



Appeal Decision

Site visit made on 16 May 2023

by D R McCreery MA BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 June 2023

Appeal Ref: APP/P5870/W/22/3305990

48 Manor Road, Wallington, SM6 0AB

- 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 Clifford Miles (Oak Projects Ltd) against the decision of London Borough of Sutton.
 - The application Ref DM2021/02163, dated 29 October 2021, was refused by notice dated 9 March 2022.
 - The development proposed is the erection of a two storey dwelling with parking.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a two storey dwelling with parking at 48 Manor Road, Wallington, SM6 0AB in accordance with the terms of the application, Ref DM2021/02163, dated 29 October 2021, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Despite the differing addresses, I have decided another appeal relating to this site¹. Although the site visits were carried out at the same time, I have considered the proposals, and related evidence, individually.
3. The proposal is located adjacent to the Wallington Green Conservation Area and within proximity to a number of Listed Buildings (of greatest relevance are those on Manor Road adjacent to the rear of the site). As such, my conclusions are reached paying regard to the relevant duties in Planning (Listed Buildings and Conservation Areas) Act 1990.
4. The Council's third reason for refusal makes reference to 40a Manor Road. Following clarification from the Council and a visit to the site, I have noted that it is the rear garden of 40 Manor Road that shares a boundary with the relevant part of the site.

Main Issues

5. The main issues are:
 - Effects on the character and appearance of the surroundings, including nearby heritage assets

¹ Ref - APP/P5870/W/22/3306760

- Effects on the living conditions of those living nearby
- Whether satisfactory provision is made for a reduction in carbon emissions, sustainable drainage, and water efficiency.

Reasons

Character and appearance

6. Despite being located to the side of former commercial premises, the character of the area is predominantly residential. Of particular significance, along with the converted office building itself, are the two storey terraced houses on Lodge Road that are of traditional appearance, the five storey later 20th Century flat block adjacent to the site and the Listed Buildings on Manor Road to the rear.
7. The site is within an area that, along with flat block and the former commercial premises, is physically and visually distinct from the properties on Lodge Road, demarked by the opening and barrier at the end of the road. In this area there is less formality in terms of layout, scale and appearance.
8. The main public views towards the site and it's immediate surroundings are from Lodge Road, as a consequence of the relatively long approach and the position at the end of the road. In this view it is the flat block that is the focal point and, to a lesser extent, the former commercial premises. The site comes into view towards the end of the road and is not visible for much of the longer approach. This serves to limit the extent of public views, with the flat block remaining the primary focus.
9. In this context, the site makes a minimal contribution towards the sense of spaciousness between built forms. The proposal would not significantly impact on the gap the Council refer to due to the positioning of the new dwelling and its scale. The location of the dwelling at the side of the former commercial premises would maintain views out towards Lodge Road. Further, it's visual subservience to other built forms (particularly the flat block) would ensure that it would not dominate the wider setting.
10. Given the area that the site sits within is distinct, in the way described above, following the pattern of development seen in the terrace along Lodge Road would not be necessary or desirable. The retained gap between the end of the terrace on Lodge Road and the new dwelling, coupled with its position at the side of the site, would maintain an acceptable visual distinction between the different character areas. In this regard, the proposal would not represent a cramped form of development. Given these factors, along with the minimal contribution the site makes to the overall street scene due to its public visibility and position within an area that lacks formality of layout in built forms, the proposal would not be seen as incongruous within its context.

