



Appeal Decision

Site visit made on 30 April 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 May 2024

Appeal Ref: APP/P5870/W/23/3327863

122 Church Hill Road, North Cheam, Sutton SM3 8NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of a prior approval.
 - The appeal is made by Mr David Robinson of Alpine Dental against the decision of the Council of the London Borough of Sutton.
 - The application Ref CLC2023/00033 sought approval of details pursuant to Condition Nos 1 and 2 of prior approval Ref DM2021/02273.
 - The application sought prior approval for the part change of use of ground floor unit class E(a)/E(c) to 1 self-contained flat with cycle storage and refuse provision.
 - The details for which approval is sought are secure cycle storage and construction logistics plan.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Details were submitted for approval in respect of conditions imposed on prior approval reference DM2021/02273. Details relating to Condition 2 (secure cycle storage) are not in dispute and I have no reason to disagree with those findings. Matters in dispute relate to Condition 1 (construction logistics plan).
3. Condition 1 states that: *'No development shall begin, including demolition and site clearance works, until a Construction Logistics Plan (CLP), to include details of: (a) loading and unloading of plant and materials; (b) storage of plant and materials; (c) programme of works (including measures for traffic management); (d) provision of boundary hoarding, behind any visibility zones of construction traffic routing; (e) hours of operation; (f) means to prevent deposition of mud on the highway have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved statement.'*
4. The reason given for the condition is: *'To ensure that the proposed development does not interfere with the free flow of traffic and conditions of safety on the public highway, and to ensure the development process does not have a significant adverse impact on the amenities of nearby residential properties.'*

Main Issue

5. The main issue is whether the submitted Construction Logistics Plan is sufficient in the interests of the free flow of traffic and highway and pedestrian safety.

Reasons

6. The appellant has submitted a Construction Logistics Plan. This sets out that delivery times would be restricted so that no traffic would deliver to site or arrive in proximity to the site during peak traffic periods (described as 'AM and PM rush hour').
7. I concur with the Council that the AM and PM traffic periods specified are not adequately specific. I acknowledge the appellant's position that rush hour may vary in different locations based on school timings and other factors. However, the site access is very constrained, located off a busy two-way road, with bus route, and along a narrow alleyway used by pedestrians. Moreover, Cheam High School is located very close to the site.
8. I visited the site mid-week, during the afternoon. At that time there were high numbers of school pupils using the highways and footways surrounding the appeal site, including the adjacent alleyway (which, according to signage, is also a public bridleway). Several buses were parked near to the site entrance, restricting visibility and traffic flow at times. The time of my visit, along with the morning school travel period, is likely to be the busiest time in this area in terms of pedestrian movement. It is therefore reasonable to expect more specific delivery times within a submitted CLP to minimise potential conflict with traffic and pedestrian flow.
9. I also appreciate that the scheme is relatively minor in nature and note the various other examples of details submitted to the Council for approval at other development sites. Nevertheless, it is not for me to reconsider the prior approval or the necessity of the imposed condition but rather the details submitted in order to discharge that original condition. Moreover, the other examples provided appear to relate to locations which are largely residential in character, often located in cul-de-sacs. As mentioned above, the appeal site is accessed off a busy, mixed-use area which includes a nearby school, and the use of a narrow alleyway used by pedestrians. From that perspective, those other sites, and the associated details submitted, are not directly comparable with the scheme before me.
10. Although a detailed description of the delivery route was provided in the submitted CLP, a plan of the delivery route was not. Without this, there remains some uncertainty as there are multiple alleyways and rear routes available. I note the submission of an indicative delivery route within the appeal documentation. However, this was not before the Council at the time it determined the application. Even were this matter found to be acceptable, it would not overcome the matters discussed above in respect of delivery times.
11. Overall, I have insufficient information before me to conclude that there would be no harm to traffic flow or highway safety as a result of the development, contrary to the relevant provisions of Policy 36 of the Sutton Local Plan 2016-2031 (adopted 2018). This policy, in part, requires the potential impacts from the construction of new developments to be set out and addressed.

Other Matters

12. That the site does not comprise any heritage designations does not change my conclusion in respect of the main issue.
13. I acknowledge the appellant's argument that the Council could have made contact during the course of the application or included a further condition to limit delivery times. I also note that the site would provide a contribution to housing supply in the borough. Nevertheless, these matters have not led me to an alternative conclusion. In particular, the principle of development is not in dispute. Matters relating to unreasonable behaviour would be best dealt with via a costs application.

Conclusion

14. For the reasons above and having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR