

Appeal Decision

Site visit carried out on 6 June 2017

by Mrs J A Vyse DipTP DipPBM MRTPI

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

Decision date: 4th July 2017

Appeal Ref: APP/T5720/W/16/3166165

63 St Helier Avenue, Morden SM4 6HY

- 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 K Majeed against the decision of the London Borough of Merton.
 - The application No 16/P3643, dated 14 September 2016, was refused by a notice dated 7 December 2016.
 - The development proposed is described on the planning application form as '*Change of use from fast food restaurant with housing above to a hostel, including a ground floor rear extension, extension of existing rear second floor to full width, insertion of a rear full width dormer to third floor and internal reconfigurations*'.
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Decision

1. For the reasons that follow, the appeal is dismissed.

Procedural Matters

2. Although the appellant suggests that the plans could be amended by removing one of the proposed bedrooms on the ground floor in order to address the Council's concerns in relation to additional dining and living space, no revised layout is before me. In any event, I am required to make my decision based on the same plans that were consulted on and considered by the Council. Any revised scheme would need to be submitted to the Council, in the first instance, for formal consideration.

Main Issues

3. These relate to the effect of the development proposed on role and function of the neighbourhood shopping parade and whether acceptable living conditions would be provided for future residents, having particular regard to room sizes and shared facilities.

Reasons for the Decision

4. The appeal premises comprise a three-storey mid-terrace property, the third floor being accommodated within the roof space. On the ground floor is a hot food takeaway/restaurant that was trading at the time of my visit, the upper floors comprising two self-contained flats.
 5. Planning permission is sought for the erection of extensions and alterations to the rear of the property and change of use of the whole of the premises to create a seven room hostel. The ground floor would accommodate a reception area and communal lounge to the front, with a utility room and communal kitchen in the middle of the property plus two bedrooms largely within the proposed extension to the rear, each having direct access to a proposed shared
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garden area. Two bedrooms are proposed at both first and second floor level (as extended) with an additional bedroom in the extended roof space. All the bedrooms are shown as double ensuite rooms with access to a toilet and shower. Alterations to the front of the property would be minimal, comprising alterations only to the ground floor, replacing the existing shopfront.

6. The appellant confirms that the premises would accommodate up to 14 adults and four children (under the age of three) and would operate 24 hours a day.¹ The Grounds of Appeal also suggest that three full time staff would be employed, including a manger and on-site chef, plus two part-time staff, although the appeal statement and the application form refer to one full time and two part-time employees.

Neighbourhood Parade

7. The appeal premises lie within a neighbourhood shopping parade served by an access road along the frontage, with a service road to the rear. Although the related reason for refusal refers to conflict with policy DM R5 of the Council's Sites and Policies Plan (July 2014)(SPP), that policy relates to proposals for new restaurants and cafes (A3), public houses (A4), hot food takeaways (A5) and leisure and entertainment uses (D2). Since the appeal scheme does not relate to a proposal for any of those uses, I am not persuaded that the policy is relevant in this instance and it is not referred to in the Council's statement of case.
8. Similarly, whilst policy CS12 of the Council's Core Strategy (July 2011) is referred to in the reason for refusal, it is not mentioned in the statement of case. However, I note that it is generally supportive of a diverse local economic base by encouraging the increased provision of the overall number and range of jobs in Merton, particularly in the commercial and business sectors. There would be a loss of jobs were the existing restaurant/hot food to close, but some jobs would be created by the development proposed. It is not clear therefore, as to exactly what the extent of any harm in terms of the loss of employment floor space would be in this regard, although I recognise that the hostel type use proposed would not normally be considered as an employment use.
9. Policy DM R4 of the SPP is permissive of changes of use in neighbourhood shopping parades where a number of criteria are met. Among other things, the new use is required to be compatible with a shopping frontage, providing a direct service to the general public and should not harm significantly the vitality and viability of the parade.
10. The evidence of the appellant is that whilst the premises commenced trading as a restaurant and takeaway in 2005, insufficient passing trade meant that it eventually closed down. The appellant also advises that the property has remained vacant since 2015 and that it has been on the market for a while over the past year. However, although I understand McMichael Estates to have marketed the premises in the past, no evidence of what that marketing exercise comprised, the length of time over which it was conducted, or even any indication as to whether the asking price was realistic are before me as part of the appeal submissions. Moreover, at the time of my site visit, the premises were clearly trading as a hot food takeaway, a use, unlike the hostel

