
Appeal Decision

Site visit made on 6 January 2025

by **M Ollerenshaw BSc(Hons) MTPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 January 2025

Appeal Ref: APP/P5870/W/24/3347309

Land at Falcourt Close, Sutton, Surrey, SM1 2RQ

- 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 Ms G Pollecoff against the decision of the Council of the London Borough of Sutton.
 - The application Ref is DM2023/01777.
 - The development proposed is described on the application form as “demolition of garages and erection of 2 dwellings with associated landscaping.”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A completed Unilateral Undertaking (UU) was submitted by the appellant during the appeal, which would prohibit future occupiers of the development from obtaining parking permits for the Controlled Parking Zone (CPZ). The Council had the opportunity to comment on the UU as part of their appeal submission. Therefore, I am satisfied that no party's interests have been prejudiced by my consideration of it. The Council has withdrawn the seventh reason for refusal relating to the absence of a legal agreement required for a car-free development to prohibit future occupiers from applying for car parking permits. I shall return to this matter later in the decision.
3. The revised National Planning Policy Framework (the Framework) was published in December 2024. This does not raise any matters that require me to seek representations from the main parties in this case.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the area, including its effect on trees;
 - whether the proposal would provide satisfactory living conditions for future occupiers, with particular regard to outlook, light and external amenity space;
 - the effect on biodiversity; and,
 - whether the proposal would include adequate surface water drainage.

Reasons

Character and appearance

5. The appeal site is a rectangular plot of land accessed via a track to the south side of Falcourt Close, which is a short cul-de-sac off Robin Hood Lane. The site is occupied by a block of nine garages. It is bordered by residential properties to the north and west and by a public footpath to the south, with St Nicholas Community Hall and Rectory beyond, and a churchyard to the east. The Church of St Nicholas, a Grade II* listed building, is located some distance to the south east of the site.
6. The area surrounding the site is largely residential and features two storey maisonettes, terraced and semi-detached properties. They are characterised by hipped roofs and are constructed in brick with tiled roofs, and are set back from the road with small front gardens or driveways and larger gardens to the rear. The mature trees to the eastern site boundary and those within the adjacent churchyard and to the south, give the area a pleasant, verdant character. The wider area is of more mixed character reflecting its location within Sutton Town Centre.
7. The proposal is for the demolition of the existing garages and the erection of a pair of semi-detached dwellings which would be positioned centrally within the site. The garages are in a poor state of repair and the site has an unkempt appearance which detracts from the character of the area. The proposal therefore presents an opportunity to enhance the appearance of the site.
8. The scale, form and design of the proposed dwellings would be sympathetic to existing residential development in the area. While the size of the plots would be relatively small, the proposed dwellings would maintain gaps from the site boundaries and neighbouring properties, with reasonably sized garden areas, and access paths along the northern and southern boundaries. As such the development would not appear cramped, particularly in the context of this area which is characterised by similar or greater densities. Indeed, the Sutton Local Plan 2016-2031 (the Local Plan) designates this as an area of potential intensification where the density of new development is expected to be higher than elsewhere.
9. At the time of my visit, it did not appear that the garages were being actively used for parking vehicles, and the Council has not provided any substantive evidence to the contrary. The poor condition of the garages, together with their secluded location and small size, mean that they do not lend themselves to parking, particularly of larger vehicles. The UU ensures that future occupiers of the development would not be entitled to parking permits in the CPZ, save for disabled persons, and the development would be car-free given its good public transport accessibility. There is therefore no reason why the proposal would result in material overspill parking on surrounding streets that would be detrimental to the area's character.
10. The lime tree and beech tree to the eastern site boundary, shown as T1 and T4 respectively in the Arboricultural Impact Assessment (AIA), are mature Grade B trees. These trees are not protected like those within the adjacent Conservation Area. Nevertheless, with other nearby trees including those in the churchyard, they do have amenity value as they contribute to the verdant character of the area.
11. T1 and T4 are proposed to be retained and the proposal indicates measures to protect them during the construction phase. Some minor lifting of the crown of T1

would be required, though some pruning works to the trees have already been carried out.

12. The trees would be very close to the side of Unit B and its garden, and the canopies would overhang it, with the windows to the main living space and the bedrooms being in the side elevation of the dwelling facing towards these trees. As the trees would loom over the dwelling, they would give rise to significant shading and safety concerns from future occupiers, who would be likely to exert pressure to have the trees pruned, a point acknowledged in the AIA, or even felled. A deterioration in the health of the trees, or their loss, would result in harm to the verdant character of the area around the churchyard, which forms part of the Conservation Area. Therefore, a suitable relationship between this dwelling and the adjacent trees has not been demonstrated. The proposed planting would take time to reach maturity and would not sufficiently mitigate the impact.
13. I conclude that the proposal would harm the character and appearance of the area and would therefore be contrary to Policies D4 and G7 of the London Plan (2021) and Policies 1, 28 and 37 of the Local Plan. Amongst other things, these seek to ensure that development delivers good design that responds to local character, and require the retention of existing trees of amenity value.

