

Appeal Decision

Site visit made on 19 August 2024

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2024

Appeal Ref: APP/P5870/W/23/3333601

12 Heathdene Road, Wallington, Sutton SM6 0TD

- 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 Mr Pankaj Patel against the decision of the Council of the London Borough of Sutton.
 - The application Ref is DM2023/01024.
 - The development proposed was described as a change of use of the existing dwellinghouse (Use Class C3) to a large House in Multiple Occupation (HMO) (Use Class Sui Generis), basement enlargement, alteration to the front bay window with some internal changes to ground and first floor, extension to the loft space with addition of four dormers and replacing the existing roof by new.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Extensive building works were in progress throughout the appeal building, No.12 Heathdene Road. Revised plans were submitted before the Council made its decision but the Council did not consider these. Unexplained iterations of plans were submitted with the appeal. At my request, the main parties agreed the 'as proposed' plans in this appeal (the plans).
3. Parts of the internal layout and some external alterations do not reflect the plans. The plans are also inconsistent with extracts of plans in the Design and Access Statement and cannot be reconciled with some parts of the appellant's appeal case. Given these apparent ambiguities, the status of the works underway is not clear to me, nor is it evident how the appellant would complete the works. I have, therefore, determined the appeal on what is shown in the plans. This reflects what the appellant had otherwise indicated visually and in the description of the development proposed. It is the same basis as the public were consulted at application stage and the Council made its decision.

Main Issues

4. The main issues in this case are:

- the effect of the proposal on the character and appearance of No.12 Heathdene Road and on the Park Hill Road Area of Special Local Character (the ASLC);
- whether it would result in an acceptable standard of internal living conditions for future occupants of the house in multiple occupation (the HMO) having regard to floor area, headroom, outlook, natural light and communal space;
- if it would provide sufficient usable on-site car parking spaces; and
- whether it would result in a satisfactory reduction in carbon emissions and provide satisfactory sustainable drainage measures.

Reasons

Character and appearance

5. No.12 is a fine example of a substantial, largely intact two-storey detached Edwardian house. The impressive stature of this building is also reflected in extensive orange brick elevations and likely original white painted wooden fenestration. Additionally, a U-shaped pitched roof and ridgeline with double hip on one side and hip and gable with chimney stack and tile hanging on the other side, at the back. It incorporates three tall, free-standing chimney stacks on the edge of eaves, two at the front, rising above the receding uniform plane of the red/brown tiled roofslopes. Furthermore, a shallow one pane deep, proportionately narrow (across the front elevation) three pane wide, two-storey chamfered off-set front bay window with tile hanging.
6. These features are important to the distinctive Arts and Crafts style and form of this building. It sits towards the front of a large plot in a more steeply sloping part of the street, next to, and elevated above, a bungalow on the lower side. As a result, No.12 has notable, imposing visual presence in the streetscene, including public views between or under modest sized pavement trees with slender trunks and narrow raised canopies.
7. No.12, and this western end of Heathdene Road, is in the ASLC, which is centred around the adjoining Park Hill Road, part of a wider residential suburb. Most dwellings in the ASLC were established between 1898 and 1913. These predominantly large, mainly late Victorian and Edwardian two-storey detached and semi-detached houses are in mature landscaped gardens along tree lined streets. Though similar in depth, many plots are narrower and houses are generally smaller in overall size than No.12 and often more closely spaced. In a variety of designs, brick and part, or entire white painted rendered elevations or mock-Tudor timber framing are typical, as elsewhere in Heathdene Road beyond the boundary of the ASLC. Also, some roughcast or pebbledash. This gives a coherent overall pattern and expression to this residential development that is locally distinctive.
8. Under Policy 30 of the Sutton Local Plan February 2018 (the SLP) heritage assets include Areas of Special Local Character. Although not of national or statutory designated status, such as a Conservation Area, the ASLC is a locally identified non-designated heritage asset. While there is no evidence that No.12 is a statutory or locally listed building, for the reasons outlined above, it has innate landmark qualities and makes an appreciable positive

contribution to the significance of the ASLC and to the character and appearance of this area, including as it is experienced by those who live in or visit this area.

9. The proposal would not significantly alter the floorplan shape of the appeal property or most of its external dimensions and the main building envelope would not be materially closer to Heathdene Road. It would also leave the main expanse of attractively coloured brick elevations largely intact. However, the mansard style roof would have a steeper, discordant pitch with a large, incongruous flat central surface. While the perimeter would give the impression of a hipped roof ridgeline with slopes on all sides, the symmetrical form would obliterate any semblance of the interesting, varied profile of the existing roof, which is an intrinsic feature of No.12. Though at the same height in the plans as the existing roof, the increased volume of the new roof would add unduly to the scale and massing of the building in a most conspicuous upper part of it.
10. Two tall, wide flat roof dormer windows across a large part of each of the front and rear roof slopes would add significant additional bulk at roof level. These large, widely spaced boxlike structures projecting beyond the roof plane, with some corners squeezed close to the edges of the interconnecting hip tiles, would be unsympathetic in this building and overly prominent. This disparate clutter would detract from the simple, clean lines of the existing roofslopes and the contemporary materials and dark grey colour would jar with the traditional materials of the appeal property. A fourth chimney stack, currently part of the gable, retained or rebuilt would be better revealed. But the mansard roof and dormer windows would diminish gaps to the other three chimney stacks which would as a result appear as less discrete objects, particularly at the front of No.12 closest to Heathdene Road.
11. A two-storey flat roofed front bay window with tile hanging would rise to eaves level, as is/does the existing bay. But the two pane side and five pane front windows would make it significantly deeper and wider, so jut out noticeably further forward beyond the plane of the front elevation. It would also stretch across more of this part of the building, closer to an edge on one side, reduce spacing to the interesting front entrance door and arched header brick detailing on the other side and obscure more brickwork. With an angular, rectangular floorplan this overly dominant structure would add significant bulk to this part of the building, giving an unbalanced impression to the appearance and proportion of the front elevation.
12. While the framing pattern of the proposed uPVC windows might match or closely resemble the existing wooden sliding sash windows, even if white, this material would not because there is no evidence the uPVC would be suitable in surface finish or 'grain' to at least mimic wood (also with regard to the proposed rooflights). Moreover, the plans include replacement of sashes with otherwise incompatible top or side hung or fixed casement windows. There is no evidence that the original windows cannot be retained and refurbished or replaced like for like. Dark grey roof dormer fenestration would be incongruous with white fenestration elsewhere in the building.
13. Many dwellinghouses in the ASLC or nearby, including in other parts of Heathdene Road, exhibit some individual, broadly similar or generic design

features of No.12, or of the proposed alterations. The only mansard roof I saw achieves a first floor storey and front bays or projecting gables in the main are not as wide or deep. Dormers are not prevalent in the ASLC but some that are visible are mainly in rear roof slopes or small and lower down in the front at first floor level with complementary pitched roofs and materials. Two large, adjoining flat roof rear dormers across the entire respective roof slopes at least do not face directly towards a road and have no meaningful visual or spatial relationship with No.12. Aerial photographs are alleged to show comparable storey heights, flat roofs, gables, box dormers and gable end dormers on other residential buildings 'in the surrounding context'. However, the location of that development is not disclosed. Dormers and flat roofs shown in other aerial photographs are in blocks of flats, not houses, and in Woodcote Road, outside the ASLC.

14. I have not been directed to any dwellinghouse that incorporates the same composite package of alteration or extension as in this appeal. The resulting building would plainly be noticed as plainly different to the original, mostly still existing form of No.12 or most other houses in the ASLC. None of this other development, including even that which might reflect constituent parts of the proposal and might have been established by permitted development rights (PDR) or been granted planning permission by the Council in Heathdene Road¹, is therefore directly comparable or the same as proposed in this appeal. Inappropriate change to individual dwellings and cumulatively in this small ASLC has greater propensity for adverse impact to undermine and erode the integrity and cohesiveness of what makes it special and worthy of protection.
15. There is no scheme before me to give an impression of alterations or extensions that are alleged could be undertaken at No.12 using PDR. Nor has it been demonstrated, such as with a lawful development certificate, that it would comply with conditions or limitations of PDR. Unless or until this is established, there is no PDR fallback. The proposed design is integral to the proposal before me and the description of the proposed development, so is relevant to a decision to grant planning permission. Material change to the design or inconsistency with the description of development cannot therefore be relegated to a condition. There is no objective evidence that use of No.12 as a small Use Class C4² HMO would overcome the considerations outlined earlier (or the other main issues below).
16. Taking account of all the above, I find that the proposal would cause significant, unacceptable harm to the character and appearance of No.12 Heathdene Road and to the Park Hill Road Area of Special Local Character. Consequently, it does not comply with SLP Policies 28 and 30³ or Policies D3 and D4 of the London Plan March 2021 (the LP). These include that development should respect distinctive local context, character and heritage assets, be suitable in scale, massing, form, proportions, detailing and appearance and make a positive contribution to the streetscene. In an Area of Special Local Character it should conserve valued elements and architectural features which contribute to its historic significance, character

