



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: 14 August 2024

Appeal Ref: APP/P5870/W/23/3335254

Land to the Rear of 230 Sutton Common Road, Sutton SM3 9PW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by The Cooperative Property Company against the decision of the Council of the London Borough of Sutton.
 - The application Ref is DM2023/00607.
 - The development proposed is the demolition of existing structures and redevelopment of land for residential use (comprising three new dwellings) with associated amenity space, parking, refuse and cycle storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published in December 2023 a revised version of the National Planning Policy Framework (the Framework). I am satisfied that no party would be prejudiced by making reference to the Framework in this decision.
3. Amended plans have been submitted with the appeal, increasing the parking space sizes and altering the internal layout to unit 1. These alterations are limited, and the Council have commented on them. Given the minor alterations to the scheme, to consider them would not deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore considered the appeal on the basis of these amended plans.
4. The submitted sunlight and daylight assessment¹ sets out that each unit would be provided with sufficient sunlight and daylight. The Council have accepted these conclusions, and no longer wish to contest this particular issue in relation to living conditions for future occupiers. From the information before me and what I observed, I have no reason to disagree in this respect.

Main Issues

5. As such, the main issues in this case are:
 - the effect of the development on the character and appearance of the surrounding area;
 - the effect of the development on highway safety

¹ By T16 Design, dated 6 Dec 2023

- whether the proposal provides adequate living conditions for future occupiers, with respect to outlook and the provision of internal and outdoor space;
- the effect of the development on the living conditions of the neighbouring occupants, with respect to privacy; and
- the effect of the development on trees.

Reasons

Character and appearance

6. The appeal site consists of a disused garage structure, last used as a car repair / storage facility, sited at the rear of two storey residential properties facing Sutton Common Road. Next to the site is a Harvester Public House and Restaurant and there is a school to the rear. The immediately adjacent residential properties are mostly road fronting semi-or terraced two storey dwellings. There is some variety in design, with some gables, some hipped roofs and front dormers visible in the vicinity, as well as a variety in fenestration pattern. However, the road fronting siting of the nearby two storey dwellings, set within generally sizeable plots, contribute positively to the residential area's consistent and spacious character.
7. Given the variety in design details nearby, the detailing and materials of the proposed two storey building, including gable frontages, terrace, and window design, would not appear incongruous. Its scale and massing, in terms of its modest, domestic, two storey height and width, would not appear out of keeping with the surroundings, given the variety in property widths nearby and the stepped design of the building. It would also replace an incongruous, albeit, given its single storey scale, inconspicuous structure and use.
8. There are nearby examples of dwellings set back from the road frontage, such as 235 Sutton Common Road and the dwellings on Anderson Close, however, unlike these examples, the proposal would be located directly behind entirely residential dwellings sat awkwardly next to the rear garden of the adjacent neighbour.
9. The dwelling's location would be at odds with the established generally linear street facing neighbouring residential development. It would, compared to the neighbouring dwellings, have far smaller private garden spaces and appear cramped within its plot, close to its rear boundary and squeezed into the available space. This would erode the area's sense of spaciousness. Its siting would jar in its local context and, whilst mostly obscured by the properties to the front, it would be visible from the highway through the significant gap to the public house. It would therefore appear as a prominent feature which would detract from the general open and spacious surrounding environment.
10. Consequently, the proposal would not reflect the form nor grain of existing development and would therefore harm the established character of the surroundings. The London Plan Guidance Small Site Design Codes (2023) extract referred to by the appellant does not set out that consideration of wider development pattern and character are not necessary in the assessment of backland sites.

