



Appeal Decision

Site visit made on 30 June 2023

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 August 2023

Appeal Ref: APP/P5870/W/22/3306370

19 Riverside Close, Wallington, Sutton SM6 7DH

- 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 Ashok Garg, on behalf of Mahira Homes, against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2022/00935, dated 16 May 2022, was refused by notice dated 21 July 2022.
 - The development proposed is addition of a new 3 bedroom attached house with parking, bins and bike storage provision.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on ecology, with particular regard to the adjoining Site of Importance for Nature Conservation (SINC) and Green Corridor;
 - Whether the proposal would provide adequate living conditions for future occupiers, with particular regard to internal space standards;
 - Whether car parking arrangements would be adequate and safe; and
 - Whether the proposal would provide a suitable location for housing with respect to its accessibility by public transport and the Council's strategy for housing redevelopment.

Reasons

Character and appearance

3. The appeal site comprises a 2-storey dwelling, a detached garage and its associated curtilage. The host dwelling sits at the end of a short terrace of 3 dwellings, sitting at the end of a residential cul-de-sac. A pair of semi-detached garages serving 15 and 17 Riverside Close sit at the head of the cul-de-sac outside of the appeal site, albeit surrounded by it.
4. The host dwelling is of similar design and appearance to its adjoining neighbours. All three dwellings sit in alignment and have a single storey offshoot to the front with a flat roof. This projects modestly beyond the main elevation, across the full width of each house. The proportions and layout of

fenestration is consistent across the terrace, as are the brick and render finishes. The roof of the terrace also features a consistent eaves and ridge height, side facing gables and evenly spaced chimneys. The harmonious appearance of the terrace contributes positively to the street scene.

5. The appearance of the terrace differs somewhat from other properties within the street, which include a mix of detached, semi-detached and terraced houses. However, its overall form, proportions and relationship to the road remain characteristic of the area. Most properties feature front gardens and/or driveways, albeit of varying size. These are largely unenclosed and accommodate considerable tree and shrub planting. Combined with other greenery lining the street and mature trees in the immediate vicinity, this provides a sense of openness and gives the street a verdant character.
6. The appeal proposal would extend the existing terrace northwards, and the proposed new dwelling would feature similar finishing materials. However, its front elevations would be staggered, and would extend forward of the terrace at ground and first floor. It would also sit at an angle to the existing terrace.
7. The staggered layout of the proposed dwelling would appear at odds with the uniform layout of the terrace. It would produce a contrived roof form, with the ridge height stepping down from that of the existing terrace in two stages. Additionally, it would feature lower eaves heights. The size and arrangement of windows would also be out of keeping with its attached neighbours. The proposal would therefore appear as an incongruous addition to the terrace, considerably unbalancing its otherwise harmonious appearance and form.
8. Furthermore, the appeal site is in a part of the street where the gap between dwellings and the road is reduced. The proposal would encroach further into this space, extend towards the neighbouring garages and obscure views of the greenery beyond. This would have a harmful enclosing effect on the street scene, give the development a cramped appearance, and detract from the openness at the end of the cul-de-sac.
9. Additionally, I saw during my site visit that the appeal site features several large mature trees. The submitted Arboricultural Planning Report (APR) indicates that there is an area Tree Preservation Order (TPO) pertaining to trees/vegetation on or adjacent to the site.
10. Two of these trees (T1 and T2) are of significant height. This makes them a notable feature, allowing them to be appreciated in a wide range of views from the surrounding area, and particularly from within Riverside Close. Along with other trees in the vicinity, they positively contribute to the verdant character of the area described above. The APR indicates that both trees are in good condition and likely to survive on site for many more years.
11. While these trees would be retained post development, the appeal proposal would result in the subdivision of the existing plot, with the host dwelling retaining a significantly reduced enclosed rear garden, containing both T1 and T2. Though it may comply with relevant space standards, it would be dominated by large trees, with no space to provide respite from overshadowing and other effects that would curtail enjoyment of the garden for future occupiers. It is reasonable to anticipate that this would increase pressure to alter or remove the trees over time.

