



Appeal Decision

Site visit made on 17 March 2025

by **Megan Thomas K.C.** Barrister-at-Law

an Inspector appointed by the Secretary of State

Decision date: 23 April 2025

Appeal Ref: APP/P5870/W/24/3353448

19 Riverside Close, Wallington SM6 7DH

- 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 Ashok Garg and Mahira Homes against the decision of the Council of the London Borough of Sutton.
 - The application ref. is DM2024/00778.
 - The development proposed is the demolition of garage and erection of an end of terrace two storey dwelling, with provision of parking and cycle and refuse stores, boundary fence to rear and side, raised patio and amenity garden area to the rear.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of garage and erection of an end of terrace two storey dwelling, with provision of parking and cycle and refuse stores, boundary fence to rear and side, raised patio and amenity garden area to the rear at 19 Riverside Close, Wallington SM6 7DH in accordance with the terms of planning application ref. DM2024/00778 dated 4 June 2024 subject to the schedule of conditions at the end of this decision letter.

Procedural Matter

2. In the box heading above, I have taken the description of development from the Council's Notice of Decision as it is more detailed. There is no prejudice to the appellant in doing so.

Main Issues

3. The main issues in the appeal are the effect of the proposal on the character and appearance of the area and whether the health and landscape value of trees subject to a Tree Preservation Order would be unduly threatened.

Reasons

4. The appeal site comprises a two storey dwelling, a detached garage and its associated curtilage. The host dwelling sits at the end of a short terrace of 3 dwellings, sitting at the end of a residential road. A pair of semi-detached garages serving 15 and 17 Riverside Close sit at the head of the road outside the appeal site. There are no dwellings facing the front of 19 Riverside Close as on the opposite side of the Close there is a small watercourse and fencing enclosing rear gardens. The River Wandle runs behind the rear gardens of 15-19, 11-13, 5-9 Riverside Close, amongst others.
5. The host dwelling is of similar design and appearance to its adjoining neighbours. All three dwellings sit in alignment and have a single storey offshoot to the front with a flat roof. This projects modestly beyond the main elevation, across the full width of each house. The

proportions and layout of fenestration is consistent across the terrace, as are the brick and render finishes. The roof of the terrace also features a consistent eaves and ridge height, side facing gables and evenly spaced chimneys. There are other terraced dwellings nearby on Riverside Close.

6. The proposal would extend the existing terrace in a north-west direction in a design which, in terms of massing, eaves and ridge heights and fenestration would integrate well with the existing terrace. There would be an integrated garage within the new dwelling with a floor above it and, whilst this is not typical of the terrace, it is not harmful. I note the Council does not object to the design of the proposed dwelling.
7. Whilst the terrace would extend in a north west direction, the existing garage would be demolished and the front building line of the proposal would be flush with building line of its neighbours – nos 19, 17 and 15. The resulting development would not unduly block views of greenery and vegetation as one travelled north westerly along Riverside Close towards the end point marked by the semi-detached single storey garages. The development would be in broad terms about as physically close to those garages as is the existing detached garage serving no.19. The backdrop of tall trees behind the semi-detached garages and broadly to the east of it would continue to provide a verdant and sufficiently open character to this part of Riverside Close. The area and the net built development inserted into it would not appear cramped, unduly enclosed or appear as an unintegrated addition to the terrace of properties in this particular setting.
8. In coming to these judgments, I have taken account of a previous appeal decision (ref. APP/P5870/W/22/3306370) dated 7 August 2023, which was for a proposed new attached terraced dwelling to no.19 but which protruded forward at ground and first floor level from nos 19,17 and 15. The scheme before me is not identical and in any event I do not consider the area around the appeal site to be particularly locally distinctive for its openness. The Close is a no-through road and the semi-detached garages appear as an end stop to the Close. I consider that the proposal before me, given its siting, would not interfere unduly with views of greenery. I have considered openness as a characteristic from different wider areas around the appeal site but conclude that the proposal would not unacceptably harm openness or the distinctiveness of the streetscene. The previous Inspector made his planning judgments on the scheme before him, and for the reasons I have given I make a different planning judgment on a different scheme.
9. On this first main issue I conclude that the proposal would not harm the character or appearance of the area and would not be in conflict with policies H1 or D3 of the London Plan 2021 or policies 9 or 28 of the Sutton Local Plan 2016-2031 (adopted 2018) 'LP'.

Effect on Protected Trees

10. The proposal would provide about 135sqm of private amenity space for the new dwelling and about 77sqm would be retained for no.19 directly at its rear. This is in keeping with other properties in the wider terrace. I note these matters are agreed by the Council. However, the Council highlights that although no.19's rear garden would be an adequate physical size it would be compact and dominated by mature trees, two of which are protected by an area Tree Preservation Order "TPO".
11. The scheme includes an additional garden/amenity area for no.19 Riverside Close which is located to the rear and side of the semi-detached garages and would provide additional space of about 49sqm. Whilst this would not be contiguous with the main plot of no.19, it is a few steps from the dwelling across the forecourt (which is also partially used by occupants of nos 15 and 17 to access their garages). Contrary to the Council's view, it is clear from the plans how it would be made private, and is not wholly undercover of large trees or impractical to use.

