

Appeal Decisions

Site visit made on 3 September 2024

by C Livingstone MA(SocSci) (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 November 2024

Appeal A Ref: APP/P5870/W/24/3338699

1 Wildes Cottages, Ewell Road, Sutton, Cheam SM3 8AS

- 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 Mrs Charlotte O'Brien against the decision of the Council of the London Borough of Sutton.
 - The application Ref is DM202301181 .
 - The development proposed is to divide the plot at 1 Wildes Cottages and replace the asbestos garage (Approved to be demolished in 2022 - DM2022/00704) with a detached, two storey, 3 bed dwelling.
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Appeal B Ref: APP/P5870/W/24/3341582

1 Wildes Cottages, Ewell Road, Cheam Village, Surrey SM3 8AS

- 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 Mrs Charlotte O'Brien against the decision of the Council of the London Borough of Sutton.
 - The application Ref is DM2024/00054.
 - The development proposed is to divide the plot at 1 Wildes Cottages and replace the asbestos garage (Approved to be demolished in 2022 - DM2022/00704) with a detached 2 storey, 3 bed dwelling and remove the uPVC porch on 1 Wildes Cottages (already received approval to be removed in DM2022-00704).
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Decision

1. Appeal A is dismissed
2. Appeal B is dismissed.

Preliminary Matters

3. As set out above there are two appeals on this site. The development proposed under Appeal A includes a two storey detached dwelling. The Appeal B scheme is similar to the Appeal A scheme, however each scheme would utilise a different palette of external materials. I have considered each proposal on its own merits. However, to avoid duplication I have dealt with the two schemes together where appropriate and unless indicated otherwise.

4. Plans were submitted at appeal, for Appeal A, that show the details of the proposed cycle and bin storage. Submission of these details could be instigated by condition and, on that basis, I have taken them into consideration in deciding the appeal. Moreover, the Council have had an opportunity to comment on these plans.

Main Issues

5. The main issues affecting both Appeals are:

- the effect of the proposed development on the character and appearance of the area including the extent to which it would preserve or enhance the character or appearance of the Cheam Village Conservation Area and whether it would preserve the setting of nearby Locally Listed Building Wells Court and Fitzalan Court (LL99);
- the effect of the proposal on the living conditions of the occupants of No 1 as a neighbouring property with regard to outlook; and
- the effect of the proposal on the safe and efficient operation of the local highway network with regard to parking provision.

The main issue affecting only Appeal A is:

- whether the proposal would provide future occupants with acceptable living conditions with regard to sunlight and daylight.

Reasons

Significance and Setting

6. The appeal site is located within the Cheam Village Conservation Area (CVCA) which is a large conservation area in the west of the borough of Sutton. The CVCA is divided into nine sub areas that include the historic core of Cheam and park land. Wildes Cottages are located within Sub Area I 'Ewell Road' the area marks the transition from the historical commercial centre to the more residential area beyond and includes properties in a variety of architectural styles.
7. Wildes Cottages are a two storey terrace of eight properties dating from the late Victorian period. The terrace has a steeply sloping roof and when viewed from the street appears relatively unaltered. The two end properties No 1 and 8 Wildes Cottages (No 8) are larger and stepped forward of the central properties bookending the terrace. Altogether the terrace is a well preserved example of traditional architecture and is identified as an unlisted building of merit. It is also noted within the Cheam Village Conservation Area Character Appraisal and Management Plan 2021 as making a positive contribution to the character of the area.
8. The significance of this part of the CVCA is defined, in part, by the unique pattern of development and the variety of high quality architecture which shows the historical evolution of the area. Mature trees and park land on the other side of Ewell Road gives the area a verdant, village feel.
9. Neighbouring No 1 are 'Wells Court' and 'Fitzalan Court' which were originally part of a dairy and constructed around 1930 in a mock Tudor design, they are

locally listed in recognition of their unique and attractive appearance and positive contribution they make to the character and appearance of the area. Both buildings have been converted to residential use and are part of a larger housing development.

10. The appeal property retains a large plot which includes a garden area to the side, which narrows towards the front of the plot. This allows for a degree of separation between No 1 and Wells Court which, along with Fitzalan Court are set further back from the road. Their finely detailed and unique end elevations face the street and mark the entrance to the housing development that they form a part of.
11. In the context of the appeal before me the existing property relates positively to the experience of the locally listed buildings within the wider street scene. It therefore makes a positive contribution to the setting of the listed buildings and, thereby, the understanding of their significance. The CVCA derives much of its character and appearance from both the locally listed and listed buildings and their gardens which, along with the appeal property, make an important contribution to its historical and architectural significance.

Appeals A and B

12. The proposal is for the removal of a detached domestic garage and a porch extension to the side of No 1 to allow for the erection of a two storey detached dwelling. The proposed dwelling would be positioned behind the building line of the appeal property and forward of the building line of Wells Court. There would be a small gap between the proposed dwelling and the existing property, and the other side elevation would be built up close to Wells Court and angled to reflect the line on the boundary as it narrows towards the street.
13. Both proposals would result in an infill development that would erode the space between the appeal property and Wells Court. As noted above the spacing between these buildings has a beneficial impact on the setting of this locally listed building; the separation accentuates the distinctly different architectural styles and layout of each building within the street scene. As such both appeal proposals would fail to preserve the setting of these locally listed buildings and the contribution the appeal property currently makes to their significance.
14. Both appeal schemes would introduce a substantial built form in the side garden area. A detached dwelling of the scale and massing proposed would appear unduly cramped and constrained within the site and would fail to respond positively to the existing relationship between the buildings. In light of these factors both schemes would harm the character and appearance of the CVCA.
15. Planning permission was recently granted for the erection of an extension on the side elevation of the appeal property. Householder extensions are considered against different policy requirements and no drawings have been provided of the approved extension. As such the evidence that has been put before me does not demonstrate the argument that a detached infill dwelling would be acceptable in this instance.
16. The separation distance between the appeal property and the proposed dwellings would be similar to the distance between the side elevation and the boundary wall of 8 Wildes Cottages (No 8). The lack of space at the side boundary of No 8

emphasises rather than diminishes the value of open space around the appeal property; as it allows appreciation of its character and that of the terrace as a whole.

17. building density within the immediate area, including nearby flatted developments and the plots of the other properties that form Wildes Cottages. However, from my observations they are not directly comparable to the appeal schemes which are both for a detached two storey property fronting on to a prominent street.
18. In each case the proposed scheme would screen views of a concrete wall on the boundary of No 1, and the flats at Timber Court from the street. Also, the removal of the porch extension on the side elevation of No 1 would restore the symmetry of the terrace. However, these matters do not alter my conclusions about the effect of the proposals on the character and appearance of the CVCA of the setting of locally listed buildings. The existing garage is also a later addition, it is relatively modest, and its removal would have a neutral impact on the overall street scene as existing.

Appeal A

19. The front and part of the side elevation of the dwelling proposed under Appeal A would be finished in reflective glass. Reflective glass is a modern material which has not been utilised within the immediate area, it would introduce a sense of movement as passing vehicles are reflected on its surface. Given the close proximity the reflective finish would jar with the brick and render finishes of the appeal property and Wells Court. This would increase the prominence of the proposed dwelling and detract from these neighbouring properties which are noted heritage assets.
20. My attention has been drawn to the use of both clear and reflective glazing in buildings within both the immediate and wider area. The neighbouring housing development at Timber Court includes a glazed linking section. However, this section is lower and subservient to the built form of the main buildings. The other examples provided of clear and reflective glazing within the wider area do not share the same setting or design and therefore do not set a precedent for the use of reflective glazing in this instance.