¹ Grounds of Appeal

proposed, that is both demonstrably compatible with a neighbourhood parade and which contributes to its vitality and viability, particularly in terms of the function of the parade in providing local shopping facilities within walking distance of residents to meet their day-to-day needs. Use of the premises as hostel type accommodation would not, in my view, provide a direct service to the public as envisaged by the policy and would undermine the vitality and viability of the parade.

11. Policy DM H5 of the SPP is supportive of the provision of student and other housing with shared facilities, and bedsits, subject to specified criteria. Among other things, there should be no loss of permanent housing, it should meet an identified local need and it should comply with all relevant standards for the proposed use.
12. In replacing the two existing self-contained flats, the development proposed would result in the loss of permanent housing contrary to the requirements of the policy.
13. In support of the proposal, the appellant suggests that family accommodation in this location is not ideal due to the nature of surrounding businesses, limited external amenity space and proximity to the busy main road. I am not persuaded, however, that the existing accommodation could reasonably be considered as providing family accommodation. The submitted plans indicate² that the existing first floor unit has one bedroom. As such, it cannot, in my view, be classed as family accommodation. Whilst the upper unit is shown as having two bedrooms, it has only a small kitchen with no living room space. On balance, I am not satisfied that that unit could properly be classed as family accommodation either. Accordingly, the nature of the location, the lack of any private outdoor amenity space for occupiers and proximity to the main road are not considerations that tell materially against the existing accommodation, nor are the environs generally inappropriate for flats above the parade.
14. The submissions of the appellant³ also indicate an intention for the proposed hostel to cater for locals or homeless and disadvantaged people who require social housing, as well as those requiring a short term stay such as tourists, students, travellers etc. However, notwithstanding anecdotal references to accommodating two homeless ladies (one in 2009 and one more recently) and housing 'tenants from social housing in the past', there is no robust substantiated evidence before me of exactly how it would meet identified local needs in these regards.
15. The matter of compliance with relevant standards is dealt with in the following section of this decision. Suffice it to say here, that there are serious shortcomings in this regard.
16. To conclude on this issue then, I find that the development proposed would undermine the role and function of the neighbourhood parade contrary to the relevant development plan policies.

Living Conditions – Future Residents

17. One of the core planning principles embraced by the Framework is the need to

² Although I was able to access the first floor landing and saw a store room and bathroom, I was unable to gain access to the residential accommodation on the upper floors at the time of my visit.

³ Although the appellant's final comments assert that he has never stated that the development proposed would accommodate tourists or travellers, as such a use would be akin to hotel accommodation, both the Access Statement and the Grounds of Appeal clearly reference an intention to accommodate such individuals.

secure a good standard of amenity for future occupants of buildings. Chiming with that core principle, policy 3.5 of the London Plan requires that housing development should be of the highest quality internally. Policy CS.14 of the Council's Core Strategy (July 2011) CS.14 also promotes high quality sustainable design, seeking to ensure that all residential development complies with the most appropriate minimum space standards. SPP policy DM H5 includes a requirement for housing with shared facilities and bedsits to comply with all relevant standards for that use, with policy DM H2 being supportive of residential proposals where they contribute to meeting the needs of different households by providing a mix of dwelling sizes. The supporting text to the policy confirms that HMOs are expected to meet good standards for future occupiers, having regard to relevant guidance.