12. The protected trees located in the rear garden of no.19 Riverside Close are T1 and T2 and they are tall ash trees. At the time of the TPO they were judged to be worthy of protection and they continue to make a contribution to the landscape character of the area. The Arboricultural Planning Report submitted by the appellant indicates that both trees are in good condition and likely to survive for many more years.
13. There is concern that once the development has taken place there would be applications to prune those TPO'd trees on the basis, primarily, that the private amenity space for no.19 was overshadowed and not usable. The concern is that those applications could not reasonably be resisted and the TPO'd trees would as a consequence lose their amenity/landscape value or even be felled. I have sympathy with those concerns, however, given the total area of amenity space would be about 126sqm for the occupants of no.19, I am not convinced that pruning or felling applications could not be reasonably resisted if occupants felt it necessary to make such applications. As a result, I am not persuaded that pressure for their pruning or felling would lead to any premature decline or loss of the trees and consequently to a detrimental effect on the visual amenity of the area.
14. In relation to the tree/amenity space issue, I have taken into account the conclusions of the previous Inspector in the appeal referred to above. However, the rear garden area reserved for no.19 is larger than that reserved in the scheme before him, and in addition, it did not provide any additional non-contiguous amenity land for the occupants of no.19. The schemes are different.
15. On this issue I conclude that the health and landscape value of trees subject to a Tree Preservation Order would not be unduly threatened and there would be usable and adequate private amenity space for the future occupants of 19 Riverside Close. There would be no conflict with policy 28 of the LP.

Other Matters

16. As there is a significant buffer zone and separation distance from the River Wandle from the proposed new dwelling, I do not consider that there are grounds for withholding planning permission on flooding grounds. I note that the Environment Agency has no objection to the proposal and planning conditions relating to the potential for flooding are imposed. Also, in the conditions schedule there is a requirement for a Construction Logistics Plan which would take into account and manage any pedestrian and vehicular rights of way over private and public land.
17. The appeal site is located within an existing urban area that is residential in nature. The evidence indicates the site has a relatively low Public Transport Accessibility Level (PTAL) of 2. However, there is a public park, public house, convenience store, and bus stops within walking distance. There are additional services and facilities in the wider area. The site therefore retains a reasonable degree of access to services and public transport and is a suitable location for housing with respect to its accessibility by non-car modes of transport.
18. I recognise that the appeal site is not within an allocated strategic site for housing delivery. However, the Council acknowledge that it is not an essential and fundamental criterion for new housing to be located in these targeted areas. Moreover, paragraph 73 of the National Planning Policy Framework (the Framework) states that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and supports the development of windfall sites through decisions.
19. Furthermore, policy H1 of the London Plan looks to optimise the potential for housing delivery in 'small sites' locations. Policy H2 describes these sites as below 0.25 hectares in size. Typically these sites are infill, backland or conversions. The Council accept that the appeal

site is a small site location. The proposal is in my view an infill development and has the support of the principle in that policy. The evidence indicates the Council can demonstrate a 5-year housing land supply (April 2023 based). However, the Framework seeks to significantly boost the supply of homes and indicates that strategic policies should determine the minimum number of homes needed and so this should not be viewed as a maximum.

Conditions

20. The Council suggested some conditions in the event that the appeal was allowed. I have considered those in the light of advice in National Planning Practice Guidance. For the avoidance of doubt there is a condition tying the development to approved plans and documents. In order to protect the character of the area and/or the amenity of local residents, there are conditions controlling hard and soft landscaping details, works affecting trees, construction times, refuse and recycling area details and materials to be used in the external surfaces of the building.
21. To protect highway safety and amenity there is the need for a Construction Logistics Plan to be submitted and approved and it is necessary for this to be a pre-commencement-of-development condition. The applicant has consented to this. None of the other conditions need to be pre-commencement conditions in order to avoid undue harm, in my view. There is a condition requiring parking on the site to be in accordance with the approved plan, for highway convenience and safety reasons. In order to encourage sustainable transport modes and to ensure an adequate level of cycle storage facilities there is a condition requiring details of cycle storage facilities to be approved.
22. To protect the environment, there is a condition controlling potable water usage and one requiring beneficial energy saving measures to be implemented. In order to protect the site and other land from flooding, there are conditions relating to flood measures and mitigations.

Conclusion

23. I have taken into account some benefits flowing from the proposed development including the contribution to housing delivery and a temporary boost in employment during construction. Those count in favour of the grant of planning permission. In relation to policy, the proposal accords with the adopted development plan and there are no material considerations which indicate that permission should not be granted in accordance with the development plan.
24. Having considered all representations made, for the reasons given above, I allow the appeal and grant planning permission subject to the schedule of conditions below.