Living conditions

14. Unit A would be a 2 bedroom, 4 person dwelling and Unit B a 3 bedroom, 5 person dwelling. The floor area of both units would exceed the minimum internal floor space standards and floor to ceiling heights, as set out in London Plan Policy D6.
15. While I note the Council's concern that the two first floor bedrooms of Unit A would be served by single windows set at an acute angle in the rear elevation, these would provide a satisfactory outlook towards the trees and grounds of St Nicholas Community Hall. Given that these windows would be at a high level and south west facing, it is also likely that they would benefit from adequate daylight.
16. The garden sizes of both units would be acceptable considering the context of this town centre location, where garden sizes tend to be smaller. However, the garden of Unit B would be enclosed by mature trees on the south and east and by the dwelling itself on the west and neighbouring houses to the north. While the garden would be south facing, it is unlikely that adequate levels of sunlight would penetrate to it through the trees. Consequently, it would feel gloomy and hemmed in, particularly when the trees are in leaf. It would not therefore provide a good quality outdoor space for future occupiers. While the appellant considers that the proposal would offer a pleasant living environment owing to the treed backdrop and distance from the public highway, it is likely that occupiers would have concerns over the relationship between the dwelling and the trees for shading and safety reasons.
17. Reference has been made to other developments in the local area which the appellant considers are not afforded the same levels of daylight and sunlight as the proposal would be. However, the details of these have not been provided to enable a comparison to be made, and in any case substandard living conditions elsewhere do not justify them here.
18. The proposal would fail to provide satisfactory living conditions for future occupiers of Unit B, having regard to light and external amenity space. Thus, it would conflict with London Plan Policy D6 and Local Plan Policy 9 which seek to ensure that

housing development is of high quality design that provides, amongst other things, adequate light and external amenity space.

Biodiversity

19. A preliminary ecological appraisal and phase 1 habitat survey of the site have been carried out. The site has negligible-low ecological value, the habitats being of low distinctiveness and offering little potential for protected species. Surrounding trees and a local Site of Importance for Nature Conservation offer moderate ecological value, though these would be unaffected. The proposals are not anticipated to have any significant impact upon ecology, with appropriate mitigation measures proposed for the construction phase.
20. While a measurable biodiversity net gain has not been demonstrated, the ecological appraisal indicates some of the ecological enhancements that would be incorporated in the scheme. These include bat and bird boxes, and planting of native trees of ecological value within the site. Given the negligible-low ecological value of the site, I am satisfied that the development could deliver the requisite biodiversity net gain, the precise details of which could have been secured by planning condition.
21. Therefore, subject to a condition, were the appeal to have been allowed, there would be no conflict with London Plan Policy G6 and Local Plan Policy 26 which seek to manage biodiversity impacts and secure a biodiversity net gain.

Surface water drainage

22. The site is within Flood Zone 1, where there is the lowest probability of flood risk. Therefore, the evidence indicates that the site is not at significant risk of flooding.
23. A drainage strategy has not been submitted to demonstrate that surface water run-off would be suitably managed. However, the proposal would result in a reduction in built footprint and hardstanding compared to the existing situation. Moreover, those parts of the site that would not be built on, such as the garden areas, would allow for some absorption of surface water and the new hard surfaces would also be permeable. The proposal would thereby provide an improvement in terms of drainage. Given the scale of the development and low probability of surface water flooding, I see no reason why a condition could not have been imposed, had I been minded to allow the appeal, to secure a suitable surface water drainage scheme.
24. The proposal would therefore comply with London Plan Policies SI 12 and SI 13 and Local Plan Policy 32, which seek to ensure that surface water run-off is managed effectively, and flood risk is minimised.

Other Matters

25. I have had regard to the other concerns raised by the nearby resident. However, the Council did not refuse the application on these other grounds and I have no reason to reach a different conclusion based on the evidence before me and my observations on site.
26. The UU aims to prohibit future occupiers from obtaining residents car parking permits within the CPZ in the interests of highway safety. I consider that the obligations contained within the UU to be necessary, related directly to the development and fairly related in scale and kind. As such it would accord with the

provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the Framework.

27. I note the appellant's dissatisfaction with the Council's handling of the planning application. This is a matter between the parties. I have been concerned only with the planning merits of the case.

Planning Balance

28. The development would be highly accessible to services and facilities, and contribute to the housing needs of the borough, which accords with the Government's objective to significantly boost the supply of homes. It would make more efficient use of a previously developed site which is currently vulnerable to crime and anti-social behaviour. Economic benefits would arise through construction employment opportunities and spending in the local area by future occupiers. While I have attached some weight to these factors, the weight attributable to them is limited due to the modest scale of the proposal. The enhancement of the site's appearance is a further benefit, though this could be realised through an alternative scheme. I therefore give little weight to this consideration.
29. The proposal would not be harmful in respect of biodiversity or drainage, subject to conditions. However, the lack of harm in relation to these and other matters weighs neither for nor against the scheme.
30. I have concluded that the proposal would harm the character and appearance of the area. The Framework states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. The proposal would not achieve this and would also fail to provide satisfactory living conditions for future occupiers. While I have attributed some weight to the benefits of the scheme, I am not persuaded that it is the only means of achieving these. Therefore, in the overall balance, the benefits of the proposal do not outweigh the harm identified.

Conclusion

31. The proposal would not accord with the development plan and there are no other considerations, including the provisions of the Framework, that outweigh this finding. I therefore conclude that the appeal should be dismissed.

M Ollerenshaw

INSPECTOR