



Appeal Decision

Site visit made on 16 September 2025

by D R McCreery MA BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2025

Appeal Ref: APP/P5870/W/25/3365663

Land to rear of 81 Kingsmead Avenue, Worcester Park, London, KT4 8UZ

- 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 Toby Webber (Lincoln Asset Holdings Ltd) against the decision of the Council of the London Borough of Sutton.
 - The application Ref is DM2024/01402.
 - The development proposed is demolition of garden shed and erection of single dwellinghouse with new vehicular & pedestrian access off Dalmeny Road and associated car parking, cycle parking, waste & recycling storage, fencing and hard & soft landscaping works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Applications for planning permission (including appeals) are to be determined in accordance with the development plan for the area unless material considerations indicate otherwise. I have considered the development plan as a whole, including the policies of relevance to the main issue in the Sutton Local Plan (Local Plan) and the London Plan. The National Planning Policy Framework (the Framework) is a material consideration.

Main Issues

3. The main issues in this appeal are the effect of the proposal on:
 - The character and appearance of the area;
 - Local flood risk;
 - Biodiversity; and
 - Trees and highways.

Reasons

Character and appearance

4. The area is residential in character, typically with houses of two storeys (plus roof) of traditional appearance. Long, straight roads lined with street trees contribute positively to the open and pleasant character. Substantial gaps between homes are not a defining characteristic of the area.

5. Where gaps do occur they are typically close to road junctions, as a consequence of deep back gardens and the termination of buildings. The site falls within one such gap, allowing localised views from Dalmeny Road across the site and back gardens towards mature trees. This contributes positively to the character of the area, providing a sense of openness, greenery and visual relief from street enclosure. The boundary fence between the site and Dalmeny Road limits this effect to a degree and, of itself, has a neutral effect on character.
6. As seen in localised views from Dalmeny Road the proposal would reduce the gap and, therefore, the degree to which it contributes positively to the character and appearance of the area. The effects of developing the site would be mitigated by the extent of the remaining gap following development, which would still allow significant views across rear gardens and towards greenery. The location of the dwelling, closer to the boundary with No.16 Dalmeny Road, and its form, with single storey side element and main mass of the building closer to the boundary with No.16, would also contribute towards maximising the beneficial effect of the gap that would remain.
7. For these reasons, while there would be some loss of a gap, the extent of loss would not harm the character and appearance of the area or impact an important contributor to local character to the degree that the proposal should be rejected on principle.
8. Back gardens in the locality differ in their scale and pattern and, by definition, are principally seen from private spaces. In light of this variety, the Council's concerns about the proposal not reflecting the character or layout of the surrounding area are insufficiently substantiated. Preventing the subdivision of the garden of No.81 simply in the interests of preserving existing plot dimensions is not justified on the evidence presented.
9. In terms of form and detailed design, the proposed dwelling (as seen from Dalmeny Road) is appropriately designed to mimic the proportions and appearance of what would be adjoining properties. The single storey element of the proposal would clearly read as subservient to the main building and, as such, would not distort the overall proportions into something that would be uncharacteristic of the area. The Council's concerns that the dwelling would be 'overly wide' are unfounded.
10. Turning to the treatment of the rear of the proposed dwelling. While I appreciate the extent of window openings is designed to preserve the living conditions of neighbours, it would result in a rather uninteresting and characterless elevation. Given the constraints, the good quality of the proposed street facing elements, and that the rear would be principally seen from more limited vantage points, this part of the proposal is nevertheless acceptable.
11. The proposal would have an acceptable effect on the character and appearance of the area. There is no conflict with the development plan in this respect, including Policies 7, 13, and 28 Local Plan and D4 of the London Plan in relation to design quality and responding to local character and garden land. In considering this issue, I have paid regard to guidance contained in SPD14 in so far as it has been drawn to my attention.

