



Appeal Decision

Site visit made on 10 October 2023

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2023

Appeal Ref: APP/P5870/W/23/3320331

Broadlands Nursing Home, 51 Burdon Lane, Cheam, Sutton SM2 7PP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Aims Care Group Ltd against the decision of the Council for the London Borough of Sutton.
 - The application Ref DM2022/01162, dated 14 July 2022, was refused by notice dated 5 December 2022.
 - The development proposed is an outline application to determine access, appearance, layout and scale for the demolition of existing care home and erection of 2 detached 8 bedroom care homes.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought with the only matter reserved being landscaping.
3. The address in the banner heading above has been taken from the application form, albeit that the reference to Sutton has been made after Cheam rather than preceding as shown on the application form.

Main Issues

4. The main issues are the impacts of the proposal on i) the character and appearance of the area, with specific regard to Burtons Estate Area of Special Local Character (ASLC); ii) the living conditions of nearby residents with specific regard to outlook, overbearing and privacy; iii) sustainability; iv) ecology and biodiversity; v) highway safety; vi) fire safety; and vii) flooding and drainage.

Reasons

Character and appearance

5. The appeal site is a large plot sandwiched between Burdon Lane and Manor Road in Cheam and is accessed via the northern side of Burdon Lane. The surrounding area consists of mainly residential units occupied by detached properties on generous plots. The site is currently occupied by a large detached building which has been subject to several extensions over time. The property was last in use as a care home and contains forecourt parking to the front of the building. The proposal would demolish the existing sprawling property and

- replace with two smaller detached 8 bedroomed care homes, over four floors with habitable space in the basement, ground floor, first floor and roof levels.
6. The site is located within the Burdon Estate ASLC, which consists of properties with an Arts and Crafts style, of mainly low density detached housing. One of the most significant characteristics of the area is its attractive open and spacious nature. The appeal site occupies a significant plot with a width which lends itself to subdivision. Whilst the proposal would provide an additional dwelling on the site, the layout of the proposed units does not appear cramped. The dwellings are adequately spaced, set off the boundaries and away from one another, in excess of the 1m provision as set out in the ASLC appraisal¹.
 7. It is acknowledged that the proposal would sit forward in the site in comparison to the existing property, however the proposal still respects the overall building line along Burdon Lane and within this context would not appear out of keeping in the street scene. The proposal has large crown roofs in order to provide accommodation within the roof space. This is generally not a feature of the surrounding area, however the sympathetically pitched roofs and use of the gables to the front and rear provide a degree of articulation that breaks up the overall bulk and mass at this level. As such, the proposal would not appear out of proportion to the street scene in general.
 8. The design of the dwellings has sought to replicate the Arts and Crafts style found within the ASLC through the provision of an asymmetric design and the incorporation of tiled roof forms. The design has wide windows providing a horizontal emphasis, and large overhanging porches suspended on brackets to complement the surrounding dwellings. The use of materials such as facing brick, brick quoins, render and plain roof tiles provide features and detailing, which whilst modern, reflect the period features of the original properties in the street in order to maintain a cohesive visual appearance.
 9. Overall, I conclude that the proposed development would represent a high standard of design and would contribute positively to sustainable growth, whilst respecting the local context and responding to local character including the Burdon Estate ASLC. Consequently, I find no conflict with Policies 1, 28 and 30 of the London Borough of Sutton Local Plan 2016-2031 (SLP), adopted February 2018 and Policies D3 and D4 of The London Plan (LP), adopted March 2021. Nor do I find conflict with the aims and objectives of the Sutton Urban Design Guide, Supplementary Planning Document (SPD) 14 Creating Locally Distinctive Places and the Burdon Estate South Cheam ASLC, which amongst other things, requires new development to be of a high-quality design that makes a positive contribution to the character and appearance of its surroundings. Furthermore, the proposal would accord with the National Planning Policy Framework (the Framework) which also seeks to secure high quality design, whilst taking into account the local character and reflecting the local surroundings.

Living conditions

10. The properties either side of the appeal site, at Nos 49 and 53 Burdon Lane are domestic in nature and have several windows at the rear. I have been provided with no definitive evidence in respect to the use of the rooms at the rear of these properties, and whether the windows serve habitable rooms. It is unlikely

¹ The Burton Estates South Cheam Area of Special Local Character (ASLC), Character Appraisal - V1-5 May 2017

these rear rooms would receive additional light or outlook from a separate room or window, given that they do not appear dual aspect and these rear windows would provide their only outlook. As such, I have adopted a precautionary approach. Consequently, any increase in height and mass at the appeal location would have a significant impact on the outlook from these properties by enclosing views.