¹ Refs DM2023/00817, DM2023/00811 and DM2021/01225

² The Town and Country Planning (Use Classes) Order 1987 (as amended)

³ As informed by the Council's Design of Residential Extensions Supplementary Planning Document (SPD) 4 October 2006 and the Urban Design Guide January 2008 SPD 14

or appearance and by these means integrate into the historic environment so comply with design requirements of the development plan. The National Planning Policy Framework (NPPF) includes objectives to conserve the historic environment and achieve well-designed, beautiful buildings and places. Non-designated heritage assets of local historic value (such as the ASLC in this case) are an irreplaceable resource and should be conserved in a manner appropriate to their significance having regard to the scale of any harm.

Living conditions

17. Even if there would be sufficient floor area in each floor and in total in the HMO, the matters in dispute include individual bedroom floor area. The proposal is for an HMO and the appellant intends to seek an HMO licence after planning permission had been granted. Albeit guidance and because no other relevant standard has been suggested, it is therefore appropriate to use the Council's Houses in Multiple Occupation Standards. The schedule in the plans shows that thirteen of the sixteen bedrooms would not meet the relevant one person (10m²) or two person (16m²) floor area standard, excluding en-suite shower and toilet. Despite that the rooms would be a practical shape, the absolute and proportionate shortfall in floor area in twelve of these thirteen bedrooms would be significant.
18. The slope of the main roof would restrict some headroom at this level, though most parts of these rooms would have high, flat ceilings at around 3m; as would the ground and first floor rooms. There would be satisfactory views from windows in these rooms, which would also allow sufficient natural light and ventilation. It is not unusual or uncommon for habitable rooms to be at a basement level and the 'as existing' plans purport to show basement rooms already used as a family room/kitchen, a bathroom and two bedrooms. Even if that is so, significant alterations are proposed to these rooms for use as bedrooms but basement floor level is 'TBC' – to be confirmed. There is therefore no objective evidence, such as a cross section plan, to show that a basement floor to ceiling height would achieve the 2.5m minimum for new development in the LP. The ceilings I saw are currently significantly lower, at around 2m.
19. Basement bedroom 1 would have two tall windows, one wide and one narrow. With the current basement floor level, main perpendicular views out would include towards a retaining wall for an excavated courtyard area. This large space could contain features of interest or be used for activity and the wall would be far enough away and low enough to not unduly restrict this view or overwhelm, used as a bedroom (and in the event that there was a communal living room). Upward views would be towards the communal garden space, including activity or features in it, and of the sky. Conversely, although not direct sunlight, sufficient natural light would be captured into this north facing room.
20. According to the plans, basement bedrooms 2 and 3 would have internally high, narrow horizontal slot windows. Although facing the same courtyard, occupants of these rooms would experience a more tangible sense of enclosure and gloomy conditions, over-reliant on artificial light. Basement bedroom 4 would have no windows. Occupants would have no view out and

experience an overwhelming sense of containment, with no natural light and be wholly reliant on mechanical ventilation. Views from the window of basement bedroom 5, other than towards the sky, would be more severely restricted by the dimensions of a small lightwell. Even though south facing there is no objective evidence, such as a sunlight/daylight assessment, that this room would receive sufficient natural light to avoid over-reliance on artificial light. The Council's officer report referred to alleged harm to the privacy of occupants of this bedroom by overlooking from above, but the difference in levels and acute angle down into the lightwell would prevent views far into this room.

