



Appeal Decision

Site visit made on 10 October 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 7 November 2017

Appeal Ref: APP/T5720/W/17/3179534
45C Crusoe Road, Mitcham CR4 3LJ

- 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 P Vijayarajasingham (P RP Singham Property Developers Ltd) against the decision of the Council of the London Borough of Merton.
 - The application Ref 16/P3796, dated 28 September 2016, was refused by notice dated 9 January 2017.
 - The development proposed is described as existing ground floor hall change to three one bedroom and one two bedroom flats.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council made a slight change in the address of the appeal property from that contained in the application form (shown as '45 Crusoe Road') to '45C Crusoe Road'. I note that the questionnaire and statement submitted by the appellant also refer to the address as being 45C Crusoe Road. Consequently, I have used this amended address in this appeal decision.

Main Issues

3. The main issues are:
 - The effect of the proposal on the living conditions of the future occupants with particular regard to outlook, light, noise and accommodation space.
 - Whether the proposal would make adequate provision for cycle and refuse/recycling storage facilities.
 - Whether the proposal adequately demonstrates that the appeal property is unsuitable or unviable for continued use as an employment site.

Reasons

Living conditions

4. The appeal property comprises a two storey linear shaped building in which the ground floor is currently used for the storage of building materials and the first floor is used as a Pentecostal Church. The ground floor has window positions predominantly on the western elevation, although most of which have been

boarded. A commercial building abuts the rear, north elevation, with a small parade of commercial buildings to the east. The property boundary with the rear garden of No 64 Pitcairn Road is positioned in close proximity to the western elevation which is currently formed by close boarded fencing and planting.

5. The proposal would involve the subdivision of the ground floor to create four flats with primary outlook through the existing window positions and which would be served off an internal corridor running along the eastern side of the building. Flats 1 to 3 would be one bedroom units with flat 4 being located towards the rear of the building and comprising a two bedroom unit.
6. The Council has drawn my attention to Policy 3.5 and the accompanying Table 3.3 of the Minor Alterations to The London Plan (2016) (MALP). This sets out minimum floor space standards for new dwellings relative to the number of occupants in order to provide acceptable living conditions. The Council indicates that Flats 1 to 3 would be one bedroom two person units which Table 3.3 indicates that these should have a minimum Gross Internal Floor Area (GIA) of 50 sq m. I have no evidence to suggest that the Council's view of the occupancy of these flats by two persons may be incorrect.
7. The submitted plan (Drawing No TSL/VIJ/45C/01) shows that the GIA of Flat 1 would be 54.5 sq m, Flat 2 would be 42.3 sq m and Flat 3 would be 41.1 sq m. Consequently the GIA of Flats 2 and 3 would therefore fail to meet with the minimum floor space standards as required by Policy 3.5 of the MALP.
8. Table 3.3 indicates that the GIA for a two bedroom, three person flat should be 61 sq m and for a two bedroom, four person flat the GIA should be 70 sq m. The submitted plan shows the GIA of Flat 4 as being 66.9 sq m. I have no evidence to indicate whether proposed Flat 4 would be occupied as a three or four person unit. However, on the basis of the evidence before me, the proposal overall would fail to meet the minimum floor space requirements which would result in an unacceptable cramped form of accommodation.
9. The appellant indicates that the proposed internal corridor and small rear yard could be used as private communal space. However, these areas would be unsuitable for use as amenity space due to their confined area, and in the case of the corridor its narrowness and functional purpose which is to provide access to the flats. I accept that there are areas of open space within walking distance of the property. However, the lack of any form of functional private amenity space within the curtilage of the property further adds to my concerns regarding the effect of the proposal on the living conditions of future occupiers of the flats.
10. The windows of all the flats would be positioned in close proximity to existing buildings and boundary features with the primary outlook towards the rear garden boundary with No 64 Pitcairn Road. Given the size of the window openings I do not consider that their proximity to the boundary with No 62 would cause a significant reduction in the amount of daylight being received through the proposed windows.
11. However, owing to the proximity to the boundary treatment the occupiers of the flats would have a foreshortened outlook from the windows. Both parties recognise that the proximity of the windows to the garden is likely to cause privacy issues both for the occupiers of the flats and the users of the garden.