11. The proposal sits back further in the site than the existing property, and whilst it is acknowledged that part of the rear elevations of the proposal are single storey, the scheme provides a significant increase in bulk and mass at the first floor and roof levels. The design would lead to a stark two-storey flank elevation in close proximity to the rear elevations and gardens at Nos 49 and 53, in contrast to the relationship with the existing building, providing a substantial increase in height and mass. This relationship would provide an oppressive presence near to these properties, looming over the boundary fences, resulting in a poor outlook. The presence of the additional bulk and mass in this location would leave these occupants feeling hemmed in due to a heightened sense of enclosure and the dominance of the proposal, to the detriment of their living conditions.
12. Furthermore, the proposal also includes several windows on the rear and flank elevations at the upper floor level facing Nos 49 and 53 and their gardens, that would result in a loss of privacy for these neighbours. The windows serve single aspect rooms including bedrooms and bathrooms. Whilst the bathrooms could be obscured glazed by way of a condition, to mitigate overlooking and loss of privacy, the same cannot be said for the bedroom windows, as this would have a detrimental impact on the living conditions of any future residents due to a poor outlook. The flank windows in Building 1 and 2 would also face one another at close quarters, providing mutual views and reducing privacy within the development itself.
13. With regard to the effect on No 54 Manor Road, I find that the orientation of the property in comparison to the proposal, and the presence of a well-established green boundary, would provide an effective screen between the properties. That, coupled with the relative distance between these properties would provide only oblique views to and from the proposal, thus would not have a detrimental effect on the living conditions of these residents in terms of outlook and privacy.
14. Overall, the limited separation between Nos 49 and 53 and the proposal, combined with the increased number, size and positioning of the proposed windows, would mean that there would be a significant increase in overlooking between the neighbouring properties at relatively close quarters. As such, the development would harm the living conditions of the nearby residents due to a loss of outlook, loss of privacy and overbearing presence. This would be contrary to SLP Policy 29 and paragraph 130 f) of the Framework which, amongst other matters, seek to ensure that new developments protect the living conditions of occupiers of neighbouring dwellings from loss of privacy and expects new developments to secure a high standard of amenity for existing and future users.

Sustainability

15. Policy SI2 of the LP sets out that new development should be net zero-carbon and achieve a target of a minimum on-site carbon reduction of at least 35%

beyond Building Regulations. The policy further seeks to include a combination of energy efficiency and on-site carbon reduction measures, in accordance with the energy hierarchy.

16. SLP Policy 31 also requires all planning applications for new dwellings to be supported by an Energy Statement to demonstrate how the relevant targets for reducing CO₂ emissions will be met. Where it is clearly demonstrated that the zero-carbon target cannot be fully achieved on-site, any shortfall should be provided through the delivery of CO₂ reduction measures elsewhere through a contribution to the Council's carbon offset fund through a planning obligation.
17. I have not been provided with any information in respect to whether the proposal would include measures to achieve a minimum of 35% on-site carbon reduction below the Building Regulations baseline, nor whether it would include any means of renewable energy generation. Furthermore, even if I was to accept that the proposal would trigger a requirement for a carbon offset contribution in accordance with LP Policy SI2 and SLP Policy 31, I have not been provided with a signed planning obligation in this instance. As such, there is no mechanism by which to secure any payment. Therefore, I must conclude that the proposal would fail to include appropriate measures to mitigate the effects of the development on climate change.
18. It would therefore conflict with the relevant provisions of Policies SI2, SI3 and SI4 of the LP which require the efficient use of energy, minimising greenhouse emissions and managing heat risk. It would also conflict with SLP Policies 31 and 33 which requires new development to be resilient to the future impacts of climate change, and where it is unable to reduce on-site carbon emissions by specific levels, to make a carbon off-setting payment secured by a legal agreement.