18. In relation to shared hostel type accommodation such as that proposed (often referred to as larger scale HMOs) the Mayor of London's Supplementary Planning Guidance (SPG) on Housing (March 2016) requires that schemes are of good quality and meet all relevant Housing Act and HMO standards and requirements. In order to give residents flexibility when developing larger dwellings for five people or more, the SPG encourages developers to consider providing two living spaces, for example a living room and a kitchen-dining room. It goes on to encourage developers of larger dwellings to include at least one bathroom with WC and one additional WC.
19. The Council also draws attention to HMO Standards produced by the Housing Executive. Although not part of the development plan, they provide useful guidance against which to assess the accommodation proposed. Among other things, they indicate that no kitchen, kitchen/dining room or kitchen/living room shall be shared by more than ten individuals or six households, irrespective of its total floor area.
20. The scheme proposed includes an open plan area comprising a reception desk and communal lounge (suggested by the appellant to be in the region of 13.7 square metres)⁴ and a communal kitchen of approximately 9 square metres, plus a separate utility room of some 5.3 square metres.
21. The communal kitchen would be shared by up to 14 adults (plus four children) from seven 'households', contrary to the Housing Standards. I also note that no dining space would be provided, the appellant suggesting that residents could eat in their bedrooms at a small table. Whether or not that is an acceptable arrangement in principle, the two ground floor double bedrooms each have a floor area of just 13.8 square meters (including the ensuite) and do not appear to be large enough to accommodate such an arrangement. I recognise that there is a separate utility room of some 5.3 square metres, but that would not provide additional preparation/ cooking/eating space.
22. Each of the bedrooms would have an ensuite toilet and shower. However, it is clearly anticipated that up to four children below the age of three could be housed here. I note, in this regard, that no bathroom is provided, which would conflict with the advice in the SPG, the appellant suggesting that children could be bathed in the shower tray.
23. The provision of just one small communal lounge space for future occupiers would also conflict with the guidance in the SPG. My concerns in this regard

⁴ The officer's report suggests a figure of 10 square metres.

are exacerbated by the suggestion in the appeal statement that the proposed lounge area would only potentially be used by occupiers of the two ground floor units. It is also suggested by the appellant that communal areas are not utilised in hostel accommodation, with individuals preferring to stay in the privacy of their own bedrooms. My attention is drawn in this regard to the provision of some 50 square metres of outdoor amenity space proposed at the rear of the property, but that would only be readily accessible to the occupiers of the two ground floor bedrooms.

24. Whilst it is suggested that a condition could be imposed to restrict the number of residents (should I consider such to be necessary) no alternative lower figure is suggested. In any event, that would not overcome other concerns that I have highlighted in relation to the proposal.
25. It would appear that the Council does not have any guidelines relating to room sizes for accommodation such as that proposed. Whilst the appellant refers to HMO standards operated by the Council, it is not clear where those standards are set out. Whilst I note that the standards apparently indicate a minimum 10 square metres for a double bedroom, which would be exceeded in the appeal scheme, it is not clear as to how many persons the minimum kitchen size of 7 square metres and a living room size of 9 square metres would be expected to cater for.
26. All in all, I am not satisfied that the development proposed could be considered as a high quality design and I conclude that it would not provide acceptable living conditions for future occupiers in terms of the space available. There would be conflict in this regard with the relevant policies and guidance.

Other Matters

27. Although not referred to in the reasons for refusal, local residents have expressed concern in relation, among other things, to the effect of the development on the character and appearance of the area, in particular the very large dormer style extension within the rear roof slope, and the effect on their living conditions in relation to matters such as noise and disturbance, outlook, privacy, loss of light etc. Other concerns related to staff parking and refuse storage. Had the appeal been acceptable in all other regards, I would have required further information on these matters.

Conclusion

28. For the reasons set out above, I conclude that the appeal should not succeed.

Jennifer A Vyse
INSPECTOR