12. The proposal therefore has not been designed to give adequate consideration to the constraints presented by mature, protected trees and fails to adequately protect the trees on site. Given their positive contribution as described above, any premature decline or loss of these trees would have a further adverse impact on the character and appearance of the area.
13. The appellant indicates the scheme could be improved through a re-design. However, no amended plans are before me. Moreover, the appeal process should not be used to evolve a scheme. It is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the Council and interested parties at the application stage.
14. My attention has also been drawn to the detached dwelling at 1 Riverside Close, which was a later addition to the street. The appellant contends this is not integrated with the street, unlike the appeal proposal. However, I saw during my site visit that the design, proportions, roof form, fenestration, front garden space and the set back from the road of No 1 are all in keeping with the street scene and do not detract from the character and appearance of the area.
15. I conclude that the proposal would harm the character and appearance of the area. It is therefore contrary to Policy D3 of the London Plan March 2021 (the London Plan) and Policy 28 of the Sutton Local Plan 2016-2031 February 2018 (the Local Plan). These policies, among other provisions, seek to ensure developments are designed to the highest standard, respect the local context, and positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape. They also seek to ensure development incorporates well-designed soft landscaping and retention of trees on site is reflected in the proposed development layout.

Ecology

16. The evidence indicates that the appeal site adjoins a Site of Importance for Nature Conservation (SINC) and Green Corridor. Policy 26 of the Local Plan states that the Council will not grant planning permission within or adjacent to a SINC where there would be damaging impact on the nature conservation value or integrity of the site. Exceptions to this include where the need and benefits of development outweigh the harm, there is no reasonable alternative, or the development can demonstrate no net loss for biodiversity or a net gain.
17. Given the proximity of the proposed development to the SINC, there is considerable potential for it to have some degree of adverse impact on the nature conservation value or integrity of the site. The Council contend that the back garden land is likely to be an important habitat corridor and foraging area for wildlife and the river habitat could be impacted by the works.
18. No supporting ecological information has been provided to demonstrate what harm, if any, would result from the proposal. Likewise, no information is before me to demonstrate that the proposal would not result in a net loss for biodiversity or that a biodiversity net gain could be achieved by providing mitigation and/or compensation measures.
19. While the evidence indicates the Environment Agency had no objections to the proposals, notably the Council's biodiversity officer did object, for the above reasons.

20. The appellant contends that any harm could be resolved using a planning condition to secure ecological information and implementation of any required mitigation measures. However, in the absence of information to clarify the extent of any harm, it is not clear the matter could be resolved without changes to the proposal. The use of such a planning condition would therefore not be appropriate in this instance.
21. While such information may not have been requested by the Council at validation or during the processing of the application, this does not lead me to a different conclusion on this issue.
22. I conclude that the proposal would have a harmful effect on ecology, with particular regard to the effect on the adjoining Site of Importance for Nature Conservation (SINC) and Green Corridor. It is contrary to Policy 26 of the Local Plan. This policy, among other provisions, seeks to protect and enhance SINC, Green Corridors and biodiversity.

Living conditions for future occupiers

23. Policy D6 of the London Plan stipulates that the minimum floor to ceiling height must be 2.5 metres for at least 75 per cent of the gross internal area of each new dwelling. The proposed dwelling would achieve a ceiling height of 2.4 metres and therefore would fail to meet the requirements of this policy.
24. While the proposed floor to ceiling heights may comply with those referred to in the Nationally Described Space Standards (NDSS), paragraph 3.6.3 of the London Plan indicates that a minimum height of 2.5m is required, among other reasons, to address the impacts of the urban heat island effect in London. While the NDSS are a material consideration, they are national standards and, in this case, do not take precedence over local circumstances and the requirements of the adopted development plan.
25. The appellant contends that seeking a 2.5 metre ceiling height must be weighed against increased flood risk. The River Wandle runs alongside the appeal site. However, the submitted Flood Risk Assessment concludes that the proposed development would be at very low risk of fluvial flooding. It also finds that the majority of any surface water flooding would be less than 300mm deep, with some areas just over 300mm. The proposed dwelling would be raised approximately 1 metre above ground. This does not therefore demonstrate that a higher floor to ceiling height could not be achieved.
26. The Appellant contends that the development at 1 Riverside Close was approved with a similar floor to ceiling height as the appeal proposal. However, the full details of that case and the circumstances leading to the decision are not before me. I therefore cannot draw any meaningful comparisons to the appeal scheme in respect of this issue.
27. Additionally, the Appellant highlights that the floor to ceiling height at the host dwelling is approximately 2.3 metres. However, this dwelling clearly pre-dates the adoption of the relevant development plan policies. Moreover, the appeal scheme does not continue the form of the existing terrace, with a notably lower eaves and ridge height. This does not therefore provide justification for the proposed floor to ceiling height.