11. The appellant refers to nearby development². Limited information is provided of this scheme which prevents full comparison, however the site plan provided shows that the 4 dwellings would directly face a highway, and so is not directly comparable to the scheme before me. Whilst the appellant indicates that residential use on this site has previously been accepted in principle, limited details of previously refused applications³ are before me, and in any case, the Council refer to the siting of the proposal in a refusal reason and within the officer report.
12. I note concerns raised about the effect possible tree loss would have on the wider character of the surroundings, however, as set out below, I am satisfied that these would remain, and such there would be no harm in this respect.
13. Nevertheless, the appeal scheme would harm the character and appearance of the area. As a result, it would conflict with the aims of Policy 28 of the London Borough of Sutton Local Plan 2018 (LP) and Policies D3 and D4 of the London Plan (2021) (LDP) that seek, amongst other things, to protect and respond to the character and appearance of the area.

Highway safety

14. A technical note/highways assessment⁴ has been submitted with the appeal which provide a vehicle swept path analysis. This provides clarification that safe access and egress to the three parking spaces is possible.
15. Whilst two of the three proposed parking spaces have been increased in size to provide the 4.8 x 2.4m required by the LP, the corner of parking space 3 is compromised by the site boundary which cuts across the space. This parking space does not therefore provide the full required 4.8 x 2.4m.
16. This would prevent safe access to this parking space, particularly as the site boundary would consist of a fence. If it was occupied, the car using the space may also compromise the ease of access /egress from the neighbouring parking space.
17. As such, given that it would be impractical to park on the main road due to the distance and limited parking opportunities, parking would be necessary on the access way, which would again compromise access for other users to their allocated parking spaces and would increase the potential for conflict between pedestrians and cars.
18. Whilst the parking requirements are a maximum and I acknowledge that the appeal site is nearby services and facilities, there is no evidence before me to set out why a reduced parking provision would be appropriate.
19. Accordingly, the proposal would have a harmful effect on highway safety. There is therefore conflict with LP Policy 37 which requires new development to create safe and accessible places.

² Application reference DM2019/01248.

³ Application reference DM2020/00269 & DM2021/00505

⁴ By Lime Transport, dated 28 September 2023

Living conditions – future occupiers

20. Unit 1 is annotated as measuring 84sqm⁵, and the submitted documents make it clear that this unit would be this size, however, the Council have measured the unit as 83.83sqm. This represents a very minor shortfall, especially given the margin of error in measuring the submitted plans. As such there is no substantive evidence in front of me to suggest that the unit would not meet the required minimum floor space in this respect.
21. The submitted amended plan (SC_P_100 P06) is also annotated as providing the ground floor bedroom of unit 1 as being 7.6sqm, also meeting the minimum required size, including that set out in the London Plan Guidance.
22. The Council also raise issue with the scale of the living/dining/kitchen space for unit 1. The London Plan Guidance - Housing Design Standards (2023) (LPG) requires a minimum size of 27sqm (for a four person unit). The appellants set out the space is 25sqm. Amended plan SC_P_100 P06 does not clearly identify the open plan floor space, as required by LPG section C2.5, and as such, there is no definitive evidence before me that this space reaches the minimum required size. Whilst this guidance was adopted after the submission of the application to the Council, I must consider the proposal against the relevant policies and guidance at the time of my decision. Notwithstanding this, as illustrated by the amended plan referred to above, the appellant has had opportunity to meet these requirements, and has not done so.
23. Based on the information before me, this part of unit 1 does not therefore meet the minimum required floor space standards, and the logical room layout, provision of windows and private/communal amenity space would not compensate for this. Adequate living conditions for future occupiers would not therefore be provided in this respect.
24. The proposed units would be provided with external amenity space in the form of garden space to the rear and front, and a balcony to unit 3. Communal garden space would also be provided to the front of the site. These meet the minimum required amenity space standards. However, the trees on the rear boundary would be sited in close proximity to the rear of the building.
25. The submitted Tree Survey and Arboricultural Impact Assessment⁶ (tree survey) sets out that the trees to the rear boundary, trees 5, 6 and 7 (as shown on the tree constraints plan) would be retained. The change in the use of the site to residential would lead to an intensification of the use of this rear garden space, however the tree survey sets out that the root protection areas of these trees would in fact be increased compared to the siting of the existing garage structure.
26. The tree survey also sets out that any future pruning works can be carried out without harm to the trees and would fall within the scope of BS 3998 Tree Work guidelines. Given that they are positioned outside the boundary of the site, appropriate permission would also need to be sought from the school, which limits the potential for harm to the trees. I note a suggested condition by the Council requiring compliance with the tree protection measures set out in the assessment. These measures would protect the trees appropriately during any construction period.