Megan Thomas K.C.

Inspector

Schedule of Conditions

- (1) The development hereby permitted must begin not later than the expiration of three years beginning with the date of this decision letter.
- (2) The development hereby approved shall be carried out in strict accordance with the following drawings and documents: 1119/02, 1119/03, MB-SURV-RC-E4-001 Rev 01, MB-SURV-RC-E5-001 Rev 01, MB-SURV-RC-E6-001 Rev 01, 1119/09, 1119/11, 1119/12 Rev A, 1119 Design and Access Statement 140624sd, JG02 (Swept Path Analysis) Rev B (Updated Site Plan), 1119 Construction Logistic Plan 280524 (04/06/2024), Waste

Management, Storage and Collection Strategy, 1119/14 (Bike Storage), Arboricultural Planning Report (updated May 2024), 1119/10 Rev B, MB-SURV-RC-TS-001 Rev 01, Biodiversity Net Gain Calculation 5677931 (Metric), C2734-R1-REV-A Flood Risk Assessment and SuDS Report, Energy Statement (May 2024), Preliminary Ecological Appraisal and Biodiversity Net Gain Calculation (dated 20/05/24) & 1119 dwg 13 Fire Strategy Statement 200524.

- (3) Site construction works shall only be carried out between the hours of 0800 and 1800 hours Monday to Friday, 0800 and 1300 hours on Saturday and not at all on Sundays and Public Holidays.
- (4) The development shall not be occupied until car parking space has been laid out within the site in accordance with the approved plan 1119/10 Rev B. The parking area shall be used and permanently retained exclusively for its designated purpose.
- (5) Prior to development above floor slab level, full details of 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 be permanently retained in accordance with the approved details.
- (6) The development hereby approved shall be constructed in accordance with the approved Energy Statement - 19 Riverside Close Wallington SM6 7DH (May 2024). Prior to first occupation, 'as-built' Standard Assessment Procedure (SAP) outputs must be submitted to the Local Planning Authority and approved in writing to demonstrate that the development has achieved the targeted reduction in CO2 emissions. All of the approved measures must thereafter be retained for as long as the development is in existence.
- (7) The development hereby approved shall be constructed in accordance with the approved C2734-R1 Flood Risk Assessment and SuDS Report Rev A. Prior to first occupation of the development, written confirmation that the approved SuDS measures have been implemented as part of the development as built must be submitted to the Local Planning Authority and approved in writing. All of the approved measures must thereafter be retained for as long as the development is in existence. In particular, the proposed building should be set back at least 5 metres from the riverbank, in line with the submitted Flood Risk Assessment (p.40, "Site Plan as Proposed"). The measure detailed above shall be retained and maintained thereafter throughout the lifetime of the development.
- (8) Prior to first occupation of the dwelling, a completed Water Efficiency Calculator for New Dwellings must be submitted to the Local Planning Authority and approved in writing to show that internal potable water consumption will be limited to no more than 110 litres per person per day (l/p/d) based on the Government's national calculation method for the purposes of Part G of the Building Regulations.
- (9) Prior to occupation of the development hereby approved, full details of final refuse and recycling area shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to occupation of the development and retained thereafter.
- (10) Prior to development above floor slab level the type and treatment of the materials, including samples, to be used on the exterior of the building shall be submitted to and

approved in writing by the Local Planning Authority. The approved materials shall be used in the construction of the development hereby approved, completed prior to its occupation/use and retained thereafter.

- (11) Prior to the occupation of the development, full details of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscaping and tree planting shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards (in particular, BS 3882: Specifications for Topsoil, Recommendations (2015) and BS 8545: Trees from Nursery to Independence in the Landscape, Recommendations (2014) or other recognised codes of good practice). The works shall be carried out prior to the occupation of any part or relevant phase of the development or in accordance with the timetable agreed with the Local Planning Authority. Any tree(s) or plants that (within a period of five years after planting) are removed, die, or (in the opinion of the Local Planning Authority) are damaged or defective shall be replaced as soon as is reasonably practicable with others of a similar size/species/number as originally approved, unless the Local Planning Authority gives its consent to any variation.
- (12) All trees on and adjacent to the site shown to be retained shall be protected in accordance with the arboricultural information submitted with the application and follow recommendations in BS 5837: Trees in Relation to Design, Demolition and Construction - Recommendations (2012). There shall be no materials stored within the Construction Exclusion Zone, and the Tree Protection Fencing and other measures shall only be removed on completion of development.
- (13) No development shall begin, including demolition and site clearance works, until a Construction Logistics Plan, to include details of: (a) loading and unloading of plant and materials; (b) storage of plant and materials; (c) programme of works (including measures for traffic management); (d) provision of boundary hoarding, (e) hours of operation; (f) means to prevent deposition of mud on the highway, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved document.