21. Kitchens in each of the four floors of bedrooms would be communal, though functional spaces. The appellant has referred to these rooms as kitchen/dining and oversized. There is, though, no objective evidence, such as a detailed plan, that these kitchens would be sufficient in floor area to also be conveniently used as a dining room with necessary fixtures, fittings, furniture (including table and chairs), storage space and circulation. Moreover, there is no window in the main basement kitchen and the smaller basement kitchen would have just a narrow high level window, so both would be less suitable for communal use as a dining room.
22. There would be no communal living room in the HMO for normal domestic relaxation or social interaction by any of the future occupants, including comfortable sofas or chairs. Such activity could not be enjoyed in a dining room in the same way or in a working kitchen with laundry facilities, including noisy appliances such as washing machine or tumble drier. A large communal garden could not be used in the same way as a living room.
23. The appellant suggests that 'Government Guidance and that adopted by the Borough clearly states the Lounge and Combined kitchen/dining as optional spaces with only the kitchen area set as mandatory'. It is also suggested that rooms meet the Government's statutory minimum room sizes for HMOs. I have not been provided with a relevant document to validate either claim.
24. Consequently, while the plans show beds and some other furniture in all bedrooms, even if these were decorated and furnished to a high standard, most would be too cramped for normal domestic use and activity, including circulation space or personal possessions. This would not provide a functional layout or living experience that was fit for purpose. Inadequate headroom in all basement bedrooms would accentuate an uncomfortable sense of restriction on activity or movement and limited or no outlook or natural light to four of the five of these rooms would provide unduly sombre living conditions. It has not been demonstrated that the basement floor can be lowered at all, let alone that satisfactory outlook would be maintained.
25. Future occupants of the basement bedrooms in particular, though all occupants, would have no internal communal living space to spend time in, or as relief from these living arrangements. As most of the bedrooms would be undersized they would not provide a satisfactory substitute for communal dining or living space and future occupants would endure a mainly insular, solitary living experience with little empathy or feeling of living 'at home'.

26. These considerations are integral to the proposal, so to a decision to grant planning permission. Accordingly, such details cannot be left to conditions, Building Regulations or the Council's HMO licensing regime, including because it is already evident that some of these HMO standards would not be met. Nor can I be certain that there would be satisfactory solutions in these respects. While some future occupants might accept poor living conditions, this does not justify the proposal. It would not meet reasonable or normal expectations for living conditions in the wider public interest, which should be the aim of good design from the outset.
27. Considering all the above, I am therefore not satisfied the appellant has demonstrated that there would be an acceptable standard of internal living conditions for future occupants of the HMO having regard to floor area, headroom, outlook, natural light and communal space.
28. The Council's reason for refusal 2 cites only LP Policy H16 'large-scale purpose-built shared living development'. The main parties dispute whether the proposal is this type of development, with articulate arguments both ways. However, the appellant has referred to SLP Policy 29 and extracts have been provided. In the circumstances outlined above, the proposal is contrary to this policy, which includes that development should not adversely affect the amenities of future occupiers having regard to outlook, sunlight, daylight and the need for artificial light. It is also contrary to LP Policy D3 (provided with the appeal questionnaire) which includes that development should deliver appropriate outlook and amenity and achieve indoor environments that are comfortable and inviting for people to use. The NPPF seeks to ensure that development promotes health, well-being and a high standard of amenity for future users.

Car parking

29. The Council's maximum parking standard in this case is 16 on-site spaces. The appellant originally suggested 9 but the plans show 3, which the appellant maintains is sufficient.
30. The HMO would be in a medium PTAL3 area, so not normally suitable for a car free development⁴ and 3 spaces would not in that sense be a betterment. Occupants could conveniently walk or cycle to use nearby public transport or some local facilities or services and some might not own a car. However, even with a travel plan there would be no mechanism to guarantee this, nor could a condition. It is anyway likely that a car would still meet some travel needs which could not easily be met by walking or cycling, such as weekly food shopping. Denying opportunity for car ownership facilitated by sufficient convenient parking on-site would be punitive to some future occupants. However, the sixteen bedrooms could generate up to thirty occupants, most could be couples and each person could own a car.
31. There are double yellow lines around corners at nearby road junctions and some white lines as part of traffic calming measures, but no evidence of other formal on-street parking restrictions in Heathdene Road or in nearby streets. On-street parking is not marked on the highway (eg bays) and public electric vehicle charging points would also be available to future car

⁴ SLP Policy 37(c)

owning occupants of the HMO. But most, if not all, dwellings have driveways with front garden parking accessed across numerous, sometimes wide dropped kerb vehicle crossovers and some parts of the roadside would be awkward to use because of the proximity of pavement trees restricting passenger doors. Albeit a snapshot, some on-street spaces were in use and some were available.

