



Appeal Decisions

Site visit made on 20 September 2023

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2023

Appeal A Ref: APP/P5870/W/23/3315136

39 Oldfields Road, Sutton, SM1 2NB

- 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 Miheer Mehta (Sterling Rose Homes Ltd) against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2022/00914, dated 13 May 2022, was refused by notice dated 8 August 2022.
 - The development proposed is described as the 'construction of a 2 x 2 bed houses (2 storey 70sqm).'
-

Appeal B Ref: APP/P5870/W/23/3315820

39 Oldfields Road, Sutton, SM1 2NB

- 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 CP Park Road Ltd against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2022/00004, dated 18 January 2022, was refused by notice dated 7 October 2022.
 - The development proposed is described as '2 new houses to front'.
-

Decision

1. Appeal A is dismissed. Appeal B is dismissed.

Application for costs

2. In relation to Appeal B, an application for costs was made by CP Park Road Ltd against the Council of the London Borough of Sutton. This application is the subject of a separate decision.

Preliminary Matters

3. Both appeals relate to the existing bungalow and curtilage at No.39 Oldfields Road. Appeal A includes part of the existing rear garden and Appeal B covers the existing front garden, dwelling and the remaining part of the rear garden. There is no overlap between the proposed appeals in terms of their site areas. However, to reduce repetition and for the avoidance of doubt, I have dealt with the two appeals together.
4. A revised National Planning Policy Framework (the Framework) was published by the Government after the determination of the planning applications. It does not raise any new considerations in relation to these appeals.

Main Issues

5. The main issues are the effect of the proposed developments on a) the character and appearance of the area; and b) the living condition of future occupants. In the case of Appeal A only, there is an additional main issue regarding the living conditions of neighbouring occupiers.

Reasons

Character and Appearance

6. No.39 Oldfields Road is located within an area that comprises both residential properties and also some commercial uses, including a McDonald's Drive-Thru' and Tesco superstore further to the north of the appeal sites. The A217 road is a somewhat dominating and additional urbanising presence in the area. Nevertheless, houses in Oldfields Road and Willow Walk are generally set back within their plots and have well sized rear gardens. These gardens not only provide usable garden space but also a degree of separation and privacy for occupants. This is particularly evident in the case of the rear garden of No.39, which also provides a visual separation between houses in Oldfields Road and Willow Walk.
7. In contrast to the prevailing character and pattern of development in the area, the proposed dwellings for Appeal A would have particularly short rear gardens. These houses would not only add a substantial amount of built development to what is currently an important visual break in the street scene, they would also substantially reduce the remaining garden of No.39. As a consequence, the small gardens that would be available to the houses in Appeal B would then similarly fail to reflect the spacious qualities of the local area.
8. I accept that in an area such as this, new buildings do not necessarily have to completely replicate the appearance of existing buildings. However, regardless of their appearance, given the proposed scale of built form, the particularly short rear gardens and the consequential lack of space around and between properties, the proposed developments would appear squeezed within their obviously constrained plots when compared to the established street scene.
9. Much of the garden space in Appeal A is positioned to the side rather than to the rear of the proposed dwellings. This further demonstrates the difficulty in achieving the proposed scale of development on this site whilst still respecting the prevailing pattern of development and the spacious character of the area.
10. The appellant draws attention to the perimeter block layout and the proposals' adherence to building lines. My attention has also been drawn to both the Mayor of London's guidance on small sites and the contribution small sites can make more generally to an area's housing supply and mix. However, these factors do not mitigate for the clearly squeezed in and cramped appearance of both schemes when compared to the prevailing pattern and character of the area.
11. In relation to this first main issue, I find the proposals would be out of keeping with, and harmful to, the prevailing character and appearance of the area. Accordingly, they are contrary to Policies H1, H2, D3 and D4 of the London Plan 2021 (LP) and Policies 1, 7, 9, 10 and 28 of the Sutton Local Plan 2018 (SLP). These policies, amongst other things support appropriate windfall sites that deliver well-designed schemes that respond positively to the area, and which

do not detract from local character. Appeal A would also be contrary to Policy 13 of the SLP which seeks to prevent the loss of back garden land that makes a contribution to the wider area.

12. For similar reasons the proposals would also be contrary to the Council's Supplementary Planning Document 'Creating Locally Distinctive Places' 2008 (SPD).