The Council suggest that the owner of No 62 may erect a 2m high fence along the boundary to protect privacy whilst the appellant suggests that obscure glazing could be fitted to the windows.

12. Whilst I have no evidence to suggest if any these options may be implemented, it was clear at my site visit that overlooking of the garden at No 62 would occur and whatever measure is taken to minimise the privacy issues along the western boundary of the site it would likely further reduce the already compromised outlook from the proposed windows. These factors also similarly add to my concerns regarding effect of the proposal on the living conditions of future occupiers of the flats.
13. I have also taken into account the use of the first floor as a Pentecostal Church and the evidence from local residents that such use is characterised by music and singing. Although, the occupiers of the flats would become accustomed to the days of the week and the times when services occur in the Church, they would nevertheless experience the noise that would be emitted from the service on the floor above. Such noise would be intermittent and occur predominantly at known times. As such, I do not consider that it would be of an extent that would warrant the dismissal of the appeal on the grounds of the future occupiers being exposed to unacceptable levels of noise alone. However, in combination with the other factors identified above, it further adds to my concerns regarding the suitability of the property for residential use.
14. Taking the above factors into account, the proposal would provide accommodation that would cause unacceptable harm to the living conditions of the future occupants of the flats. As such, it would conflict with Policies CS 9 and CS 14 of the London Borough of Merton LDF Core Planning Strategy (2011) (Core Strategy), Policy DM D2 of the Merton Sites and Policies Plan and Policies Maps (2014) (MSPP) and Policy 3.5 of the MALP. These policies, amongst other things, require that residential proposals should be well designed, provide quality in living conditions and ensure that the minimum space standards are complied with.
15. The Council has also referred to conflict with Policy DM EP2 of the MSPP which suggests, amongst other things, that proposals which would have a significant effect on existing or future occupiers due to noise will not be permitted. However, for the reasons identified above, I do not consider that the intermittent noise generated by the use of the Church would be of an extent that would cause a demonstrable conflict with the provisions of this policy.

Cycle and refuse/recycling storage facilities

16. The Council are concerned that the proposal does not demonstrate that adequate provision has been made for the storage of cycles and waste/recycling bins. Drawing No TSL/VIJ/45C/03 does show designated areas at the entrance to the building for cycle storage and bin storage. However, these would be located within the covered entrance foyer of the building.
17. The appellant suggests that the space allocated for cycle storage is capable of storing up to ten cycles and that the bin storage area can accommodate four wheelie bins, one for each flat. However, little detail is provided of the layout of such facilities or whether the refuse storage area is sufficient to accommodate both general waste and recyclable waste bins.

18. From my observations at my site inspection I consider that the size and position of the area suggested to be used for cycle storage would be sufficient to accommodate the needs of the proposed flats. Whilst details of the layout and storage arrangements are absent in the submission documents, these matters could be addressed by means of a suitable planning condition were I minded to allow the appeal. Consequently, I do not consider that the proposal would conflict with Policy 6.9 of the London Plan (2015) which, amongst other things, requires proposals to provide convenient and accessible cycle parking.
19. However, the waste bins would be stored within the covered element of the converted building and in close proximity to the corridor that provides access to the flats. In my view, this would be an inappropriate location to store waste bins for a number of days. Furthermore, I have no evidence to suggest that adequate storage arrangements can be provided for the full range of waste and recycling receptacles that the Council provides in order to contribute to the management the Borough's waste in a sustainable manner.
20. Taking these factors into account, it has not been demonstrated that the proposal would make adequate provision for refuse/recycling storage facilities. Consequently, the proposal would be contrary to Policy CS 17 of the Core Strategy and Policy 5.16 of the London Plan (2015). These policies, amongst other things, encourage recycling and require that residential proposals should provide well designed waste and recycling storage facilities.
21. The Council's Decision Notice also refers to a conflict with Policy DM D2 of the MSPP. Paragraph (xii) of the policy only refers to the management of construction waste which appears to have little relevance, if any, to the change of use proposed in this scheme. Moreover, I have no evidence that would indicate how the proposal would be in conflict with the provisions of this policy. Consequently, I have attached no weight to the suggested conflict with this policy.