32. In the absence of objective evidence to the contrary, there is therefore only moderate capacity to park cars in these streets, set against a significant shortfall in on-site car parking compared to the Council's standard or even as originally promoted by the appellant. Consequently, there would be potential for a significant influx of cars, with drivers seeking to park as close as possible to the HMO. This would appreciably increase competition for on-street car parking or cause some displacement. It might increase the likelihood of inconsiderate parking, such as obstructing driveways and spill beyond Heathdene Road because the site is near a cross-roads at one end. This would not be convenient for existing residents or visitors affected.
33. Nonetheless, and notwithstanding the above, given the size of the site there is no apparent reason an appropriate number of on-site car parking spaces, informed by a parking stress survey, could not be provided; even, if necessary, to meet the Council's maximum parking standard. Also, without compromising landscaping or communal garden areas on the site and not be overly close to adjoining dwellings. A condition could ordinarily secure appropriate details in these regards.
34. However, the layout of the proposed 3 spaces could not anyway be used by cars because of the proximity of No.12 or the position and geometry of a new, central vehicle access shown in the plans; or without interference with pedestrian movements of occupants of the HMO or visitors. There is an existing dropped kerb vehicle access with crossover into one side of the site, which is wider on this side to the rear boundary. But there is no objective evidence that either access would be suitable (and could be secured with the agreement of the highway authority) for an increase in vehicular movements over and above use of No.12 as a single family dwellinghouse, including because of the position of pavement trees and having regard to sightlines.
35. These considerations are relevant to an in principle decision to grant planning permission, so in the absence of sufficient certainty it cannot be left to a condition. Consequently, although there is no reason for refusal specifically about vehicular access cited in the Council's decision notice, this was an issue identified in the officer report. I find that car parking on the site is in this case inextricably linked to suitable vehicular access.
36. In these circumstances, I am not satisfied the appellant has demonstrated that the proposal would provide sufficient useable on-site car parking spaces. It is therefore contrary to SLP Policies 36 and 37. Amongst other things, they include that development will be assessed for its impact on the local environment and necessary improvements must be secured. Moreover, car parking should ordinarily meet the Council's maximum parking standard, including to avoid overspill parking or an increase in on-street parking adversely affecting residential amenity and the local environment. The NPPF sets out that parking is integral to the design of schemes and contributes to

making high quality places that are safe and minimise the scope for conflicts between pedestrians and vehicles.