Appeal B

21. The external elevations of the dwelling proposed as part of Appeal B would be finished in a palette of traditional external materials including red swallow roof tiles and red and plain bricks. These materials are reflected elsewhere within the CVCA and are acceptable.
22. The scheme proposed under Appeal B is a resubmission of a preceding application refused by the Council (Appeal A). I appreciate that the appellant has attempted to overcome the concerns previously raised but the amendments would still result in a proposal that would harm the character and appearance of the area as detailed above.

Appeal A and B Conclusion

23. For the reasons detailed above the proposal would have a harmful impact on the the area and would fail to preserve or enhance the character or appearance of

the Cheam Village Conservation Area and would not preserve the setting of nearby Locally Listed Building Wells Court and Fitzalan Court (LL99). Therefore, the proposal would be contrary to Policies 7, 28 and 30 of the Sutton Local Plan 2016-2031, 2018 (SLP) and Policies HC1 and D4 of the London Plan 2021 (LonP). These policies are consistent with the National Planning Policy Framework (the Framework) in seeking to ensure the delivery of good design, permitting new dwellings provided the density is suitable to the local character; that is suitable in terms of scale and massing to the setting of the site and takes in to account the characteristics of Conservation Areas.

24. These policies also seek to ensure that developments that have an impact on heritage assets, and their settings, will be expected to conserve and, where practicable enhance their significance. I will consider the harm caused to the significance of the CVCA further in my overall heritage and planning balance.

Living conditions of neighbours

Appeal A and B

25. The rear elevation of the dwelling proposed under both Appeal A and Appeal B would be in alignment with the rear elevation of No 1. However, this existing dwelling has a single storey extension that is several meters deep and the dwelling proposed as part of both appeals would be two storey. Both schemes would result in the two storey side elevation of the resultant dwelling projecting several metres beyond the original two storey rear elevation of No 1. The existing dwelling has a first floor bedroom that is served by a single window on the rear elevation.
26. The close proximity and scale and depth of the dwellings proposed under each appeal would result in an enclosed and poor outlook from within the first floor rear bedroom of No 1. This effect would result in an unsatisfactory internal living environment for occupants of this dwelling. The orientation of No 1 and the current use of this room as a bedroom does not resolve my concerns in this regard.
27. Both Appeal A and Appeal B would have a harmful effect on the living conditions of the occupants of No 1 as a neighbouring property with regard to outlook. Therefore, they would be contrary to Policy 29 of the SLP which states that planning permission will not be granted where it would adversely affect the outlook of those currently occupying nearby properties.

Parking provision

28. The host property, No 1, is currently served by two off street parking spaces one in front of the front elevation and one to the side in front of the existing garage.

Appeal A

29. The proposed plans for Appeal A are annotated to indicate that the land to the front of both No 1 and the proposed dwelling would be a 'driveway'. Despite these annotations, the appellant asserts that no parking is proposed for No 1 Wildes Cottages, the proposed scheme would therefore result in the loss of two parking spaces for this property.

Appeal B

30. The land to the front of both the existing and proposed properties under Appeal B is annotated as 'driveway' and includes images showing the position of parked cars, Appeal B also includes a swept path analysis showing the path of vehicles in to parking spaces in front of the proposed dwelling and the appeal property.
31. The swept path analysis shows that vehicles accessing the space to the front of the existing dwelling would need to cross over the access proposed for the new dwelling. This would result in a conflicting and unsatisfactory access arrangement. The position of the parking spaces proposed may reflect those approved for the extension of No 1, and may be safe. However, consideration of the extension of the existing property is different from two separate households under separate ownership. As the proposed space in front of the existing dwelling would be accessed via land under separate control it may not be viable.

Appeal A and B

32. I noted on my site visit that there are limited opportunities for on street parking in the area and several properties within the immediate area do not have access to private off street parking.
33. The area has a PTAL rating of 3 which indicates a moderate level of public transport connectivity. Whilst occupants of No 1 may not be dependent on private cars for day to day transport requirements they might want to own and park a vehicle for those journeys that aren't possible or practical on public transport. Further, Policy 37 of the SLP advises that car free development should normally be located in more accessible areas with a PTAL rating of 5 or 6.
34. Neither appeal is supported by a Parking Survey to demonstrate that either proposal would not exacerbate the level of parking stress in the area.
35. In conclusion the proposals under both Appeals A and B would have a harmful effect on the safe and efficient operation of the local highway network, with regard to parking provision. Therefore, they would be contrary to Policies 36 and 37 of the SLP which require that developments should minimise any adverse impact on the highway network and avoid overspill parking problems.