11. In relation to detailed design, predominantly following the modern, straight line architecture that is evident on the flat block and the former commercial premises is logical when regard is paid to the character area in which the site sits. Given the absence of formality in the immediate surroundings, stepping the front elevation forward in the way proposed is not a design flaw. If anything, this is a desirable aspect of the scheme that would provide a more visually interesting bookend/termination point for the former commercial premises than existing.
12. Turning to effects on heritage assets. The Appellant's Heritage Impact Assessment provides proportionate evidence on significance, including relating to the Wallington Green Conservation Area and Listed Buildings on Manor Road. I have no reason to question the contents in terms of the description it provides on significance.
13. Beyond their general assessment of the proposal, the Council have provided limited evidence by way of identification and assessment of the particular significance the heritage assets and how that significance may be affected by the proposal.
14. Nevertheless, I have paid regard to the conservation area boundary and the location of the site beyond it. The site would not be open to significant public views from within the conservation area. Visibility would instead be limited to private views, predominantly from rear gardens and upper floor windows that currently look towards the flat block and the former commercial premises. Given the scale and location of the proposal, its ability to affect the setting of the Conservation Area positively or negatively is limited.
15. In relation to the Listed Buildings on Manor Road, the significance of these buildings as heritage assets is principally derived from their group value. The distance between the dwellings themselves and the proposal, coupled with the scale of the development and the existing backdrop, would result in no impact on, and therefore the preservation of the Listed Buildings. The gardens of these dwellings allow appreciation of the rear of the houses and their historic cottage setting. Again, the location and scale of the development would ensure that this feature is preserved and that the overall setting of the Listed Building is not changed.
16. For the reasons set, the proposal would not have harmful effects on the character and appearance of the surroundings, including nearby heritage assets. As a consequence, there is no conflict with Policies policy H1, H2 and D3 of the London Plan or Policies 28 and 30 of the Sutton Local Plan (Local Plan) in relation to character and design and heritage assets.

Living conditions

17. The Council raise concerns about the effect on outlook, overbearance, and loss of light when the living conditions of the occupants of 40 Manor Road (No40) are considered, with the principal concern relating to effects on the enjoyment of the rear garden.
18. The proposed dwelling would be located within close proximity to the boundary that No40 shares with the site. As such, there would be a visible built presence that would alter the rear outlook as experienced from the rear garden.
19. Due to existing built structures and the location of the proposal, the change in outlook would be more obviously felt towards the rear of the garden, including within the patio close to the boundary.
20. Notwithstanding the change in outlook, the nature and severity of the change would not have a harmful effect on the living conditions of the occupants of No40. Particular mitigating factors are the scale of the development, the pitch of the proposed roof, and the existing conditions where a degree of enclosure already exists to one side and the rear, with the primary source of outlook being towards the opposite boundary which would remain.
21. For similar reasons the level of overbearance would not be unacceptable, paying regard also to the setback of the proposed building from the boundary and the roof form.
22. The Council make reference to loss of light in the absence of evidence to the contrary. Although no light study has been conducted, the distance of the rear facing windows of No40 from the proposal, coupled with intervening built forms, is such that a conclusion of no material loss of light to these spaces can reasonably be drawn without the need for such a study, even adopting a precautionary approach to this issue.
23. For similar reasons, much of the garden space of No40 would be unaffected. In relation to the rear patio area, the principal source of daylight is from the open aspect at the opposite boundary. This would remain, along with much of the skyline beyond the site, and continue to provide acceptable daylight conditions for this space. Some sunlight loss may be experienced closer to the boundary at certain times of the day/year. However, any adverse effects experienced due to such loss would not be unacceptable.
24. Whilst not referenced in the Council's reasons for refusal, I have considered other potential effects on neighbours living conditions that have been drawn to my attention. I find the proposal to be acceptable in these respects. I have also noted that the rear facing windows of the proposal would serve non habitable rooms and provide limited outlook. As such, the effects on privacy conditions would be acceptable.

25. In conclusion on this matter, the proposal would not have a harmful effect on the living conditions of those living nearby. Consequently, there is no conflict with Policy 29 of the Local Plan regarding protection of amenity.

Carbon emissions, sustainable drainage, water efficiency

26. The Council have included a reason for refusal relating to energy, water efficiency and sustainable drainage measures. The inclusion of this reason for refusal is in the absence of more detailed evidence from the Appellant. The Council have not provided more detailed evidence of site specific harm that would result from the proposal.

27. I understand the Council's wish to assess these matters upfront and what the relevant policies set out. However, I am satisfied that the issues could be considered at a later point by use of conditions without materially prejudicing the Council's position.

28. In conclusion on this matter, subject to conditions, the proposal would make satisfactory provision for a reduction in carbon emissions, sustainable drainage, and water efficiency. Consequently, there is no conflict with the development plan for the area, specifically Policies SI 2, 4, 5, 12, 13 of the London Plan and Policies 31, 32 and 33 of the Local Plan relating to these issues.

Other Matters

29. I have paid regard to comments from other interested parties. Comments relating to the main issues have been considered as part of my conclusions elsewhere in this decision, including effects on amenity and the character and appearance of the area.