Energy, flooding and drainage

37. The Council agrees that the Energy and Sustainability Statement submitted with the appeal demonstrates that the proposal would meet its requirements with regard to CO₂ emissions. On this basis, there is no apparent reason a condition could not secure the approval and implementation of suitable details, including 'as built' SAP calculations. Accordingly, the proposal would result in a satisfactory reduction in carbon emissions.
38. The footprint of the resulting building would not change much and subject to a condition, most of the site could remain soft landscaped with little or no impermeable paving. The appellant suggests that the proposed main flat roof would provide sustainable drainage system (SuDS) benefits but this is outlined only in general terms. There is anyway no apparent reason why the existing roof, properly maintained, would not achieve similar outcomes.
39. Amongst other things, SLP Policy 32 sets out that proposed development should at least minimise 'all sources' of flood risk to people and property. It also requires effective SuDS measures 'as part of the design and layout of the development' and includes specific performance standards for previously developed sites, as in this case. Furthermore, 'all development proposals should include details' of how each SuDS measure, and the site drainage strategy as a whole, will be managed and maintained throughout its lifetime.
40. The Council does not dispute that the site is in Flood Zone 1, low risk of river or sea flooding. The site area is less than 1 hectare and the Council has not suggested that the proposal is 'major' development. It has not promoted any other reason why a flood risk assessment would be required, or that the sequential test should apply in this case with regard to these potential sources of flooding.
41. However, there is no objective evidence before me about surface water flooding and runoff, or flooding from other potential sources (than river or sea). Notwithstanding that reference has been made to recommendations in the appellant's Basement Impact Assessment, the basement level (floor to ceiling height) is yet to be confirmed, so the resilience or resistance of the basement from these other potential sources of water ingress has not been established. It is also unclear how much on-site car parking or access road would be provided and what form of surfacing. Sufficient certainty in these regards is relevant to a decision to grant planning permission, so if absent, as in this case, it cannot be left to a condition or Building Regulations.
42. The appellant has therefore not demonstrated that the proposal would provide satisfactory sustainable drainage measures. In these circumstances, I find that the proposal is contrary to these provisions of SLP Policy 32, and to LP Policies SI 12 and SI 13 insofar as these policies require flood risk to be minimised, mitigated and managed including having regard to greenfield run-off rates, surfacing and wider water-related benefits. The NPPF requires development to reduce the causes and impacts of flooding, incorporate sustainable drainage systems and manage residual risk.

Other Matters

Housing supply and requirements

43. The Council met the Government's 2022 Housing Delivery Test and there is evidence it can demonstrate a 5 year supply of deliverable housing land. The appellant has not suggested otherwise. The HMO would be in an urban area where residential intensification on this windfall site could be achieved relatively quickly to make an efficient use of land, in principle acceptable under the development plan. These outcomes would be aligned with objectives of the NPPF to significantly boost the supply of homes and address the needs of groups with specific housing requirements with an appropriate mix of housing types for the local community, including those who rent their homes. Accommodation for up to 30 people would make a meaningful impression in these respects. However, support in the development plan and the NPPF for housing delivery and making optimal use of a site does not dispel that development should be acceptable in other respects.

Tourism and the local economy

44. There is no objective evidence that the HMO would increase tourism or why converting No.12 to an HMO is the only way to improve the fabric and structure of this building, the housing stock, the local area or make it more likely that people would visit Wallington. Nor that future occupants would not already be resident in the borough, in which case they would not fill new jobs or create new businesses or support the local economy beyond what already occurs. The conversion works are underway so longevity and opportunity for local employment during a construction stage is lessened.

Other interested party comments

45. A large number of local residents, including the Heathdene Area Residents Group, also objected to the proposal for other reasons, including the following matters set out below in particular. I have had due regard to all of these submissions, including that I appreciate many people would prefer No.12 to be refurbished and remain as a single large family house. However, that is not the proposal before me or within the scope of my decision either way, to allow or dismiss the appeal. Furthermore, while I do not condone such action, the site has already been cleared of vegetation, including, I am informed, before ecology survey. In the event that the appeal is dismissed, I do not have powers to require the appellant to return the site to a previous condition and whether clearance harmed protected species or an offence committed is not a matter for me.
46. The motive of the appellant, whatever it may be, in making the application and lodging the appeal is also not relevant to my decision. Nor is the alleged economic viability of the development, the market rent level that may be charged⁵, who would occupy the HMO or the alleged track record of development carried out by the appellant. These are private matters. The Council did not refuse permission because the accommodation would only be for rent, nor is there any apparent planning policy basis to do so.

⁵ The proposal is not for 'affordable housing' as defined by NPPF Annex 2: Glossary

