
Appeal Decision

Site visit made on 7 November 2016

by Helen Hockenhull BA(Hons) B.PI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 November 2016

Appeal Ref: APP/T5720/W/16/3154967

1 Sibthorp Road, Mitcham, Surrey CR4 3NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Nowsad Gani against the decision of the Council of the London Borough of Merton.
 - The application Ref 15/P3079, dated 10 August 2015, was refused by notice dated 31 May 2016.
 - The development proposed is a third floor extension to the existing three storey building to create an additional 3 no. self-contained one bedroom 2 person flats and 2 no. self-contained 3 person flats each with its own private terrace.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Following the submission of the appeal documents, the appellant provided a Sunlight /Daylight report. The Council were given the opportunity to comment on this but no response has been made. I have had regard to this document in the determination of this appeal.

Main Issues

3. The main issues in this case are :
 - the effect of the development on the character and appearance of the area;
 - the effect of the development on the living conditions of the occupants of neighbouring flats with particular regard to daylight and outlook.

Reasons

Character and appearance

4. The appeal site forms a three storey building located at the corner of Sibthorp Road and London Road in Mitcham town centre. Both of these roads are pedestrianized with only delivery vehicles permitted. The building accommodates nine residential flats at ground and second floor and the Mitcham Islamic Centre is located at first floor. The third storey of the building is set back from the front facade by approximately 3.6 metres so that from the London Road frontage the building has the appearance of being two storey.
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5. The area is characterised by a range of town centre uses including retail, commercial and residential. The buildings vary in height from two storey to four storey and are of a variety of architectural styles with both hipped and flat roofs. No. 250 London Road which immediately neighbours the appeal property is a two storey building with a recessed dormer extension in the roof. Beyond this heading south down London Road are three storey buildings. Neighbouring the appeal building to the north of Sibthorp Road, No 242-244 London Road forms a four storey property with a central hipped roof over the main body of the building and a lower ridge height to the rear. On the opposite side of London Road Nos. 203-211 form four storey buildings beyond which are three storey properties with a 'dutch' style façade.
6. The Council has made reference to the draft Merton Character Study. This states that the pedestrianized section of London Road in which the appeal site is located, retains an attractive architectural quality and is an area where new development should reinforce the existing character.
7. The appeal proposes the addition of a further two floors to the building to provide 3 no. one bedroom flats and two no. 2 bedroom flats. The proposed third floor would match the footprint of the existing second floor with the proposed fourth floor being provided in the roof space. I noted on my site visit the range of building heights and the mass of buildings neighbouring the appeal site. In the main these are three storey in height, the exception being the four storey No. 242 -244 London Road. The appeal building and its neighbour No. 250, appear as the most modest buildings in the street scene on this western section of London Road. The proposed increase in height of the appeal property would result in it having a significantly greater massing and dominance in the street scene. This would not provide a new development reinforcing the existing character of the area as recommended in the draft Character Study.
8. I acknowledge that the proposed additional floors would be set back from the front elevation of the building, reducing the impact of the mass and height of the extended building. I also recognise that from more distant viewpoints to the north, the proposed additional floors may not be easily seen. However from a closer standpoint on London Road, the proposal would be more visible and prominent in the street scene. As a result I consider that the proposed development would not appear sufficiently subservient to the host building and would appear bulky and incongruous. Furthermore due to the width of London Road and the separation distance between facing buildings, the appeal proposal, as a result of its height and mass, would appear overbearing in the street scene and detrimental to the character of the area.
9. The appellant has made me aware that the neighbouring building at No 242-244 London Road has itself been extended with an additional storey and accommodation in the roofspace. It is suggested that this sets a precedent for this type of extension. However there are differences in terms of design between the two buildings and the extension to the neighbouring building was carried out around 14 years ago when a different policy context would have been in place. Each scheme should therefore be considered on its own merits.
10. The Council refers to the appeal proposal as a five storey building out of keeping with the more modest 3-4 storey built form of London Road. The appellant however describes the proposed building as four storey with a pitched

roof over. He argues that accommodation in the roof space does not make it an additional storey as the physical appearance and height of the building does not increase. In this instance, the use of the roof space provides a fifth floor of living accommodation in the building and this governs the necessary height and design of the roof in order to ensure adequate headroom. Without such accommodation there would be potential for the roof height to be reduced. In any event, irrespective of the number of floors or storeys to a building, it is the overall height and mass that is important in terms of its impact on the street scene and the character of the area.