⁵ Meeting the minimum requirements set out in the National Space Standards

⁶ The Arboricultural Consultancy Ltd 6 January 2023

27. In the absence therefore of any substantive evidence to contradict the findings of the tree survey, I am satisfied that they would be retained.
28. However, these trees would cause some significant impact upon light reaching the rear gardens. The daylight and sunlight assessment sets out that 'in accordance with the BRE guidance, the trees are not included within this aspect of the modelling', however even without assessing the impact of the trees, the gardens at the rear of the building, given their orientation, do not meet the required tests. Whilst the communal front garden and front garden area for unit 1 would provide external space with sufficient sunlight and daylight, these (like the local parks and recreation grounds referenced by the appellant) are not private spaces that could be used for drying clothes for example. The rear garden areas would lack sunlight and daylight, leading to a dark and gloomy environment. The supporting text to LDP Policy D6 sets out that private outdoor space would be practical in terms of its utility and shape, and care should be taken to ensure the space offers good amenity. The proposed rear gardens would not meet this requirement.
29. Additionally, the two bedrooms of unit 2 and the living space of unit 1 would face the boundary and these trees at close proximity. The trees would be visually dominant and overbearing, and given their scale, would provide a substantial sense of enclosure along the length of the rear boundary. As the only fenestration serving these rooms, the outlook from them would therefore be oppressive, and would have an adverse impact on the living conditions of residents.
30. As such, I conclude that the proposal would not provide adequate living conditions for future occupiers, with respect to outlook and the provision of internal and outdoor space. The proposal would conflict with LDP Policy D6, which requires high quality design.

Living conditions - neighbours

31. The proposed two storey building would have rear facing first floor windows, serving units 3 and 1. These windows would be in close proximity to the rear boundary with Glenthorne High School. However, the existing (retained) trees on the boundary provide screening and prevent direct overlooking in this direction.
32. Even if works to these trees reduced the screening, users of the school playing grounds directly next to the boundary are afforded limited privacy at present.
33. I am satisfied therefore that any current levels of privacy to the school would not be affected by the proposal. There is no conflict therefore with the protection of amenity goals of LP Policy 29.

Trees

34. As set out above, the trees within Glenthorne High School would be retained. Whilst there are issues relating to their proximity to the units, discussed above, any future occupants of the proposed dwellings would be aware of the proximity of trees. Notwithstanding the need to ensure that appropriate standards of living are provided, the trees are outside the appeal site, and as set out above, appropriate permission would also need to be sought from the school, which limits the potential for harm to the trees.

35. There would be no undue post-development pressure therefore, and no harmful effect on nearby trees. There is therefore no conflict with LP Policy 28, which requires development to, where possible, respond to natural features and retain trees.

Other Matters

36. The lack of harm identified in terms of impact upon neighbours, or bike and bin storage, are to be expected in any development and does not weigh in favour of the proposal.
37. The proposal would result in 3 additional units of accommodation which would contribute to the Government's broader objective of significantly boosting the supply of homes, including family sized accommodation, in a location with good access to services and facilities, as supported by the National Planning Policy Framework (the Framework). I also acknowledge that the development would make efficient use of the site as supported by the Framework.
38. The proposal would result in a short-term economic benefits arising from the construction process. Economic and social benefits are also likely to arise from the occupation of the new units. However, given the quantum of development in this case, I give these matters limited weight in favour of the scheme.

Conclusion

39. The identified harm means the proposal would not accord with the development plan policies when read as a whole. The benefits and other considerations are of insufficient weight to justify granting planning permission contrary to the development plan. As such, I conclude that the appeal is dismissed.

B Phillips

INSPECTOR