Independence in the Landscape, Recommendations (2014) or other recognised codes of good practice).

The works shall be carried out prior to the occupation of any part or relevant phase of the development or in accordance with the timetable agreed with the Local Planning Authority. Any tree(s) or plants that (within a period of five years after planting) are removed, die, or (in the opinion of the Local Planning Authority) are damaged or defective shall be replaced as soon as is reasonably practicable with others of a similar size/species/number as originally approved.

8. Prior to the commencement of development, measures for the protection of all tree(s) shown to be retained shall be submitted to and approved in writing by the Local Planning Authority. The measures shall be in accordance with the British Standard BS5837: Trees in relation to design, demolition and construction. Any works/development on site shall be carried out in strict accordance with the approved details and the protective measures shall only be removed on completion of the development.
9. The site and building works required to implement the development shall be only carried out between the hours of 08.00 and 18.00 Mondays to Fridays and between 08.00 and 13.00 on Saturdays and not at all on Bank Holidays and Sundays.
10. The development hereby approved shall be constructed in accordance with the approved Energy Statement prepared by Forum Energy Consultants Ltd and dated 3 September 2021. Prior to first occupation, as-built' Standard Assessment Procedure (SAP) outputs must be submitted to the Local Planning Authority and approved in writing to demonstrate that the dwelling has achieved the required reduction in CO2 emissions. All of the approved measures must thereafter be retained for as long as the development is in existence.
11. The development hereby approved shall be constructed in accordance with the approved Drainage Strategy Report v2 prepared by RGP Consulting Engineers Ltd (Ref: 21/022/DSR02) and dated 19 April 2021. Prior to first occupation of the development, written confirmation that the approved site drainage and flood risk management measures, including SuDS, have been implemented as part of the development as built must be submitted to the Local Planning Authority and approved in writing. All of the approved measures must thereafter be retained for as long as the development is in existence.
12. The flat roof of the single storey rear projection hereby approved shall not be used, all or in part, as a terrace or other amenity space. No railings, fences, walls or other means of enclosure shall be erected on this flat roof, and no alterations shall be carried out to the elevation of the application property to form access onto the roof.

13.No development shall commence, including demolition and site clearance works, until a Construction Management Plan (CMP), to include details of: (a) provision of boundary hoarding; (b) hours of operation; (c) means to control dust and emissions to air; (d) means to control noise and vibration has been submitted to, and approved in writing by, the Local Planning Authority. The CMP should be in accordance with the GLA's Supplementary Planning Guidance 'Control of Dust and Emissions during Demolition and Construction'. The development shall be constructed in accordance with the details as approved.

14.The development hereby approved shall be constructed in accordance with the approved drawing 08 Rev. B, 09 Rev. B and 02 Rev B to provide integrated bird boxes within the development and additional features for wildlife around the grounds, including bat boxes and hedgehog holes. The development shall be carried out in accordance with the approved details and thereafter retained.

15.Prior to occupation of the development hereby permitted, a Statement of Conformity shall be submitted to and approved in writing by the Local Planning Authority. The Statement of Conformity will be assembled and signed by a suitably qualified ecologist and include evidence in the form of full details on:

- a. starting and completion dates for each habitat creation, as outlined within Condition 14;
- b. any limitations / impeding factors during each habitat creation / enhancement phase;
- c. time stamped photographs of each habitat undergoing creation;
- d. post completion photographs of each habitat / enhancement
- e. Post installation photographs of each nesting / roosting feature under Condition 14.

This condition is to certify that the details for each habitat / feature, as approved under Condition 14, are in accord with the submitted information.

16.The development hereby approved shall not be commenced prior to the submission and approval of a Fire Safety Strategy pursuant to Policy 12 (A) of the London Plan.

17.Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending or revoking and re-enacting that Order), planning permission shall be required in respect of development falling within Class(es) A, B and E of Part 1 of Schedule 2 to that Order.

End of Schedule