28. Ultimately, each case must be considered on its individual merits and in light of the development plan in force at the time. These other examples therefore do not lead me to a different conclusion on this issue.
29. There is therefore no compelling evidence before me to indicate a departure from Policy D6 of the London Plan would be justified in this instance.
30. I conclude that the proposal would not provide adequate living conditions for future occupiers, with particular regard to internal space standards. It would be contrary to Policy D6 of the London Plan which seeks to ensure that new housing is of adequate quality, especially in terms of daylight penetration, ventilation and cooling, and sense of space. It would also conflict with Policy 9 of the Local Plan, which indicates planning permission will not be granted for new residential development which does not meet the London Plan internal space standards.

Car parking

31. The appeal proposal includes the retention of an existing car parking space to the front of the host dwelling. It would also provide a parking space to serve the new dwelling, adjacent to the neighbouring garages.
32. The proposed dwelling would encroach on the turning space for vehicles accessing the existing garages and parking spaces at and adjoining the appeal site. Based on the plans before me, this would likely limit the ability to enter and exit the area in a forward gear. Pedestrian access to the proposed dwelling would also be across this turning area, with the steps to the front door sitting directly in front of the parking space serving the host dwelling.
33. These arrangements would be likely to increase conflict between vehicles and pose a risk to pedestrians. No further detail on the proposed access arrangements have been provided, such as a swept path analysis or details of pedestrian routes, to demonstrate otherwise.
34. The evidence indicates there was an old garage on the site of the proposed parking space. However, this would not in itself demonstrate the appeal proposals before me are acceptable.
35. It is not clear that the proposals in their current form could provide adequate and safe access, therefore a condition to secure further information and swept path analysis would not be appropriate in this instance.
36. I conclude that the proposal would fail to provide adequate and safe car parking arrangements. It would be contrary to Policies 37 and 38 of the Local Plan. These policies, among other provisions, seek to ensure that developments provide car parking in accordance with the Council's standards and are assessed for their impact on the highway network and local environment.

Whether the proposal would provide a suitable location for housing

37. The appeal site is located within an existing urban area that is residential in nature. The evidence indicates the site has a relatively low Public Transport Accessibility Level (PTAL) of 2. However, there is a public park, public house, convenience store, and bus stops within walking distance. There are additional services and facilities in the wider area. The site therefore retains a reasonable degree of access to services and public transport.

38. I recognise that the appeal site is not within an allocated strategic site for housing delivery. However, the Council acknowledge that it is not an essential and fundamental criterion for new housing to be located in these targeted areas. Moreover, Paragraph 69 of the National Planning Policy Framework (the Framework) states that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and supports the development of windfall sites through decisions.
39. The evidence indicates the Council can also demonstrate a 5-year housing land supply. However, the Framework seeks to significantly boost the supply of homes and indicates that strategic policies should determine the minimum number of homes needed and so this should not be viewed as a maximum.
40. I conclude that the proposal would provide a suitable location for housing with respect to its accessibility by public transport and the Council's strategy for housing redevelopment. Notwithstanding my findings on the other main issues, I have not identified any direct conflict with Policies H1 and D3 of the London Plan in respect of this matter. These policies, among other provisions, seek to increase housing supply and optimise site capacity. I have also not identified any direct conflict with Policies 9, 28, 36 and 37 of the Local Plan in respect of this matter. These policies concern housing sizes and standards, character and design, transport impacts and car parking.

Other Matters

41. The proposal would contribute to housing delivery and provide a temporary boost in employment during construction. Additional residents would contribute to the local economy and vitality of the community. However, these benefits would be modest, given the small scale and context of the development.
42. My attention has been drawn to several other appeal decisions and planning permissions locally. However, only limited details of these decisions are before me and so I cannot draw any meaningful comparisons to the appeal scheme.
43. Other than where set out above, I have not identified conflict with any other relevant parts of the development plan or national policy and guidance. However, the absence of harm or development plan conflict with respect to other relevant matters weighs neither for nor against the proposal.

Conclusion

44. The proposal would result in significant harm and development plan conflict with respect to its effect on the character and appearance of the area, ecology, the living conditions of future occupiers, and the provision of safe and adequate car parking. While I have found that the proposal would provide a suitable location for housing with respect to its accessibility by public transport and the Council's strategy for housing redevelopment, I conclude that it would be contrary to the development plan, taken as a whole.
45. There are no material considerations that indicate the proposal should be determined other than in accordance with the development plan. Consequently, the appeal should be dismissed.

Ryan Cowley

INSPECTOR