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## Appeal Decision

Site visit made on 18 July 2017

**by Jonathan Tudor BA (Hons), Solicitor (non-practising)**

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

**Decision date: 09 August 2017**

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**Appeal Ref: APP/T5720/W/17/3168529**

**18 Arras Avenue, Morden, Surrey SM4 6DF**

- 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 Apex Investment Management Ltd against the decision of the Council of the London Borough of Merton.
  - The application Ref 16/P0910, dated 29 February 2016, was refused by notice dated 14 October 2016.
  - The development proposed is demolition of the existing hall and erection of a new building comprising 1 x 4 bedroom terrace house, 3 x 3 bedroom terrace houses and 2 x 1 terrace flats.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the proposed development on:
  - the character and appearance of the area; and
  - the living conditions of neighbouring occupiers, with particular regard to outlook and privacy.

### Reasons

#### *Character and appearance*

3. The appeal site contains a building which was formerly used as a youth centre. It is a roughly rectangular plot located along a road consisting of mainly semi-detached two storey dwellings with long back gardens, dating from the inter-war period. To the rear of the site is a block of two storey flats at Connaught Gardens. The surrounding area is predominantly residential.
4. Policy 7.4 of the London Plan<sup>1</sup> says that development should have regard to the form, function and structure of an area, place or street and the scale, mass and orientation of surrounding buildings. Similarly, policy DM D2 of the Sites and Policies Plan and Policies Maps (SPP)<sup>2</sup> advises that all development will be expected to relate positively and appropriately to the siting, rhythm, scale, density, proportions, height, materials and massing of surrounding buildings and existing street patterns, historic context, urban layout and landscape

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<sup>1</sup> The Spatial Development Strategy for London: Consolidated With Alterations Since 2011 (March 2015)

<sup>2</sup> 9 July 2014

features of the surrounding area. It should also use appropriate architectural forms, language, detailing and materials which complement and enhance the character of the wider setting.

5. As I saw on my site visit, many of dwellings along the road have hipped or pitched roofs and bay windows, some with gables, in styles often typical of such suburban areas. Although paragraph 60 of the National Planning Policy Framework (the Framework)<sup>3</sup> advises that innovation should not be stifled, it also says that it is proper to seek to reinforce local distinctiveness.
6. The proposal would be lower in its total height than the existing building. However, despite the use of traditional materials, the oblong shape and flat roof design of the proposed development would present a utilitarian façade onto Arras Avenue that would bear little relationship to either of its immediate neighbours or, indeed, to other more traditional houses along the road or in the area. Consequently, the design of the proposal would appear incongruous within the street scene.
7. Whilst an appropriate contemporary design could be acceptable, the saw tooth roof of the two single storey flats would exacerbate the stark functional aesthetic. Although they would be located to the rear of the site, where visibility from the public domain would be more limited, that in itself is not determinative as there would be views from surrounding buildings and gardens which must also be considered. Well-designed contemporary architecture can make a positive contribution, enhancing the design quality of an area. It is recognised that there is no requirement to slavishly follow or replicate existing forms. However, the particular design and features proposed would create a semi-industrial appearance which would strike a discordant note in this suburban residential setting.
8. The proposal would extend well beyond the footprint of the existing building, which itself exceeds the established rear building line. The appellant refers to housing density ranges in the London Plan but whilst they encourage optimal use of sites, that is still subject to respect for local context. The local area is characterised predominantly by houses on generous plots with long gardens. Although it is recognised that the garden's provided for the proposed dwellings are reasonably sized, the overall footprint of the development would, despite a reduction compared with a previous scheme<sup>4</sup>, occupy much of the plot. Therefore, the proposal would not reflect the prevailing pattern of development in the area.
9. Furthermore, whilst the appellant states that the Mews style development has been 'widely accepted' as a novel and intelligent way forward and refers to support from the Council's Urban Design Team, I note that they have expressed an adverse view of the proposed scheme overall. In any event, I am not as convinced that creating a gated street at right angles to the road would have regard to the pattern and grain of the existing spaces and streets in orientation, scale, proportion and mass, as required by policy 7.4 of the London Plan.
10. A consideration of the above factors leads me to conclude that the proposal would harm the character and appearance of the area. It would, therefore,

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<sup>3</sup> Published March 2012

<sup>4</sup> 14/P2578

conflict with policies 7.4 and 7.6 of the London Plan, policy CS 14 of the LDF Core Planning Strategy (CPS)<sup>5</sup> and policy DM D2 of the SPP, which, amongst other things, seek to ensure that development respects, enhances and complements local architectural character.

11. The Council also cites policy DM D3 of the SPP but that policy is entitled 'Alterations and extensions to existing buildings'. Therefore, I do not see that it would be directly applicable to this proposal, which appears to involve the complete demolition of an existing building and its replacement with a wholly new structure.