30. Car and cycle parking/storage has been indicated in accordance with Policy 37 of the Local Plan. I appreciate that occupiers of the development may choose to own more than one car. However, the level of parking provision is in line with a policy approach designed to limit car ownership in light of the level of public transport accessibility that is available. The Council have not objected to the proposal on the basis of loss of parking relating to the converted commercial premises. However, such loss is unlikely to be material paying regard to the restraint based policy promoted by Policy 37 of the Local Plan.

31. I appreciate that construction work can be noisy at times. There are limits to which the planning system can exercise control, as opposed to other regulatory regimes. Notwithstanding this, conditions relating to construction management and hours of operation can legitimately be imposed in this case given the residential context.

32. The Council have not indicated that they do not consider the application to have been validly made. Matters relating to ownership fall outside of the development management process with private legal rights regarding land ownership addressable via other legal means.

33. I have paid regard to all other comments received, which do not affect my conclusions on the main issues.

Conclusion

34. Based on the evidence provided and the issues raised, the proposal would comply with the development plan for the area when taken as a whole. There are no material considerations to indicate that a decision should be taken other than in accordance with it.

35. As such, and paying regard to all other points made, the appeal is allowed for the reasons set out and subject to the conditions discussed below.

Conditions

36. I will consider conditions by reference to the numbering in the attached schedule.

37. (2) is necessary in the interests of certainty.

38. (3) is necessary in the interests of using the planning system to make appropriate provision for construction management. It needs to be a pre-commencement condition as the required plan may include measures that would need to be in place upfront.

39. (4) (5) are necessary to secure compliance with Policies 31 and 32 of the Local Plan. They need to be pre commencement conditions as the details may include measures that could not be easily retrofitted at a later point.

40. (6) (7) (12) are needed to ensure a good standard of external appearance and landscaping. (8) (9) (10) secures compliance with Policy D12 of the London Plan and Policies 31 and 33 of the Local Plan. (11) is necessary in order to secure ongoing provision for car/cycle parking. (13) is needed to provide appropriate protection for living conditions during the course of construction.

41. Where used, I have amended the wording of the conditions suggested by the Council, as appropriate, in the interests of clarity and effectiveness.

D R McCreery

INSPECTOR

Schedule of conditions (Page 1 of 3)

1. The development must be begun not later than the expiration of three years beginning with the date of this decision.
2. The development shall be carried out in accordance with the following drawings/details, unless variation is otherwise agreed in writing with the Local Planning Authority (including in the discharge of the conditions):

572-CDA-A-00-DR-A-05-0100-REV 02
572-CDA-A-01-DR-A-05-0101-REV 01
572-CDA-A-XX-DR-A-01 -0200-REV 01
572-CDA-A-XX-DR-A-01 -0201-REV 01
572-CDA-A-00-DR-A-01-0100-REV 05
572-CDA-A-00-DR-A-05-0150-REV 05
572-CDA-A-ZZ-DR-A-05-0351-REV 02
572-CDA-A-01-DR-A-05-0151-REV 05
572-CDA-A-02-DR-A-05-0152-REV 04
572-CDA-ZZ-ZZ-DR-A-05-0350-REV 05
572-CDA-ZZ-ZZ-DR-A-05-0352-REV 01
572-CDA-ZZ-ZZ-DR-A-05-0850-REV 04
572-CDA-ZZ-ZZ-DR-A-05-0851-REV 04
572-CDA-ZZ-ZZ-DR-A-05-0852-REV 04
5781009-QCE-X-00-DR-C-1302 P1
5782009-QCE-X-00-DR-C-1301 P1
5782009-QCE-X-00-DR-C-1001 P1

Heritage Impact Assessment by HCUK Group dated November 2021

Sustainable Drainage Strategy by Quantum CE dated 29 November 2021

Design and Access Statement by Create dated October 2021

Sustainable Drainage Maintenance & Management by Quantum CE dated 29 November 2021

3. No development shall commence, 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 carried out in accordance with the CLP, unless variation is otherwise agreed in writing with the Local Planning Authority.
4. Prior to the commencement of development, an Energy Statement incorporating 'as-designed' Standard Assessment Procedure (SAP) outputs must be submitted to the Local Planning Authority and approved in writing which demonstrates how the proposed dwelling/s will apply the Mayor's energy hierarchy (use less energy, supply energy efficiently and use renewable energy) to achieve at least a 35% reduction in CO2 emissions below the target emission rate (TER) based on Part L1A of the 2013 Building Regulations and at least a 10% reduction in total emissions (regulated and unregulated) through on-site renewable energy generation.