11. Bringing the above points together, I consider that the proposed additional floors, significantly increasing the height and mass of the building, would not respect the neighbouring built form of predominantly three storey buildings. The proposed extended building would be overbearing and appear incongruous in the street scene causing harm to the character and appearance of the area. The proposed development would therefore conflict with Policies 7.4 and 7.6 of the London Plan, Policy CS14 of the Merton Local Development Framework Core Planning Strategy 2011 (CS) and Policies DMD2 and DMD3 of the Merton Sites and Policies Plan 2014 (SPP). These policies seek amongst other things to promote high quality sustainable design that makes a positive contribution to the public realm and protects the valued and distinctive character of the Borough.

Living Conditions

12. The Council have raised concern that the proposed development would adversely affect light and outlook for the occupants of the neighbouring flats which have windows facing the flank wall of the appeal building. This concern is based on a basic assessment using the '25 degree test'. The appellant has provided a more detailed Daylight /Sunlight assessment which used the methodology in the British Research Establishment (BRE) Site Layout Planning for Daylight and Sunlight document (2011).
13. The report considered daylight in terms of the Vertical Sky Component as well as sunlight. It concluded that in relation to the 7 first floor flank windows of the neighbouring property, 4 would fail the BRE minimum guideline, of the 8 second floor windows, 6 would fail and of the 8 third floor windows, 4 would fail. I acknowledge that the report indicated a variation in the degree to which individual windows failed the target criteria.
14. It is noted in the report that some of the windows most affected in terms of daylight reduction may be bedrooms, where such a reduction may be considered less important. However, whilst I have no information with regard the use of individual rooms in the neighbouring building, bedrooms and living rooms form habitable rooms and therefore there should be no difference in the expected level of light or the acceptability of different levels of light reduction.
15. In terms of sunlight, the report concluded that there would be no significant effect on reduction to annual probable sunlight to neighbouring rooms and that there were no areas likely to experience shadowing.
16. The appellant has made reference to the fact that the neighbouring building, No 242-244 London Road, has been extended with an additional floor. The BRE guidance in terms of 'mirror development' recommends that each proposal should only take its fair share of daylight and not inhibit similar schemes on

neighbouring sites. The appellant considers that the appeal scheme is equitable in this respect and reasonable in terms of mirror development.

17. I acknowledge that the BRE document sets out that its guidelines should be applied flexibly where there are constraints and in urban areas. The submitted report suggests that the findings should be considered in light of the sites urban context. However it is clear from the findings of the report that there would be a failure to meet the minimum threshold in all floors of the neighbouring building. I accept that some of the failures are minor and that others are more significant. Nevertheless, I consider that the appeal proposal would result in an unacceptable reduction of daylight/sunlight to habitable room windows of the neighbouring property.
18. Sibthorp Road which separates the appeal building from the neighbouring flats at No. 242-244 London Road varies in width from 6-8 metres. This means that windows in the flank elevations of these properties would face each other at this limited distance. I consider that this would result in the appeal building having an overbearing and enclosing effect on these windows resulting in a poor outlook for the occupants of the neighbouring flats.
19. In light of the above, I consider that the appeal proposal would cause harm to the living conditions of the occupants of the neighbouring property. The development would conflict with Policies 7.6 of the London Plan, CS Policy CS14 and SPP Policies DMD2 and DMD3 which amongst other objectives aim to encourage well designed housing and ensure the provision of appropriate levels of sunlight and daylight and quality of living conditions to both proposed and adjoining buildings and gardens.

Other matters

20. I note that the scheme had been the subject of pre application advice and has been revised following discussion with Council Officers. The appellant brings to my attention that the roof design was revised from a flat roof to a pitched roof on Council Officers advice. However seemingly contrary to their original advice, the Council has raised concern about the height and mass of the building. This does not form a matter on which I am required to comment further. In any event I have considered the proposal on its individual merits.
21. I acknowledge that the appeal proposal would be acceptable in principle and would comply with CS Policies CS2 and CS7 which encourage a mix of appropriate uses supporting the vitality and viability of new centres and providing a range of quality facilities including housing. The appeal site is in a sustainable location close to public transport routes and the development would contribute to the supply of housing in the Borough. In terms of highway issues, parking, waste recycling and cycle storage the proposal would comply with the relevant policies of the development plan. Whilst these benefits give support to the scheme they do not outweigh the harm I have identified in respect of the main issues.

Conclusion

22. I have found that the appeal proposal would cause harm to the character and appearance of the area and the living conditions of the occupants of neighbouring flats.

23. For the above reasons and having had regard to all other matters raised, I dismiss this appeal.

Helen Hockenhull

INSPECTOR