
Appeal Decision

Site visit made on 11 January 2017

by B Bowker Mplan MRTPI

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

Decision date: 7 February 2017

Appeal Ref: APP/T5720/W/16/3153325

214-216 Merton High Street, London, SW19 1AU

- 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 Manikam Vaikundavasan against the decision of the Council of the London Borough of Merton.
 - The application Ref 15/P3871, dated 10 October 2015, was refused by notice dated 9 June 2016.
 - The development proposed is described as '*1) alterations to existing ground floor retail premises 2) demolition of existing single storey rear extension 3) erection of new 3 storey building to provide 3 no. self-contained flats*'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The address of the appeal site is taken from the appeal form which is more accurate as it refers to both 214 and 216 Merton High Street.
3. The appellant, as referred to above, has provided written authorisation for the appeal to proceed under the name of Mr Kumaradasan Vasheeharan. Accordingly, the appeal has been determined on this basis.

Main Issues

4. The main issues are:
 - The effect of the proposal on the living conditions of neighbouring occupants, with particular reference to outlook; and,
 - Whether the proposed development would provide acceptable living conditions for future occupants with particular reference to outlook and amenity space.

Reasons

Neighbours

5. Nos 214 and 216 comprise a three storey end of terrace building located at Merton High Street with ground floor retail use and upper floor use as two separate three bedroom flats. The proposed three storey building would be to the rear of Nos 214 and 216 and adjacent to a rear lane that serves adjoining properties. Properties north of the site are predominantly residential in use.
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6. During my site visit, I viewed the location of the proposed development from the upper floor windows of No 216. An obscured window serving a bathroom and a window serving a kitchen would face towards the proposal at first floor level. At second floor level, a window serving a landing and a window serving a bedroom would face towards the proposal. Of these windows, occupants would spend considerable time in the kitchen and bedroom and therefore would derive benefit from the outlook they currently provide.
7. The outlooks from the noted bedroom and kitchen windows are relatively open as the two storey height of No 102 Hamilton Road is set away from the site and because of the flat roof design of the attached rear single storey extension. The floor plans indicate that No 214 is a mirror layout of No 216. Consequently, the outlook from the bedroom and kitchen windows at No 214 would be similar, albeit the outlook would be slightly more open than at No 216 owing to its siting in relation to No 102 Hamilton Road.
8. The bedroom and kitchen windows would directly face towards the proposal's three storey elevation. This scale and height combined with the closeness of the proposed building to these windows would result in a significant and harmful impact on the outlook for neighbours. Consequently, I agree with the Council that the proposal would have a harmful and visually intrusive impact on neighbouring occupants residing at Nos 214 and 216.
9. The side elevation of No 102 Hamilton Road contains three windows one of which is small and obscured glazed, whilst the remaining two are not directly opposite the site. Consequently, I am satisfied that no harm would occur to the living conditions of occupants at this property. However the absence of harm in this respect would not prevent or outweigh the harm I have identified above to neighbours residing at Nos 214 and 216.
10. Therefore I conclude that the proposal would have a harmful impact on the living conditions of neighbouring occupants at Nos 214 and 216 Merton High Street, with particular reference to outlook. Consequently the proposal would be contrary to Policy DM D2 of the Sites and Policies Plan and Policies Maps (SPPPM) which is of most relevance to this matter. This policy seeks to protect existing occupiers from visual intrusion and ensure an appropriate quality of living conditions at adjoining buildings.

Future occupants

11. The proposed ground floor flat would have two windows serving a bedroom and glazed doors serving a living room facing towards Hamilton Road Mews. A 1.8m timber boarded fence is proposed along the site boundary and would be in close proximity to these windows. At first and second floor levels each respective bedroom and living room/kitchen would be served by two windows each. These windows would also face towards Hamilton Road Mews and the two storey scale of No 102 adjacent to the site.
12. Owing to the height and proximity of the proposed timber fence to the noted ground floor windows, future occupants would not be provided with an acceptable outlook. In addition, owing to the scale and proximity of 102 Hamilton Road, the outlook for future occupants from the first floor living room/kitchen would also be severely limited.

13. The rear outer windows serving the first floor bedroom and second floor kitchen would not directly face towards No 102 and would consequently provide a relatively open outlook. Also, windows to the east elevation would be a sufficient distance away from 101 Hamilton Road to ensure an adequate outlook for future occupants. However these factors would not remove the harm identified to future occupants in paragraph 11.
14. Occupants of the ground floor flat would be provided with approximately 20 square metres of amenity space, none of which would serve future occupants of the upper floors. However, the parties have provided limited evidence and reasoning to advance their respective cases on this matter.
15. During my site visit I saw that occupants of the upper floor flats at Nos 214 and 216 have limited access to private amenity space. In addition, it is not unusual for upper floor flats in a High Street location to have limited access to private amenity space. Therefore, in the absence of any reasoning or evidence to the contrary, I conclude that the proposal would not harm the living conditions of future occupants in this respect.
16. However, the absence of harm in respect of the amenity space proposed would not outweigh or prevent the harmful impact to the outlook of future occupants identified above.
17. Therefore I conclude that the proposed development would not provide acceptable living conditions for future occupants with particular reference to outlook. Consequently the proposal would be contrary to Policy DM D2 of the SPPPM, and Policy 3.5 of the London Plan which are of most relevance to this matter. In so far as they relate to this matter, combined these policies seek to ensure that housing development is of the highest quality and does not unduly diminish the living conditions of future occupiers.

Other matters

18. Whilst not advanced in support of the appeal, the proposal would contribute to housing supply, construction employment and occupants would be located close to public transport. However these modest benefits combined would be outweighed by the harm identified above to the living conditions of neighbouring and future occupants.
19. Based on its Delegated Report and Statement of Case it is not clear whether the Council are concerned about the proposal's effect on the character and appearance of the surrounding area. This aside, I note that this concern is not a reason for refusal on the decision notice and that the appellant has not identified it as a concern raised by the Council.
20. However, as I am dismissing the appeal for the reasons given above, I do not need to pursue this matter any further which in any event would not change the outcome of the appeal.

Conclusion

21. For the reasons given above, and having taken all matters raised into account, I conclude the appeal should be dismissed.

B Bowker

INSPECTOR