Ecology and biodiversity

19. From the evidence before me, there is no information in the form of a preliminary ecological appraisal or other similar ecological assessment to establish the biodiversity value of the site, or indeed if any protected species, priority species or priority habitats are present on site. As such, an assessment of ecology and biodiversity could not be reasonably undertaken. Without robust evidence, I cannot be confident that development could be carried out in this location without adversely affecting species and habitats that may be present on site, or whether any suitable mitigation measures could be provided. Given this uncertainty, I am not satisfied that it would in this case, be appropriate to defer consideration of this matter to a planning condition.
20. Accordingly, I am unable to conclude that the proposed development would not result in adverse impacts on ecology and biodiversity. Therefore, I find that the proposal would conflict with SLP Policy 26 and Policy G6 of the LP, which seek to manage impacts on biodiversity and natural habitats and aim to secure net biodiversity gain. I find it would also conflict with the Framework, which sets out the principles for the determination of planning applications to protect and enhance biodiversity.

Highway safety

21. LP Policy T4 highlights that development proposals should not increase road danger. SLP Policy 36 further highlights that proposals will be assessed for their

impact on the highway and public transport network, with major developments requiring Transport Assessments (TA) and Travel Plans (TP) to show how they propose to manage and mitigate the transport impacts of their development.

22. No information has been supplied in the form of a TA or TP, and whilst it is acknowledged that the proposal would provide 7 on-site car parking spaces, I have been supplied with limited information in regard to parking layout, visibility splays, availability of roadside parking or any swept path analysis. As such, it has not been demonstrated whether adequate visibility splays exist on-site; whether there is an adequate provision for on-site parking to ensure no additional congestion is caused, as drivers seek parking spaces in the area, or park illegally; nor evidence in respect to the provision of swept path analysis to ensure safe access and egress or the ability to turn on site, given the reduction in forecourt area.
23. As a result, I cannot be certain that either parking provision or access arrangements would be safe and meet the required standards, so as to not have a negative impact on highway safety. The proposal would therefore conflict with the relevant sections of LP Policy T4 and SLP Policy 36 which together, amongst other things, require safe access and seek to ensure developments do not harm highway safety. Furthermore, the proposal would be contrary to Paragraphs 110 and 111 of the Framework, which amongst other things, seek to ensure that developments are not permitted if there would be an unacceptable impact on highway safety.

Fire safety

24. No information has been provided to demonstrate how the proposal would comply with the provisions of LP Policy D12 B. Consequently, I cannot be sure on the basis of the information before me that the proposal would, or could be made to, comply with the provisions of Policy D12 B. The use of a planning condition to secure details in respect of this would therefore not be appropriate.

Flooding and drainage

25. LP Policy SI12 and SLP Policy 32 requires proposed developments to avoid or minimise all sources of flood risk and to direct development away from areas of highest flooding risk. SLP Policy 32 also requires development to include Sustainable Drainage Systems (SuDS) as part of the design and layout of the development in order to manage surface water run-off. This approach is consistent with the Framework.
26. No evidence has been supplied in respect to a flood risk assessment or SuDS details. Details would be required in respect to surface water runoff and groundwater levels, given the provision of basements within the development to ensure that there are no unacceptable risks to either. Without the appropriate information in respect to things such as soakage testing or surface water management I cannot be confident that development would be either appropriately flood resistant or resilient. Consequently, I must adopt a precautionary approach and conclude that the development would be at risk from flooding.
27. I acknowledge that conditions could be used to ensure that otherwise unacceptable development could be made acceptable, for example on receipt of further detailed technical information. However, given the lack of assessment

in respect to flooding risks, soakage testing and infiltration potential, I cannot be sure that conditions would be sufficient to make the development acceptable and remedy any flooding impacts so that permission can be granted.

28. Consequently, there is insufficient information supplied in relation to flooding and drainage, and thus would be contrary with the relevant sections of LP Policy SI12, SLP Policies 32 and 33 and the Framework which among other things seek to ensure flood risk is minimised and mitigated, and that residual risk is addressed. However, I do not find conflict with LP Policy D10 which appears to be a more strategic policy requiring Local Planning Authorities to establish policies within their own plans to address impacts of basements where they are a local issue.

Other Matters

29. There is dispute between the parties over the validity of the application. However, Section 79 (6) of the Town and Country Planning Act 1990 provides discretion for the decision maker to decline to determine an appeal or proceed with its determination, if it emerges during the appeal process that planning permission could not have been granted by the Local Planning Authority. In any event, as I am dismissing the appeal for the above reasons, I do not need to consider this matter further, as no significant likely effects would arise from my decision.

Conclusion

30. The proposed development conflicts with the development plan when taken as a whole, and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict. The scheme also fails to accord with the requirements of the Framework.
31. For the reasons given above I conclude that the appeal should be dismissed.

Robert Naylor

INSPECTOR