47. The Council did not object to the principle of using No.12 as an HMO or an HMO of this size and the density of development in terms of built form on the site would not change. On the evidence before me, the development plan (and the NPPF) does not specifically prohibit the loss of large family sized houses to an HMO per se. While there are already some HMOs elsewhere nearby, not in the ASLC, the development plan is permissive of a certain number of HMOs in an area. The Council considers that this level would not be breached by the proposal and there is no compelling objective evidence to suggest otherwise. The development plan does not restrict HMOs in an Area of Special Local Character for reason of such designation.
48. Furthermore, concerns about alleged erosion of social or community cohesion – including the attractiveness of places to live (in the ASLC or Wallington), transient occupants of HMOs, fear of crime and the cumulative effects of HMOs on an area – have already been taken into account by the Council (and the Mayor) in the scope and intent of current development plan policies, including for the provision of HMOs.
49. Consequently, while there is evidence of a borough need or demand for both family sized dwellings and 1 or 2 bedroom housing (achieved in this case by the HMO) – and even though Sutton is one of the most affordable London boroughs, even if affordability has worsened in recent years – the question of where the greater need or demand lies is not a determinative factor in my decision. The proposal would result in the loss of one type of housing or home, but provide another, so no loss overall and still leave intact a prevailing stock of family sized homes in the ASLC and likely in Wallington. Moreover, that there might be a 'better' location for an HMO, or this HMO, including on previously-developed brownfield land, is also not relevant to my decision for these same reasons.
50. These might be matters for the Council's plan-making process or Article 4 Direction (A4D). I have not been informed about any review of the development plan, including in these respects. A borough wide A4D for small Use Class C4 HMOs is under consideration by the Council but I have not been informed of any relevant A4D in force that restricts HMOs in the ASLC. In any event, the large sui generis HMO in this appeal would require an express grant of planning permission irrespective of such an A4D.
51. There would be apparent change in activity at, and to and from the appeal site, including additional traffic along local roads, though it would remain in residential use. The Council would have applied a condition to secure suitable noise mitigation measures. While there would be a perception of increased overlooking, there is no objective or sufficiently compelling evidence that the proposal would cause actual unacceptable material harm to the general living conditions of occupiers of nearby dwellings, including having regard to the relative siting, orientation or distances to adjoining dwellings. Nor that increased traffic generation (even at a level alleged by some interested parties) would result in unacceptable impact on highway safety or severe residual cumulative impact on the road network, including Heathdene Road which is subject to a 30mph speed limit.
52. The Council, in its capacity as local planning authority, highway authority and HMO licencing authority did not object to the proposal for any of these

reasons and I am not persuaded to find otherwise. Subject to conditions there would also be satisfactory new landscaping at the site, including to replace that which has been lost, and for ecology enhancement to deliver aims of the NPPF to enhance the quality of urban environments with effective landscaping, including trees, and achieve bio-diversity net gain. A condition could also secure appropriate provision for refuse and recycling storage on the site with collection arrangements a matter for the Council or its contractor. It would be the appellant's responsibility, in liaison with the relevant public authority, to ensure a connection to the public foul sewer or disposal by another suitable means, including with satisfactory capacity and compliance with relevant Building Regulations.

53. The Council has planning powers to remedy the adverse condition of a building or land in the interests of the amenity of an area, as well as separate environmental health powers to control statutory nuisance and regulate HMO licenses. Anti-social behaviour would be a matter for the Police. Whether there should be further on-street parking restrictions or residents parking permits in Heathdene Road and elsewhere in the ASLC, including to prevent alleged parking by people who do not live in these surrounding dwellings, would also be a matter for the Council.
54. If planning permission were granted, whether the HMO in this case would subsequently be used as an HMO (including why the plans include a 'staff room' with en-suite) – or if there would be a material change of use that required planning permission – is not relevant to my decision. I have determined the appeal on the basis of what has been applied for, as set out in the description of development. Any future development on the appeal site that required planning permission should be the subject of a planning application. If necessary, the Council has planning enforcement powers to investigate and, if expedient, remedy a breach of planning control. Though a potential future material consideration, it is not certain that granting planning permission in this case would set a foregone precedent for other similar proposed development in Wallington, including in the ASLC. This is because each case would need to be considered on its individual planning merits, as I have this appeal.

Conclusion

55. Though the development plan was adopted under previous NPPFs, they were not materially different on the main issues outlined above, so it remains broadly consistent with the NPPF. The proposal does not comply with the most relevant policies of the development plan, there is conflict with relevant policies in the NPPF and the public benefits of the proposal do not outweigh the harm. There are no other material considerations to indicate that the decision should be made other than in accordance with the development plan taken as a whole⁶. Consequently, for the reasons given above the proposal is unacceptable and therefore the appeal does not succeed.

Robin Buchanan

INSPECTOR

⁶ Section 38(6) Planning and Compulsory Purchase Act 2004 (as amended)