



Appeal Decision

Site visit made on 10 July 2024

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 August 2024

Appeal Ref: APP/P5870/W/24/3340425

Magnolia Court, 39 Grange Road, Sutton SM2 6SY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by HJP Surveyors against the decision of the Council of the London Borough of Sutton.
 - The application Ref is DM2023/01136.
 - The development proposed is the erection of 1 new floor to provide 6 self contained residential units.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the erection of 1 new floor to provide 6 self contained residential units at Magnolia Court, 39 Grange Road, Sutton SM2 6SY in accordance with the terms of the application, Ref DM2023/01136, and the plans submitted with it including: Site Location Plan, Block Plan, Proposed Elevations 1, Proposed Elevations 2, Proposed Third Floor Plan.

Preliminary Matters

2. The application form makes reference to the proposal creating 7 new units. However, it is clear from the submitted plans, appeal form and appeal statement that the proposal is for 6 additional units. Moreover, the Council advertised the proposal as 6 units, and assessed it as such. As such, I have considered the proposal on this basis.
3. I have removed the words 'Prior Approval for' from the description above as this does not describe development.
4. Schedule 2, Part 20, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), permits the construction of up to two additional storeys of new dwellinghouses immediately above the existing topmost residential storey on a building which is a purpose-built, detached block of flats.
5. The Council was satisfied that the proposed development complied with the limitations set out in Paragraph A.1. I see no reason to disagree with that conclusion. Among the conditions set out in Paragraph A.2 of Schedule 2, Part 20, Class A of the GPDO is the requirement to seek prior approval of various matters.

6. The Council's concerns relate to the A.2 (1) (e), the external appearance of the building.
7. In refusing the application, the Council cited policies of the Sutton Local Plan (2018) (LP) and London Plan (LDP) (2021). The prior approval provisions do not require regard to be had to the development plan, and I have therefore only had regard to policies of the development plan insofar as they are material to the matters for which prior approval is sought.

Main Issue

8. As such, the main issue is the effect of the proposal on the external appearance of the building.

Reasons

9. The appeal site comprises of a substantial flat roofed three storey residential building of no particular architectural merit. The building faces Grange Road, which is mostly characterised by apartment blocks of varying design and appearance, but usually of a similarly substantial scale with a pitched roof, normally three storey, but with some examples of two storey, some two storey with visible additional accommodation in the roof, and some three storey with further visible additional accommodation in the roof. Whilst the buildings are generally considerable in terms of massing, their common set back from the road and some areas of front landscaping and provide the road with a sense of spaciousness.
10. The additional storey would be seen as accommodation in the new roof space, and the ridge height would not be taller than nearby examples, such as Lorac Court and Camilla Court. When viewed from Grange Road, the pitched roof frontage would improve the appearance of the appeal building and be more in keeping with the surrounding and neighbouring buildings.
11. Whilst the bulk of the roof addition would be more evident from the side service access and rear of the appeal building, it would not represent such a significant increase in bulk nor height to detract from the surroundings when viewed from this direction. The development would therefore assimilate appropriately with the host building and its surroundings without undue prominence.
12. The existing set back from Grange Road and the neighbouring buildings would be retained, and the additional height and bulk would not remove any landscaping nor be sufficient to result in any sense of enclosure or harm the surrounding spacious character.
13. The Council refer to a similar scheme¹ recently dismissed at appeal, however this relates to a proposed 5-6 storey building site close to traditional 2 storey dwellings, and issue is also raised with the 'top heavy' design of the extension. As such, this scheme is not directly comparable to the proposal before me.
14. As such, I conclude that the proposal would not harm the external appearance of the building including the character and appearance of the area. The proposal would accord with the Framework insofar as it broadly seeks well-designed places and requires, amongst other things, development that is

¹ Appeal reference APP/P5870/W/23/3320647

visually attractive and sympathetic to local character. The development would therefore comply with condition A.2(1)(e) of Schedule 2, Part 20, Class A of the GPDO.

15. For the same reasons there is no conflict with LP Policy 8 and LDP Policies D3 and D4 of the London Plan (2021), which requires development to respect local context and deliver good design.

Other Matters

16. I have taken into account all other matters raised including concerns about highway safety, traffic and parking. However, the submitted transport statement² (TS) sets out that the site is within an area of good accessibility and within walking distance of a town centre close to local amenities. There were a large number of parking spaces available on street at the time of my visit, and while I accept that this represents a snapshot, this is supported by the findings of the TS. There is no clear evidence before me of existing parking pressure that would be harmfully exacerbated by the proposal, nor demonstrating that additional on-street parking would harm highway safety or cause congestion. I have no substantive evidence before me to suggest that the TS is misleading in any way, and I therefore see no reason to take a different view to the Council and Highway Engineer who have not objected to the proposal on grounds of parking, highway safety or convenience.
17. Given the separation distances between the appeal building and its neighbours, in addition to the limited additional proposed height in comparison to the scale of the existing building, the proposal would not cause harmful detriment to light levels for neighbouring properties. This includes the communal garden of the neighbouring Banbury Court, particularly given the existing trees providing screening within this area. Similarly, the development would not result in windows nearer to any neighbour compared to the existing building, and as such there would not be an unacceptable impact upon privacy for the occupants of any neighbouring property. The development would not harm any nearby trees.
18. Matters such as effects on value, existing infrastructure within the building, the strength of the existing structure, non-protected views, in addition to claims about the support for the scheme, are outside the scope of the GPDO assessment of this appeal.

Conditions

19. Planning permission granted for development under Article 3(1) and Schedule 2, Part 20, Class A of the GPDO is subject to conditions set out in paragraph A.2 of that Class. These are the following:
- the development must be completed within a period of 3 years starting with the date prior approval is granted;
 - before beginning the development, the developer must provide the local planning authority with a report for the management of the construction of the development which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on occupiers of the building and adjoining owners or occupiers will be mitigated;

² By Nick Culhane Transport Consultant, February 2023

- the developer must notify the local planning authority of the completion of the development as soon as practicable after completion and the notification must be made in writing and include the name of the developer, the address or location of the development and the date of completion; and
 - any new dwellinghouse is to remain in use as a dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as a dwellinghouse.
20. Similar conditions suggested by the Council, including hours of construction, are not therefore necessary. The report for the management of the construction of the development, required by the GDPO will ensure that any proposed hours of operation and any adverse impact of noise, dust, vibration and traffic on occupiers of the building and adjoining owners or occupiers will be mitigated.
21. Paragraph B(18) of Part 20, Class A further states that the local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. I have considered the Council's list of suggested additional conditions in this light, and with regard to the advice set out in the Framework.
22. Given that the Council have accepted that there is capacity within the surrounding streets to accommodate the likely additional car parking, a condition requiring details of the on site car parking management is not necessary. However, a condition requiring the submission of details of cycle storage is necessary, in the interests of promoting sustainable travel choices and positively influencing the scheme's transport and highways impact.

Conclusion

23. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

B Phillips

INSPECTOR

Schedule of Additional Conditions

1. Prior to the commencement of the development (excluding demolition works), full details of the secure cycle storage facilities shall be submitted to, and approved in writing by, the Local Planning Authority which shall show their positioning within the site, the size and materials of the enclosure and the means of access. The approved details shall be implemented on site prior to the first occupation of the development hereby approved and thereafter permanently retained.

End of Schedule