Schedule of conditions (Page 2 of 3)

(Condition 4 continued) The development should exceed the minimum Part L1A emissions standards through energy efficiency measures alone. The development shall be carried out in accordance with the approved details and thereafter retained.

5. Prior to the commencement of development, a scheme for the management of surface water runoff must be submitted to the Local Planning Authority and approved in writing which identifies 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 drainage hierarchy. The submitted scheme should: (i) provide details of the design storm period and intensity, proposed SuDS measures to delay and control the rate of surface water discharged from the site and proposed measures to prevent pollution of the receiving groundwater and/or surface waters; (ii) include calculations carried out by an appropriately qualified professional to show that the peak runoff rate for the 1 in 100 year 6-hour rainfall event (plus 30% for climate change) will be as close as reasonably practicable to the greenfield runoff rate for the same event; (iii) where greenfield runoff rates cannot be achieved, and methods of drainage include those lower down the Mayor's drainage hierarchy, evidence should be provided to justify the proposed measures and to demonstrate that the peak runoff rate for the 1 in 100 year 6-hour rainfall event (plus 30% for climate change) will be no more than 3 times the calculated greenfield run-off rate for the same event; and (iv) demonstrate that the 1 in 30 year rainfall event (plus 30% for climate change) can be contained without flooding; any flooding occurring between the 1 in 30 and 1 in 100 year event (plus 30% 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 development shall be carried out in accordance with the approved details and thereafter retained unless variation is otherwise agreed in writing with the Local Planning Authority.
6. Prior to commencement of the development above ground floor level, full details of the roofing materials, including the frame colour of the roof lights, shall be agreed in writing with the Local Planning Authority. The development shall be carried out in accordance with the approved details unless variation is otherwise agreed in writing with the Local Planning Authority.
7. Notwithstanding condition 6, all other external facing materials, treatments and finishes shall be similar to those of the original building and maintained and retained thereafter, unless otherwise indicated on the approved drawings/details or a variation is agreed in writing with the Local Planning Authority.

Schedule of conditions (Page 3 of 3)

8. The development shall not be occupied until a Fire Safety Strategy according with Policy 12 (A) of the London Plan has been approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details unless variation is otherwise agreed in writing with the Local Planning Authority.
9. Prior to first occupation of the development, as-built' Standard Assessment Procedure (SAP) outputs must be submitted to the Local Planning Authority and approved in writing to demonstrate that the development has been carried out in accordance with the approved details. If the development is unable to meet the required reduction in CO2 emissions through the approved energy strategy, then any shortfall shall be made up through the application of further sustainability measures unless otherwise approved by the Local Planning Authority in writing. The development shall be carried out in accordance with the approved details and thereafter retained unless variation is otherwise agreed in writing with the Local Planning Authority.
10. Prior to first occupation of the development, a completed Water Efficiency Calculator for New Dwellings must be submitted to the Local Planning Authority and approved in writing to show that internal potable water consumption for each of the dwellings will be limited to 110 litres per person per day (l/p/d) based on the Government's national calculation method for water efficiency for the purposes of Part G of the Building Regulations. The Water Efficiency Calculator should be accompanied by details of the location and type of all appliances or fittings that use water, the capacity or flow rate of any equipment and any rainwater or greywater collection systems incorporated as part of the development. The development shall be carried out in accordance with the approved details and thereafter retained unless variation is otherwise agreed in writing with the Local Planning Authority.
11. The spaces indicated on the plans for car and cycle parking shall remain available for occupiers of the development at all times, unless variation is otherwise agreed in writing with the Local Planning Authority.
12. Prior to first occupation of the development a scheme of landscaping and boundary treatment shall be agreed with the Local Planning Authority. The scheme shall be carried out in accordance with the approved details.
13. Site construction works shall only be carried out between the hours of 0800 and 1800 hours Monday to Friday, 0800 and 1300 hours on Saturday and not at all on Sundays and Bank Holidays.

Ends