



Appeal Decision

Site visit made on 29 February 2024

by David English BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2024

Appeal Ref: APP/P5870/W/23/3328083

127 Woodcote Road, Wallington, Sutton SM6 0QD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mrs Diane Oliver against the decision of the Council of the London Borough of Sutton.
 - The application Ref. is PIP2023/00001.
 - The development proposed is the demolition of existing semi-detached house and replacement block of 2 flats, erection of detached 3-storey block of 5 flats, provision of 7 car parking spaces, 11 cycle store spaces, refuse storage, and modified vehicular site access.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mrs Diane Oliver against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. The Government published a revised version of the National Planning Policy Framework (the Framework) in December 2023. Whilst this made certain revisions to aspects of national planning policy, the provisions in respect of the main issues in this case are largely unchanged. I am satisfied that there is no requirement to seek further submissions on the revised Framework from the parties, and that no party would be disadvantaged by such a course of action.
4. The proposal is for permission in principle (PiP). The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The PiP consent route has two stages: the first stage establishes whether a site is suitable in-principle and the second, Technical Details Consent (TDC) stage, is when the detailed development proposals are assessed. This appeal relates to the first of these stages.
5. The scope of the considerations for PiP is limited to location, land use and the amount of development proposed. All other matters are considered as part of a subsequent TDC application if permission in principle is granted. I have determined the appeal accordingly.
6. Plans, elevations, and a layout of the buildings described in the application were provided to demonstrate how the site might be developed. I have treated this information as illustrative.

Main Issues

1. The main issues relating to the location, land use and amount of development proposed are:
 - whether the proposal would be consistent with the Council's development strategy concerning the housing mix in new residential development;
 - the effect of the continued use of existing adjacent business premises on the living conditions of future occupiers of the proposed dwellings in respect of noise and disturbance;
 - the effect of the proposal on the character and appearance of the area; and
 - whether the proposal would provide satisfactory living conditions for future occupiers in respect of internal space and outlook;

Reasons

7. The proposed scheme would create 7 new flats in two separate buildings and, notwithstanding the dilapidated and currently uninhabitable state of the existing building at the front of the site, this would equate to a net gain of 6 dwellings. Although the description of the proposal makes no reference to the number of bedrooms proposed in each of the dwellings, the illustrative plans show the proposed scheme to include two 3-bedroom dwellings.
8. The appellant's evidence confirms the intention to make provision for two 3-bedroom dwellings, with the remainder being smaller units. Their submissions acknowledge that this would be below the expectations of Policy 9 of the Sutton Local Plan 2016 – 2031 (February 2018) (the LP) which requires that all housing developments outside Sutton Town Centre should seek to provide a minimum of 50% of all dwellings on the site as having three bedrooms or more, unless it can be demonstrated that this would be unsuitable to the location or not viable. The appellant contends that the location is unsuitable for the provision of 50% 3-bed dwellings and that such a scheme would be unviable.
9. The proposal would equate to a provision of 28.6% 3-bed dwellings. This falls significantly below the requirements set out in LP Policy 9. I do not find the location to be unsuitable for the provision of 3-bed dwellings. I acknowledge the contribution small sites make in meeting housing requirements and that this role is supported through paragraph 70 of the Framework. However, I have seen little evidence that would justify the appellant's claims in respect of the suitability of the location. Moreover, I have not been presented with any compelling evidence why it would not be viable to provide accommodation in line with the requirements of the development plan.
10. I note that reference is made to recent development nearby at 248 Woodcote Road where the requirements of LP Policy 9 were not met. However, notwithstanding its proximity to the appeal site, I do not consider this example in itself to be sufficient reason to deviate from the requirements of Policy 9 of the LP which clearly sets out the housing mix for the Borough required during the plan period. I am therefore not satisfied that the appeal proposal would

deliver a range of house types and sizes that reflect and respond to the identified housing needs of the area.

11. On this main issue I conclude that the proposal would not be consistent with the Council's development strategy concerning the housing mix in new residential development. Accordingly, the proposal would conflict with Policy 3 of The London Plan (March 2021) (the London Plan) and LP Policy 9 which promote a design-led approach requiring consideration of design options to determine the most appropriate form of development that responds to a site's context and capacity for growth; and that all developments outside Sutton Town Centre should seek to provide a minimum of 50% of all dwellings on the site as having three bedrooms or more, unless it can be demonstrated that this would be unsuitable to the location or not viable.

Living conditions for future occupiers (noise and disturbance)

12. Paragraph 193 of the Framework requires planning decisions to ensure that new development can be integrated effectively with existing businesses, to prevent unreasonable restrictions being placed on them as a result of development permitted after they were established.
13. The PPG provides clear advice on the appropriate approach to be taken at the application stage when considering the likelihood of existing businesses causing a nuisance in respect of noise, amongst other things, on residents of a proposed scheme¹. In such circumstances the applicant (or 'agent of change') will need to clearly identify the effects of existing businesses that may cause a nuisance, and the likelihood that they could have a significant adverse effect on new residents. In doing so, the PPG further advises that the agent of change will need to take into account not only the current activities that may cause a nuisance, but also those activities that businesses are permitted to carry out, even if they are not occurring at the time of the application being made. The PPG also explains² that the planning process should be used to avoid 'significant observed adverse effect' levels occurring where noise sensitive development is proposed in proximity to existing noise sources.
14. The appeal site adjoins premises at 129 Woodcote Road described by the Council as a builder's yard. The appellant suggests that these premises are primarily in use as an office. However, I note that the occupier of No 129 made representations following consultation on the planning application which state that the premises are in use as an office and yard. During my site visit I saw signage at No 129 indicating the premises to be a 'Building Contractors' and, whilst there was little activity during my site visit, it was evident that materials were being stored in the yard to the rear of the main building.
15. I have not been provided with evidence to describe the planning status of No 129. However, it seems clear from my observations, from the information I have seen, and from the various descriptions given by the main parties about the use of those premises, that their use is associated with the building trade and that this includes an element of open storage. The potential therefore exists for noise and disturbance to be generated which could be harmful to the proposed noise-sensitive development.

¹ PPG Paragraph: 009 Reference ID: 30-009-20190722

² PPG Paragraph: 005 Reference ID: 30-005-20190722

16. A noise assessment to demonstrate how potential noise and disturbance arising from the Building Contractors business may affect the future occupiers of the proposed dwellings has not been presented. Furthermore, the appellant has not sought to clearly identify the effects of this existing business that may cause a nuisance, and the likelihood that these could have a significant adverse effect on new residents.
17. Notwithstanding the appellant's suggestion that this is not a matter relevant to the determination of the principle of development, I am satisfied that, having regard to advice in the Framework and the PPG, this matter would be required to be resolved at this stage. This is because the impact of neighbouring uses would contribute to determining whether the appeal site is a suitable location for residential development.
18. In the absence of any evidence to the contrary, I cannot conclude that the continued use of existing adjacent business premises would not adversely affect the living conditions of the future occupiers of the proposed dwellings in respect of noise and disturbance. The proposal would therefore conflict with Policy D13 of the London Plan and Policy 34 of the LP, which collectively, amongst other things, place the responsibility for mitigating impacts from existing noise generating activities or uses on the proposed new noise-sensitive development and not to put unreasonable restrictions on existing businesses; and require that all planning applications for noise-sensitive developments located near to an existing noise-generating activity to be accompanied by a Noise Assessment, which should determine whether the overall effect of noise exposure would be above or below the 'significant observed adverse effect' and 'lowest observed adverse effect' levels as described in the PPG.

Character and appearance

19. The Council describes the location of the appeal site as an area of transition between taller, relatively modern flatted development and more traditional older two-storey terraced dwellings. Its concern is that, amongst other things, the loss of this back garden area would conflict with Policy 13 of the LP which seeks to prevent development on rear gardens where the site, either individually or as part of a larger street block, makes an important contribution to the character and appearance of the surrounding area.
20. The Council considers that the scheme would result in development that creates an urban grain contrary to the prevailing pattern of development within the area. However, from my observations of the appeal site and the surrounding area, it appeared to me that the pattern of development locally is somewhat mixed in terms of its scale, design, form, appearance, and the disposition of buildings within their plots. I saw that backland forms of residential development, where one dwelling sits behind another and has no direct road frontage, were evident locally along Woodcote Green.
21. This variety of building form and the space around buildings, particularly that seen as part of adjacent and nearby flatted developments and the space to the front of Wallington High School for Girls, contributes positively to the pleasant, verdant character of the area. The feeling of general openness surrounding buildings in the vicinity is complemented by the presence of several street trees along Woodcote Road and by the relatively large open space at Woodcote Green.

22. In contrast to the locally significant openness, the appeal site is largely screened from view from public vantage points along Woodcote Road by tall solid security boards. These appear to have been in place for some period of time. The solid fencing to the front of the site has the effect of enclosing the site with generally uncharacteristic solid screening, thereby detracting from the otherwise pleasant appearance of the area, including the approaches to the appeal site along Woodcote Road.
23. Overall, in my judgement, in this particular case the character of the area is not defined by the contribution made by rear gardens in the immediate vicinity of the appeal site. Whilst I recognise the Council's concerns regarding the wider effects of the loss of rear gardens on the open and green character across the Borough, in this case I find that opening up the site at its frontage onto Woodcote Road, and the opportunities that would come through additional landscaping were the appeal to be allowed, would enable a scheme that could enhance, rather than detract from the character and appearance of the local area.
24. In my judgement, given the proximity of the five-storey adjacent block of flats at Shirley Heights, the introduction of a three-storey building within the site would not appear out of keeping with its context, nor would it result in a density of development that would be uncharacteristic of the immediate vicinity of the site. Furthermore, I see no reason why well-designed, higher quality new housing could not be provided were the existing dwelling at the front of the site to be demolished. Moreover, the design and layout of that housing is a matter which would more properly be addressed at the TDC stage.
25. On this main issue I conclude that the proposal would not harm the character and appearance of the area. I therefore find that the proposal would not conflict with Policy D3 of the London Plan, nor would it conflict with relevant parts of Policies 7, 10, 13 or 28 of the LP which together, in summary, amongst other things support new dwellings provided the density is suitable to the local character; require that development maintains and seeks to enhance positive features of the area; allow for the loss of residential accommodation where it results in better-designed, higher-quality new housing; seek to protect back garden land where it makes an important contribution to the character and appearance of the surrounding area; support new development which is designed to the highest standard, respects the local context, is of a suitable scale, massing and height to its setting; and support development that makes a positive contribution to the street frontage.

Living conditions for future occupiers (space and outlook)

26. The Council expresses specific concerns in its second reason for refusal about the living conditions that would be created for future occupiers of two of the proposed dwellings as shown on the illustrative plans.
27. However, noting the illustrative nature of the plans and the purpose of, and limitations associated with, the PiP process, these are matters that would be addressed during a subsequent TDC stage were the appeal to be allowed. They do not relate to matters of principle. As such, notwithstanding the detailed nature of the illustrative plans, it would be inappropriate to conclude at this stage, based on that illustrative material, that the internal layout of the proposed dwellings and their disposition within the site could not be achieved in accordance with the relevant development plan policies.

28. On this main issue I am satisfied that, based on the description of development for which PIP was sought, a scheme could be devised which would provide satisfactory living conditions for future occupiers in respect of internal space and outlook. Accordingly, I conclude that the proposal would not conflict with Policies D3 or D6 of the London Plan or with LP Policies 9, 10 or 28 which together, amongst other things, provide minimum space requirements for new dwellings, expect new development to enhance local context, require that the loss of a dwelling may be acceptable where it results in better-designed, higher-quality new housing, and that permission will be granted for new development provided it is attractive and designed to the highest standard.

Other Matters

29. I have had regard to the concerns raised in representations from Woodcote Green Residents' Association and several neighbouring occupiers, including reference to living conditions in respect of privacy, loss of light and overshadowing; loss of trees; car parking provision locally and on the appeal site; and highways safety, amongst other things. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reasons for refusal, which I have dealt with in the assessment above. Whilst I can understand the concerns of these interested parties, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.
30. The proposed development would provide a net increase of six dwellings on this plot where there is currently a single dwelling, albeit that dwelling is in a dilapidated state. The appeal site is in a relatively accessible location in a primarily residential area, and the additional dwellings would bring local economic benefits, including during the construction phase. The proposal would provide an important but modest contribution to the housing supply in this area.
31. However, notwithstanding the lack of harm that would arise to the character and appearance of the area, or my findings in respect of the living conditions of future occupiers regarding internal space and outlook, the proposal would result in an unacceptable mix of housing and the proximity to the adjoining business has the potential to cause harm to future occupiers through noise and disturbance, this matter not having been satisfactorily demonstrated to the contrary. The harms that would arise in these respects would be significant. As such, the modest benefits would not outweigh the significant harm that would arise, contrary to the requirements of the development plan.

Conclusion

32. For the reasons given above, the proposal would conflict with the development plan when read as a whole and material considerations do not indicate that a decision should be taken otherwise than in accordance with it. I therefore conclude that the appeal should be dismissed.

David English

INSPECTOR