Employment Site

22. The precise lawful use of the ground floor of the property is not clearly defined. The Council have referred to a planning application submitted in 2008 for the change of use of the ground floor from light industrial unit (Class B1) to a Hall for charity use (including seminars, meetings and small functions) (Ref 08/P2529). Although this application was withdrawn, it suggests that the use of the ground floor at that time was for the purposes of Use Class B1.
23. A planning permission was granted in 1993 for the change of use of part of the ground floor from light industrial to a local community hall/day nursery/place of religious worship/counselling centre (Ref 93/P1599). However, the Council suggest that the lease applied to the first floor only and that the ground floor was not used for religious purposes. In 1996 planning permission was refused for the continued use of the ground floor as a printing works and the retention of ventilation ducts (Ref 96/P0820).
24. The description provided in the application refers to the change of use of the ground floor hall. However, the appellant has not provided any conclusive evidence that would suggest that the lawful use of the ground floor is that other than a B1 use. In the light of the evidence provided by the Council, the observations at my site visit and the lack of any other evidence to the contrary,

it would appear that the use of the ground floor of the property is that of a B1 light industrial use.

25. The Council has drawn my attention to Policy DM E3 of the MSPP. This policy seeks to protect the loss scattered employment sites unless it can be demonstrated that the site is located in a predominantly residential area and its operation has had a significant adverse effect on local residential amenity; its size, configuration, access arrangements and other characteristics of the site makes it unsuitable and financially unviable for whole-site employment use; and, it has been demonstrated that there is no realistic prospect of employment or community use on this site in the future. This may be demonstrated by full and proper marketing of the site at reasonable prices for a period of 30 months.
26. Although the property is located in a predominantly residential area it adjoins commercial premises comprising a tyre fitting business and glazing business. Furthermore, the property was in use in connection with a building business at the time of my visit. I have no evidence to suggest that the current use of the property causes any harm to residential amenity or that its configuration and access arrangements make it unsuitable for employment uses. Furthermore, I have no evidence to suggest that the property has been marketed at reasonable prices for a period of 30 months in accordance with the requirements of the policy.
27. Taking these factors into account, the proposal does not adequately demonstrate that the ground floor of the property is no longer suitable or unviable for continued use as an employment site. Consequently, on the basis of the evidence provided, the proposal would be in conflict with Policy DM E3 of the MSPP.

Other matters

28. I have taken into account the modest contribution that the proposal would make to housing supply within the Borough. Whilst this has some beneficial weight in support of the appeal scheme it does not outweigh the harm that would be caused to the living conditions of the future occupants of the proposed flats, the inadequate provision for waste and recycling storage facilities and the unsubstantiated loss of an employment site.
29. The appellant has drawn my attention to a planning permission granted at No 45A Crusoe Road for the demolition of an existing warehouse and the erection of 6 houses with cycle storage, refuse storage and associated landscaping works (Ref 16/P2454). Whilst this permission may be reflective of the Council's approach to the redevelopment of former employment sites. I have no evidence to suggest how the permission relates to the circumstances in this appeal involving a proposed change of use, nor do I have any details of the nature of the proposals or the relevant planning considerations that contributed to the Council's decision to grant planning permission. Consequently, I cannot be sure that this is representative of the circumstance in this appeal. In any case, I have determined this appeal on its own merits.

Conclusion

30. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR