



Appeal Decision

Site visit made on 5 June 2023

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2023

Appeal Ref: APP/P5870/W/22/3306261

5 Latimer Close, Worcester Park, Sutton KT4 8UF

- 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 Stirling against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2022/00910, dated 13 May 2022, was refused by notice dated 23 August 2022.
 - The development proposed is a "New 3 bedroom single storey dwelling with private garden proposed to land to the rear of 5 Latimer Close".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I saw on my site inspection that part of the appeal site has been fenced off separately from No. 5 Latimer Close. The appeal has been determined on this basis.

Main Issues

3. The main issues are the effect of the proposed development upon:
 - The character and appearance of the area, with particular regard to the siting, scale and design of the proposed dwelling;
 - Ecology and biodiversity;
 - The living conditions of the occupiers of Nos. 4 and 6 Latimer Close, with particular regard to outlook and privacy; and,
 - Whether the proposed development is acceptable in terms of water efficiency and carbon efficiency measures.

Reasons

Character and appearance

4. The appeal site is situated on a cul-de-sac in a predominantly residential area, between Tudor Avenue and St Clair Drive. The area is strongly characterised by street frontage properties of varying styles, mostly having both front and back gardens. Latimer Close is a cul-de-sac of 8 properties of a similar style, although some have been much altered. These properties are arranged around a circular turning area at the end of the cul-de-sac, resulting in them mostly having much wider rear gardens compared to their narrower frontages.

5. The proposed dwelling would be located behind No. 5 Latimer Close and within its rear garden, close to two of its party boundaries. It would have no frontage onto Latimer Close or any other road, giving the proposal no street presence. As a result, its siting would be alien to the strongly defined pattern of street frontage residential development in the area, and the proposed dwelling would not be legible in this back garden location. Moreover, the proposed site's shape and size would also be incompatible with the established character of the area.
6. Although, the limited gaps between properties on Latimer Close would mean the proposal would not be particularly visible from the street, it would be clearly seen from the gardens of neighbouring properties. I note that the scale and design of the proposed dwelling on its own is not inconsistent with the existing properties on Latimer Close, and that the proposal has been kept low to minimise its height and mass. However, in the location proposed, the design, and scale of the proposal would be wholly discordant to the character and appearance of this rear garden area. It would not have the appearance of a domestic outbuilding which are found nearby in the rear garden environment.
7. The appellant has suggested that planning conditions could be used to make the development acceptable. However, given the proposed development's identified conflict with the character and appearance of the area, planning conditions could not be used to address the harm arising from the siting, scale or design of the proposal in this case.
8. I therefore conclude that the proposed development would be harmful to the character and appearance of the area and conflict with Policy D3 of The London Plan, The Spatial Development Strategy for Greater London, adopted March 2021 (the LP) and Policies 13 and 28 of the Sutton Local Plan 2016-2031, dated February 2018 (the SLP), that amongst other things, require attractive development that makes a positive contribution to the street frontage, streetscene and/or public realm, which is high quality and respects local distinctiveness by ensuring its layout, scale, and appearance positively responds to local area, and that any development of rear gardens makes an important contribution to the character and appearance of the surrounding area. The proposal is also inconsistent with Sutton's Supplementary Planning Document, SPD 14, Creating Locally Distinctive Places, Sutton's Urban Design Guide, dated January 2008, that amongst other things requires new development to create attractive areas, respect the local character of the area and ensure buildings face onto or overlook streets. In addition, there is also conflict with paragraph 130 of the National Planning Policy Framework (the Framework) which requires development to function well and add to the overall quality of an area, and to be sympathetic to the local character and history of an area, through its layout and the arrangement of streets.
9. The Council has referred to the proposal being contrary to Policy D4 of the LP and Policy 1 of the SLP. Policy D4 is concerned with strategic design review and analysis and Policy 1 relates to overarching sustainable development principles and the broad strategic location of new development. I did not find these policies to be determinative on this issue.

Ecology and Biodiversity

10. The appeal site is garden to No. 5 Latimer Close. On my site inspection I saw that it had been fenced off separately from No. 5 and that it was currently vacant land, part of it was overgrown with grass but there was no mature

planting on the appeal site. It was also mainly enclosed by tall close boarded fencing.

11. The appeal site is 120 metres from Cuddington Recreation Ground, a designated Site of Importance for Nature Conservation (SINC). Furthermore, with the appeal site being vacant, plants and vegetation have been able to grow on it. It is unclear what, if any value the site has, in ecological and biodiversity terms, or how the proposal may affect the nearby SINC and whether any mitigations would be required to take account of any such impacts. Moreover, it is also unclear what would constitute a net gain in biodiversity terms for the proposed development.
12. Had I been minded to allow the appeal, I would have expected this information to have accompanied and informed the proposal. It is not possible to condition this information, as the effects of the proposal upon biodiversity and ecology in this case should be known from the outset so any mitigations and biodiversity net gain could be incorporated within the proposal.
13. In the absence of any biodiversity and ecological assessment, there is insufficient information to assess the effect of the proposed development upon ecology and biodiversity, and the proposal is contrary to Policy G6 of the LP, and Policy 26 of the SLP, that amongst other things, seek to protect and enhance biodiversity and ensure development proposals manage impacts on biodiversity to secure net biodiversity gain, informed by the best available ecological information. In addition, the proposal is also contrary to paragraph 174 of the Framework, that requires development to contribute to and enhance the natural environment by minimising impacts and providing net gains for biodiversity.