Living Conditions – Future Occupants

13. Policy 9 of the SLP requires each new dwelling to provide an appropriate amount of what it describes as 'private amenity space' for new residential units. Further details are set out in the SPD, which establishes that for dwellings of the size proposed in Appeal A, each two-bedroom dwelling should provide at least 40m² of private amenity space. For each house with 3 or more bedrooms (such as those for Appeal B), the requirement is 70m².
14. It is indicated that approximately 187m² of private amenity space for Appeal A and 120m² for Appeal B would be provided. However, these figures do not appear to comprise just the private rear gardens to each of the dwellings. The appellant has included within their space calculations the areas to the front of the dwellings. However, having regard to the SPD, such areas would represent semi-private space and so should be excluded from the private space calculation.
15. In the case of Appeal A, the large communal garden positioned between the dwellings and the new rear garden boundary to No.39 is also included within the 187m² figure. Whilst this space might be for the exclusive use of the occupants of the two dwellings, it would nonetheless be a shared space between these occupants. As such it would not represent private space in the way envisaged in the SPD given that it would be shared. Furthermore, its positioning to the side of the dwellings rather than to the rear would be contrary to the SPD as it would reduce the degree of privacy users might enjoy.
16. In addition, this communal space would be physically separated from the northern dwelling and so would be a less practical and attractive option for those occupants, particularly a family. Indeed, given that the proposed dwellings could accommodate a small family, it seems to me that the size and configuration of the rear garden areas that would be provided would be insufficient for the range of uses that a family may reasonably require.
17. For Appeal B, the rear gardens are shown as being 35.5m² and 25.5m². Even if the car parking space from one of the rear gardens were to be omitted so that its shape were more usable, it is not clear that this would achieve the required 70m² per dwelling. It seems to me that neither rear garden would achieve the required minimum. As with Appeal A, the private amenity space that is provided for the houses in Appeal B would be constrained and unlikely to fully serve the needs of future occupants.
18. Whilst the SPD is guidance, Policy 9 directly links to it. Furthermore, given my assessment of the character and appearance of the area and the absence of substantive evidence to indicate why the guidance would not be appropriate in these cases, it is reasonable that I take the SPD fully into account.

19. Therefore, on this main issue I find that there would be insufficient private amenity space to serve the dwellings for either scheme. This would be harmful to the living conditions of future occupants. The proposals are therefore contrary to Policy D6 of the LP and Policy 9 of the SLP which, amongst other things, require housing developments to provide comfortable and functional layouts which are fit for purpose, including adequate amounts of private amenity space.
20. In providing insufficient levels of private amenity space the proposals are also contrary to the SPD.

Living Conditions - Neighbours

21. The upper floor bedroom windows for the houses in Appeal A would be designed to prevent direct overlooking of the rear garden to No.37 Oldfields Road. Notwithstanding the fact that this would potentially restrict light to the bedrooms, the angled projection of the windows would direct views across the backs of the adjacent properties in Willow Walk. Whilst there is a degree of mutual overlooking in the area, having rear windows positioned directly towards adjacent properties in the manner proposed would not be reflective of the area or particularly neighbourly.
22. The side elevation of the southernmost dwelling would be set slightly away from the proposed new boundary with No.39. The separation distance is not overly large and so the side elevation of the proposed dwelling would be a sizeable presence when viewed from the garden of No.39. This would result in a greater sense of enclosure and diminished outlook when compared to the existing situation. This tips over into having a materially harmful effect on the living conditions of future neighbours.
23. I find that the constraints of the site and the scale of development proposed in Appeal A would cause harm to the living conditions of neighbouring occupiers. Accordingly, the proposal is contrary to Policy 29 of the SLP which, amongst other things, seeks to ensure new development does not adversely affect neighbouring residents through such matters as creating overlooking or a sense of enclosure or harming outlook.

Other Matters

24. The proposals would accord with the Framework's support for housing, for windfall sites and for making efficient use of land. The Framework recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly by small housebuilders. This attracts a small amount of positive weight.
25. The issues of carbon emissions, sustainable drainage, water efficiency and biodiversity were raised by the Council in relation to Appeal A. Both sides provided submissions to support their own stance. However, even if I were to find in favour of the appellant in relation to these matters, it would not overcome the harm I have identified nor my conclusions in relation to the main issues of these appeals.
26. The site is said to be within 800m of Sutton Common railway station and would diversify the type and mix of housing in the area. In the case of Appeal B, the appellant points to the submitted Flood Risk Assessment. However, these were

not contentious issues in relation to the appeals and so would be neutral factors in the overall balance.

27. I note that Appeal A is a revision of an earlier scheme for two three-bedroom houses on that site. However, despite the reduction in the size of the dwellings, the alteration to the windows on the rear elevation and reduced amount of private amenity space required to serve the dwellings, the proposal is harmful to the character and appearance of the area, as well as the living conditions of neighbours and future occupants of the dwellings.
28. I have not had further regard in this decision to concerns over how the Council handled the applications. I have focused on the planning merits of the schemes in regard to the main issues of the cases.

Conclusion

29. Whilst there would clearly be some beneficial aspects of the schemes, considered overall the developments would cause harms which would conflict with the development plan when taken as a whole. There are no other material considerations, including the Framework, which lead me to determine the appeals other than in accordance with the development plan.
30. For the reasons given above, I conclude that both appeals should be dismissed.

Stewart Glassar

INSPECTOR