



Appeal Decision

Site visit made on 19 June 2023

by Chris Couper BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th July 2023

Appeal Ref: APP/P5870/W/22/3308766

5 Hillfield Parade, Bishopsford Road, Morden SM4 6BG

- 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 Komail Rashid against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2022/00156, dated 27 January 2022, was refused by notice dated 14 April 2022.
 - The development proposed is a change of use from 'sui generis' (hot food takeaway) to C3 (dwelling) to create one new 1 person's studio flat on the ground floor.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the occupier of the proposed flat would experience appropriate living conditions, with particular regard to privacy;
 - The effect of the proposal on the character and appearance of the area;
 - Whether or not the proposal would include appropriate sustainability measures, with particular regard to carbon emissions, drainage and water efficiency; and
 - The effect of the proposal on the vitality and viability of the shopping parade.

Reasons

Living conditions

3. Policy D6 of the London Plan 2021 ('LP') sets out that housing development should be of a high quality design, whilst Sutton Local Plan 2016-2031 (2018) ('SLP') Policy 9 includes a similar strategic objective, and states that it is important to pay attention to the quality of new housing.
4. The appeal site comprises a former hot food takeaway, which occupies a mid-terrace position in a short commercial parade. As a result of this scheme, it would be converted into a one bedroom studio flat, which would easily satisfy the internal floor area requirements of the DCLG Technical Housing Standards.

5. Its layout would include a kitchen to the front and sleeping/living areas to the rear. The kitchen would have a mainly glazed front face, which would abut the pavement. Given the large size of the proposed kitchen, and the layout of the remainder of the flat, including the relatively small living area, it appears to me that the future occupant would also be likely to use it as a dining and living space.
6. Whilst I have no evidence regarding footfall in this location, given that the site sits in the middle of a short commercial parade, which includes retail units and an existing hot food takeaway, I consider that there would be likely to be significant pedestrian activity throughout the day and into the evening.
7. There would be no defensible space between the glazed front face of the kitchen and the pavement. Consequently, notwithstanding the pavement's width, in my view the future occupier would experience a very poor level of privacy due to disturbance and visual intrusion from passing pedestrians. If, on the other hand, the kitchen blinds were to be drawn, that large area of the flat would become very enclosed, with limited natural light and no outlook.
8. I observed a former commercial premises that has been converted into a flat broadly opposite this site at 96A Bishopsford Road. However, unlike this unit, that one is at the end of a short row, next to residential accommodation to one side, and it is set well back from the road at the end of a short spur of pavement. As well as being in a different Council area, there are therefore significant material differences between that scheme and this one.
9. I have few details, other than photographs, and an officer report for application Ref: DM2018/01743, to enable me to consider any similarities between this scheme and the other residential conversions in commercial parades referred to by the appellant elsewhere in the borough. For instance, I do not have their layout plans, or the evidence that was submitted in support of them.
10. In any event, having considered this scheme in this location on its planning merits, I conclude that it would provide poor living conditions for the future occupier, and that it would thus conflict with LP Policy D6 and SLP policy 9.

Character and appearance

11. There would be only minor alterations to the appearance of the building's front face as a result of this scheme. Having regard to the discrete rearward location of the flue, its removal would result in a very modest improvement to the building's appearance.
12. However, in this prominent mid-terrace location, the proposed residential use, which would be clearly apparent as a result of the unit's largely glazed front face located immediately next to the pavement, would be incongruous with the commercial uses and character of the other ground floor units in this parade.
13. There are upper floor flats in this terrace, and the wider area is predominantly residential in character. However, as the residential use of this unit would be anomalous with the remainder of the ground floor units in the parade, there would be a modest conflict with those parts of SLP Policy 28 and LP Policy D3 which require development to respect and enhance local context and character.

Sustainability measures

14. Amongst other things, SLP Policy 31 states that all planning applications for new dwellings should be supported by an Energy Statement to demonstrate how relevant targets for reducing carbon dioxide emissions will be met; SLP Policy 32 requires development proposals to include sustainable drainage measures as part of their design; and SLP Policy 33 requires developments to achieve high standards of water efficiency, and to limit water consumption.
15. No such details were provided as part of this scheme. Given that the proposal is for a conversion, this may, to a degree, restrict the measures available. Nevertheless, whilst the appellant maintains that sustainability measures could be addressed by a condition, as pointed out in some of those policies, such information should be provided at the earliest stage of project planning, or as part of the application.
16. Consequently, on this issue, I find that, as the scheme is not supported by appropriate sustainability measures, there would be a limited conflict with SLP Policies 31, 32 and 33; along with the broadly similar approach regarding the incorporation of green infrastructure, improvements to the water environment, minimising flood risk and sustainable drainage in LP Policies SI 4, SI 5, SI 12 and SI 13. As LP Policy SI 2 is directed at major development it is not applicable to this scheme.

Vitality and viability

17. The Council states that the scheme has the potential to threaten the vitality and viability of the shopping parade. No marketing report has been submitted, but the appellant states that the unit has been empty for over six years. Having regard to the turnover of previous tenants; the cost of utilities, staffing and rates; and other nearby takeaway facilities, he believes it is no longer viable as a takeaway, or for retail. He also states that 6 Hillfield Parade has changed hands several times in recent years, 7 Hillfield Parade has been empty for many years despite marketing, and that other units in the parade are struggling to survive.
18. Much of the information before me on this issue from the principal parties is conjectural, rather than cogent evidence, but it does indicate that there is little demand for a commercial use of this unit. Given the length of time that it has been empty, which is not disputed by the Council, I am not persuaded that its conversion to a flat would significantly affect the vitality and viability of the other units in the parade.
19. In any event, LP Policy H1 addresses housing supply, LP Policy D3 refers to the design-led approach, and SLP Policy 28 considers matters of character and design. None of those policies referred to in the Council's decision specifically addresses the vitality and viability of shopping parades. Consequently, on the basis of the limited available evidence, I conclude that on this issue the scheme would not conflict with the development plan.

Other matters

20. I have no evidence that this empty unit has led to an unsafe local environment, or that its former use resulted in significant odour and disturbance to local residents. Neither do I have any evidence that this scheme, which I have considered under section 78 of the Town and Country Planning Act 1990, would

be permitted development. Whilst the site is close to schools, I have not been directed towards any development plan policies which support the conversion of takeaways in locations such as this on health grounds.

21. In its favour, the scheme would contribute to the supply of housing at a time of significant need. In that regard, it finds support from some development plan policies. However, given that just a single unit would be delivered, that constitutes a modest benefit.

Planning Balance and Conclusion

22. Summing up, I have found that the scheme would provide poor living conditions for its future occupant, and that it would cause modest harm to the character of this commercial parade, contrary to the development plan. Additionally, there would be a limited conflict with those policies which require the submission of sustainability measures at the earliest stage so as to ensure that they can be fully incorporated into the design.
23. Whilst the scheme would contribute to the supply of housing, the modest benefit of one additional unit, would not outweigh those combined harms. The scheme would conflict with the development plan when considered as a whole and, having regard to all other matters raised, the appeal is therefore dismissed.

Chris Couper

INSPECTOR