Living conditions

14. The proposed dwelling would have its front elevation facing directly towards the rear garden of No. 6 Latimer Close. Due to the tapered rear garden boundaries, a rear corner of the proposed dwelling would be nearest to No. 4, quite close to the party boundary with the appeal site.
15. No. 4 has openings towards its rear garden, and given the proposal's pyramidal low pitched roof design, along with it being single storey, and the distance from No. 4's rear elevation, the proposal would not be harmful to the occupiers of No. 4's outlook. Similarly, the distance between the proposed dwelling and No. 6, and given that both properties would be orientated in different directions, would ensure that there would be no harm to the occupiers of No.6's outlook. The low height of the proposal and its separation would also ensure it would not have an overbearing effect upon the occupiers of Nos. 4 and 6.
16. The existing and mainly tall close boarded fences around the appeal site, together with the proposal only having accommodation at ground floor level, would mean any overlooking towards No. 4 and No. 6, including their rear gardens would largely be obscured by the existing boundary treatment. As such, the proposal would not cause unacceptable privacy issues to those neighbouring occupiers.
17. I therefore find that the proposal would not be harmful to the living conditions of the occupiers of Nos. 4 and 6 Latimer Close consistent with Policy 29 of the SLP that amongst other things requires that those currently occupying

adjoining or nearby properties are not adversely affected by new development from overlooking causing a loss of privacy or from it affecting their outlook/sense of enclosure. In addition, the proposal would also comply with paragraph 130 of the Framework that seeks to ensure a high standard of amenity for existing and future users.

Water and carbon reduction measures

18. The appellant within their submission proposes to reduce carbon dioxide (CO₂) emissions through the use of a renewable energy source, building design and other technologies, although it is recognised that an Energy Statement has not been provided, and there are no precise calculations on the exact CO₂ reductions achievable from the proposals.
19. It has also been stated by the appellant that smart fittings are to be used to limit water consumption to 110 litres a day, with some projected water consumption limits for possible fittings provided.
20. In the circumstances, particularly in view of the details already submitted, had I been minded to allow the appeal, planning conditions could have been used to secure reductions in water consumption and CO₂ emissions. Accordingly, the scheme could be designed to ensure that the proposed development was acceptable in terms of water efficiency and carbon efficiency measures, and comply with Policies 31 and 33 of the SLP and Policies SI 2 and SI 4 of the LP, that amongst other things require reductions in CO₂ emissions, for development to reduce its contribution to a heat island effect in this urban area, and to limit water consumption to 110 litres per day.
21. The Council referred to Policy 32 of the SLP and Policy SI 1, SI 12 and SI 13 in their reason for refusal. Policy 31, SI 12 and SI 13 are mainly concerned with flood risk and sustainable drainage. Policy SI 1 relates to air quality. I did not find these policies to be determinative in regard to reductions in CO₂ emissions and water consumption.

Other Matters

22. The concerns expressed regarding the Council's conduct during the processing of the pre-application enquiry and planning applications fall outside of the remit of this Decision.
23. The appellant has referred to developments at Nos 4, 7, and 8 Latimer Close. No. 8 has had extensions, including dormer roof extensions added to it, and No. 4 has had a single storey extension to its rear elevation. Although these extensions have increased the size of the properties, they still have a street frontage presence, unlike the appeal proposal. I note that the boundary between No.7 and No.8 has been altered to give No.7 a larger area, and that there are some large garages/outbuildings to the rear of these properties, one of which the appellant suggests is being used for a guitar business. Whether there is a business operated or not, these are outbuildings for existing dwellings located behind them and they are not separate dwellings, unlike the appeal proposal. Consequently, I do not find these examples to be comparable to the appeal.
24. Whether or not a commercial use would be permitted on the appeal site has no bearing on the planning merits of this appeal. That would be an entirely separate proposal and not the subject of this appeal.

25. My attention has been drawn to planning permission being granted for a dwelling to the rear of No. 22 and 22A Dalmeny Road, adjoining 127 Tudor Avenue. Whilst that proposal is behind Nos 22 and 22A, it has a street frontage onto Tudor Avenue, which is distinctly different to the appeal proposal. That example is not comparable to the scheme before me.
26. I note the appellant's comments that there are no highway safety objections raised by the Council in light of the additional parking information; that no sun lighting or day lighting assessments have been requested; the development would be within the ownership of No. 5 Latimer Close; that level access can be provided; that it is possible for emergency services to access the proposed dwelling; there were no trees in the rear garden when they purchased the site; that the proposal would meet relevant fire safety policies; there would be no damage to other properties; the scheme would be designed to the highest standards to limit flood risks to other infrastructure, and that the appellant wishes to deliver good quality development. However, these factors would be likely to be required of any well-designed development. An absence of harm in respect of these matters is neutral in the overall planning balance, neither weighing in favour of, or against the proposal.
27. It has been said by the appellant that No. 5 Latimer Close could be extended using permitted development rights, which could have a greater effect upon the character and appearance of the area than the proposal. No precise details of such extensions or confirmation of whether such extensions can be made to the property have been provided. Moreover, if extensions were possible as permitted development, these would not allow the erection of a new dwelling or the subdivision of the domestic curtilage, like the appeal proposal. Consequently, that argument has not altered my findings on the appeal scheme.

Conclusion

28. For the reasons outlined above, the proposed development conflicts with the development plan taken as a whole and the Framework. There are no other considerations which indicate a decision other than in accordance with the development plan and the Framework. I therefore dismiss the appeal.

A Hunter

INSPECTOR