*Living conditions of neighbouring occupiers*

12. Policy DM D2 of the SPP seeks, amongst other things, to ensure the provision of quality living conditions for both proposed and adjoining buildings and gardens. It also aims to ensure that existing development is protected from visual intrusion. Policies 7.4 and 7.6 of the London Plan also refer to high quality design which enables people to feel comfortable with their surroundings and does not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings.
13. In paragraph 6 of the previous appeal decision<sup>6</sup>, the Inspector stated that: *'The existing building on the site extends some distance beyond the rear elevation of the properties in Arras Avenue, such that the building already impacts on the outlook from the rear of neighbouring properties at Nos 16 and 20 Arras Avenue. However, beyond the building is an open area of garden, albeit overgrown. This area provides an open outlook from parts of the rear gardens of these properties. It also provides an attractive landscaped outlook from the rear rooms and garden area to the flats in Connaught Gardens.'* That is also in accordance with what I saw on my site visit.
14. It is acknowledged that changes have been made to the scheme dismissed in the previous appeal, including reducing its height and depth. However, the two storey element of the proposed terrace would be 6 metres high and extend almost as far as the electricity substation, which is virtually the full length of the garden of the adjoining property at No 16. The appeal proposal would also be closer to No 16 than the previous refused scheme. Whilst the proposed building would be lower than the existing building on the site, that building has a pitched roof sloping away from Nos 16 and 20 whereas the proposal would present a long vertical block, with projections, not far from the shared boundaries.
15. Although the total length of the terrace has been reduced by about 3 metres and incorporates a lower single storey element, compared with the previous dismissed proposal, it would still reach to within about 5 metres of the rear boundary with Connaught Gardens. Therefore, despite those changes, I consider that, due to its scale, mass, bulk and density, the proposal would be overbearing and intrusive and have a significant adverse effect on the outlook of neighbouring residents.
16. Whilst the appellant refers to an additional building having once occupied the rear of the site, as it was demolished a considerable time ago, I give that aspect limited weight.

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<sup>5</sup> Adopted July 2011

<sup>6</sup> APP/T5720/14/2228863

17. With regard to privacy, the appellant advises that the fenestration on the side elevations has been angled away from the neighbouring houses and is directed towards the rear of the site. Louvered windows are referred to as a feature accepted by the Inspector in the previous appeal. However, I see no specific reference to louvered windows in that appeal decision, where privacy was not specifically discussed.
18. In any event, as indicated in the Council Officer's Report, whilst fenestration on the two storey part of the west elevation is angled away, the design on the eastern elevation, which faces towards No 16 and its garden, is different. The appellant says that no views would be possible into neighbouring gardens because of the orientation of some windows and louvers on others. The submitted plans show that the two storey houses would each have a corner louvered window on the southern part of the projecting first floor element. However, in addition, they appear to show a long vertical window on the flat part of the east elevation without a louver. Therefore, whilst the louvers would reduce overlooking to a degree, there is no clear indication in the plans that they are intended for that other window, so it is reasonable to assume that there would be overlooking from it. Notwithstanding, given the overall number of first floor windows along the terrace, its orientation and proximity to No 16, closer than in the previous scheme, I consider that there would be overlooking to the detriment of the privacy of occupiers of that property.
19. I have considered if the harm could be sufficiently mitigated by condition, for example by requiring, for certainty, that the other facing windows be louvered. However, occupiers of No 16 would still experience a line of windows facing towards their property and, more particularly, their garden which would create a perception of being overlooked. Other possible mitigation measures, such as obscure glazing, would be likely to adversely affect the living conditions of future occupiers of the appeal properties. Therefore, such conditions would not be acceptable.
20. Whilst concerns about noise and disturbance are referred to in the Council's submissions, they do not feature specifically in the reasons for refusal in its decision notice. I also note that the previous Inspector considered that, given the proposal was for residential use in a residential area, sound generated from the use of gardens and a pedestrian only access would not be detrimental. Although the appeal proposal would be closer to No 16, there is no clear evidence that there would be a significant adverse effect in terms of noise or disturbance.
21. Overall therefore, the above factors lead me to conclude that the proposed development would harm the living conditions of occupiers of neighbouring properties, with regard to outlook. Occupiers of No 16 would also, in addition to the harm to their outlook, suffer a loss of privacy which would adversely affect their living conditions. It follows that the proposal would conflict with policies 7.4 and 7.6 of the London Plan and Policy DM D2, which, amongst other things, seek to protect the living conditions of neighbouring occupiers

## **Conclusions**

22. It is acknowledged that the site has been identified for residential development in the Council's SPP and that there would be benefits from the re-use of the land. There would also be a contribution to employment during the construction period and to the supply of housing. There is no evidence before

me about whether the Council is meeting its housing targets, but, in any case, a contribution to housing supply would be a positive factor in favour of the proposal. It is also noted that there have been changes to try to address concerns regarding a previous scheme, dismissed on appeal.

23. Whilst those positive aspects and other factors have all been considered, they do not outweigh the harm that I have identified to the character and appearance of the area and to the living conditions of neighbouring residents, with regard to outlook and privacy.
24. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Jonathan Tudor*

INSPECTOR