Living conditions of future occupants

Appeal A

36. The reflective glass finish on the dwelling proposed as part of Appeal A would serve habitable rooms. No technical details of this material have been provided, specifically in relation to its opacity. As such there is no substantive evidence before me to demonstrate that the reflective glass proposed would allow sufficient light penetration to the ground floor living room and the first floor bedroom, at the front of the proposed property.
37. In the absence of sufficient supporting technical information, it has not been clearly demonstrated that the dwelling proposed under Appeal A would provide future occupants with acceptable living conditions with regard to sunlight and daylight. Therefore, this proposal would be contrary to Policy D6 of the LonP which requires that the design of development should provide sufficient daylight and sunlight to new housing.

Other Matters

38. I note the appellant's comments about the advice that was received from the planning case officer, both prior to and as part of, the determination of each planning application. However, I have determined each appeal on their individual planning merits and none of the other matters outweigh or overcome my conclusion on the main issues.
39. My attention has been drawn to an appeal that related to an infill development in Cheam¹. However, in this instance the scheme had a different layout and relationship to neighbouring buildings and was not within the CVCA or the setting of locally listed building. As such this appeal does not form a direct comparison to either Appeal A or Appeal B before me.
40. Notwithstanding the living conditions of future occupants of the property proposed under Appeal A in terms of sunlight and daylight; the Council have raised no objection in relation to other amenity standards for future occupants. They have also raised no concerns regarding suitable provision for waste and cycle storage and the living conditions of the occupants of neighbouring properties other than those living in No 1. However, the absence of harm in these respects form neutral factors in my assessment of the appeal, weighing neither for nor against the proposal.
41. Both proposals would provide an additional housing unit. In so doing, they would support the aims of Policy H1 and H2 of the LonP and the London Plan Guidance Small Site Design Codes 2023, which amongst other things, set housing targets and encourage the development of small sites in order to meet London's housing needs.

Heritage and Planning Balance

42. Both appeal schemes would have a harmful impact on the character and appearance of the area and fail to preserve and enhance the CVCA. In all cases, the level of harm would be less than substantial. The Framework states that great weight should be given to the conservation of a designated heritage asset, irrespective of the level of harm. Paragraph 208 of the Framework requires the less than substantial harm to the significance of a designated heritage asset to be weighed against public benefits.
43. Both appeal schemes would offer some social and economic benefits, which are also public benefits, including the delivery of an additional housing unit in a well-connected area where there is an identified need.
44. However, the social and economic benefits associated with the delivery of a single housing unit would be modest. I therefore attach moderate weight to these benefits, which would not be sufficient to outweigh the great weight that the conservation of a designated heritage asset carries. The proposals therefore fail to accord with the historic environment protection policies in the Framework. The appeal schemes would also cause harm to the significance of Locally Listed Buildings Wells Court and Fitzalan Court through development within their setting and the living conditions of the occupants of No 1.

¹ APP/P5870/W/22/3303782

45. I have identified that both appeal schemes conflict with the development plan policies identified above, which is sufficient to bring each proposal into conflict with the development plan when read as a whole. Developments that conflict with the development plan should normally be refused unless material considerations indicate otherwise.

Conclusion

46. Both the Appeal A scheme and the Appeal B scheme would conflict with the development plan when read as a whole. The material considerations do not indicate that decisions should be made other than in accordance with the development plan. Therefore, for the reasons given above, I conclude that both Appeal A and Appeal B should be dismissed.

C Livingstone

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/P5870/W/24/3338699	Charlotte O'Brien
Appeal B	APP/P5870/W/24/3341582	Charlotte O'Brien