Flood risk

12. Although the site is within Flood Zone 1 for fluvial flooding, there is common ground that it sits within a hot spot for surface water flooding. It is also identified within the Local Plan as falling within a Critical Drainage Area (CDA) for the purposes of Policy 32 (Local Plan) with paragraph P32.6 of the plan providing additional context that they are areas where there are multiple interlinked sources of flood risk and where intense rainfall events are known to cause localised flooding.
13. The practical impacts of this issue are illustrated by the representations of third parties. I do not agree with the Council's position that the evidence points towards the need to avoid further back garden development in this area as a matter of principle. That would be a matter for strategic planning. However, the specific local issues in this case brings with them a need for rigorous scrutiny to ensure the potential effects are well understood and reasonably mitigated.
14. The location within a CDA triggers a site specific flood risk assessment (FRA) under Policy 32(a) (Local Plan). The Appellant's FRA¹ assesses sources of flood risk both to and from the development. It also identifies flood risk management measures, including SuDS, and takes account of climate change. However, the desk based nature of the FRA is a major flaw in its methodology.
15. Assessments of flood risk need to be proportionate to the anticipated degree of flood risk. Given the known issues in this area, the amount of garden land that is proposed to be covered in built development and associated harder standing and the vulnerability classification of those affected, it is proportionate to expect an assessment to go beyond a desk based study and be built on a deeper understanding of the site specific ground and other conditions. In the absence of that starting point the FRA is not credible and fit for purpose.
16. The flood risk management measures also cannot be regarded as suitable and the Appellant's assumptions about the effects of the development on future occupiers and neighbours are inadequately evidenced. The evidence fails to demonstrate that the proposal should not be resisted on the grounds that the site makes a significant contribution to minimising the risk of flooding in the CDA, as set out in Policy 13 (c) (Local Plan) nor is there credible evidence against which to assess the proposal in light of Paragraph 181 (Framework) and the need to ensure that flood risk is not increased elsewhere.
17. The proposal does not demonstrate an acceptable effect on local flood risk. There is conflict with the development plan for the area, in particular Policy 32 relating to flood risk management.

Biodiversity

18. The Appellant does not dispute the Council's position that the proposal would result in a net loss of on site biodiversity. The suggested way of addressing this matter through the purchase of off site biodiversity credits would be secured via a legal agreement. No such agreement is before me or other suggested means of securing the credits.

¹ Flood Risk and SuDS Assessment Rev4 (Base Energy)

19. While this is technicality, in the absence of a means of securing the credits, the proposal would not have an acceptable effect on biodiversity. There is conflict with the development plan for the area, in particular Policy G6 of the London Plan and Policy 26 of the Sutton Local Plan in respect of managing the impacts of development on biodiversity.

Trees and highways

20. Works to the public highway outside the site would be necessary to secure suitable access for the dwelling. Principally this would entail a new dropped kerb and relocation of a lamp post. The works are to incorporate methods necessary to secure the retention/health of the street tree described in the Appellants arboricultural evidence as T2 (Norway Maple). The worthiness of the tree's retention is common ground.
21. Such works generally fall outside the development management process are a matter for discussion with the highway authority. I do not agree with the Council's position that the protection of tree T2 is unsecured. One might assume that this is simply a matter of one Council department communicating effectively with another in the interests of avoiding unnecessary procedural cost and delay. However, if a more robust planning relating mechanism is necessary, a Grampian style condition would be justified in this case to secure the necessary access and tree protection in accordance a plan agreed by the Highway/Local Planning Authority.
22. The comments from the Highway Authority say that the works would need to accord with their relevant footway crossover policy. While they indicate that the presence of the tree and lamp post are factors supporting a view that the policy would be unlikely to be met, the reasons are not explained in any real depth. As such, the comments of the Highway Authority do not lead me to conclude that there would be no prospect of a Grampian planning condition requirement being fulfilled. Further, there is also no evidence to adequately show that the necessary soil depth to secure the health of tree T2 is not achievable.
23. Subject to conditions, the proposal would have an acceptable effect on trees and highways. There is no conflict with the development plan for area, including Policies 28 and 36 of the Local Plan and Policy T4 of the London Plan in so far as they relate to landscaping and trees, transport improvements, and mitigating transport impacts.

Other Matters

24. I have considered public and other comments received in response to both the planning application and the appeal. Comments relating to the main issues have been considered as part of my reasoning on those issues. Other comments do not materially change the overall assessment and outcome of the appeal.

Conclusion

25. The proposal does not demonstrate an acceptable effect on local flood risk. There is conflict with policies in the development plan that flows from this harm that amounts to conflict with the plan as a whole.

26. The proposal would contribute to the housing stock of the Borough, in a sustainable location and within an established community, at a time of undisputable housing stress. While it would be a single home, the Framework still stresses the important contribution that such small and medium sites can make.
27. However, housing development does not come at all costs and must be well located and designed. In this case, the evidence of flood risk demands a precautionary approach that is not discharged by the evidence. While I have paid regard to the benefits of developing the site, they are not sufficient to indicate that a decision should be taken other than in accordance with the development plan.
28. For the avoidance of doubt, while I have found development plan conflict in respect of the effect on biodiversity, this is a technical matter that the main parties agree is capable of resolution. As such, I have not factored it into the overall planning balance.
29. For these reasons, and paying regard to all other matters raised, the appeal is dismissed.

D R McCreery

INSPECTOR