



Appeal Decision

Site visit made on 28 November 2017

by R J Marshall LLB DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2018

Appeal Ref: APP/T5720/W/17/3181317

58, Broadway Court, Wimbledon, London, SW19 1RG

- 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 Zahir Fazaldin against the decision of the Council of the London Borough of Merton.
 - The application Ref 17/P0022, dated 21 December 2016, was refused by notice dated 19 June 2017.
 - The development proposed is an additional three story dwelling located at the rear of No. 58 The Broadway.
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Decision

1. The appeal is dismissed.

Background

2. In his appeal statement the appellant raises concern about the length of time it took the Council to determine the application, which would seem to go beyond the statutory period for Councils to make such decisions. However, as the appellant has lodged the appeal on the basis of a refusal of permission it is on this basis that I shall determine it.
3. The Council's decision notice refers to the impact of the proposed development on the amenities of 2 storey live/work units opposite the site. However, concerns have also been raised in the Council's delegated report and statement of case on the living conditions of future occupants and the character and appearance of the area which I shall take into account in the identification of the main issues below. I shall also take into account concerns expressed by local residents on the enclosure of the staircase used to access their flats.

Main Issues

4. The main issues in this appeal are: **first**, the effect of the proposed development on the living/working conditions of those in the 2-storey live/work units opposite the site; **second**, whether the proposed development would provide satisfactory living conditions for its future occupants, and neighbours using the same pedestrian access, with special reference to safety and security; and **third**, the effect of the proposal on the character and appearance of the surrounding area which includes The Broadway Conservation Area.

Reasons

Living conditions of those opposite

5. The appeal site lies to the rear of No.58 The Broadway, a 3-storey property amidst a row of shops with a shop on the ground floor and residential flats above. At ground floor level a lengthy single-storey stockroom extends from the shop to the rear of the premises which back onto Broadway Court. Broadway Court is a narrow service road providing rear access to the appeal site and the other shops in The Broadway. On the opposite side of Broadway Court to the appeal site is a relatively recently constructed row of 2 storey live/work units sited directly onto the road frontage to create a mews type development.
6. The proposed development is for a residential unit on 2 floors to be constructed above the far end of the stockroom. It would face directly out onto Broadway Court and be close to the road. Given its proximity to the road and height it would appear over-dominant and intrusive seen from the live/work units opposite. I am also concerned that, for these reasons, the proposed development could well have an adverse impact on those in the live/work units through loss of daylight and sunlight and no technical evidence has been provided to the contrary.
7. I appreciate that towards the far end of Broadway Court a tall rear extension has been permitted adjoining the road and is in close proximity to the house opposite. However, without more details on that decision I place limited weight on it. Regarding the proximity of other buildings to the live work units referred to they are either more removed from it, on fewer floors or comprise well-established older properties. Thus they offer little guidance on the acceptability of the proposal before me
8. It is concluded that the proposed development would detract from the living/working conditions of those in the live/work units opposite through visual impact and that I am not satisfied that there would be no harm also through loss of daylight and sunlight. It would conflict with Policy DM D2 of the Adopted Merton Sites and Policies Plan (MSPP) (2014) which seeks to protect the living conditions of neighbours and existing development from visual intrusion.

Living conditions of those in proposed development etc.

9. In this type of location I see no harm in some of the rooms in the proposed development having a rather restricted outlook. Nor do I see harm in what might appear to be limited external amenity space.
10. However, access to the proposed flats would be via what would become a substantially enclosed staircase and passageway to be shared by other existing flats. In this background location at the rear of shops such enclosed access arrangements with limited surveillance could well expose people to crime and certainly would be likely to make them feel vulnerable to it. For the same reason it would be likely to be detrimental to the living conditions of those in the existing flats who would also make use of this altered access way.
11. It is concluded that the proposed development would fail to provide satisfactory living conditions for its future occupants, and to neighbours using the same pedestrian access, with special reference to safety and security. It would be

contrary to MSPP Policy DM2 which seeks safe and secure layouts taking account of crime prevention.

Character and appearance

12. The appeal site lies within The Broadway, Wimbledon Conservation Area (CA). This area comprises predominantly the tall Victorian/Edwardian shops facing onto The Broadway and Queens Road. By covering the totality of those curtilages the CA boundary runs in part along the boundary of Broadway Court.
13. The proposed development would in part tidy up an unattractive rear elevation of the appeal property onto Broadway Court. However, the provision of 2 additional floors would result in development of a scale that would appear overpowering in this mews Court area with smaller buildings opposite. I note the tall extension towards the far end of Broadway Court. However, if anything this makes it more necessary to limit the scale of the development facing onto Broadway Court to prevent what the Council describes as a "canyon" effect being created.
14. I conclude that the proposed development would harm the character and appearance of the surrounding area including the Conservation Area. There would thus be a failure to comply with the statutory duty that in such areas new development should preserve or enhances their character or appearance. It would conflict with Policy DM D4 of the MSPP on conserving heritage assets and Policy CS14 of the Adopted Merton UDP (2011) which requires new development to respect local character.

Other matters

15. Some third-party concerns go beyond those raised by the Council. However, turning to the key points raised, the alleged necessity to divert or extinguish existing rights of access is a private matter between the parties concerned and one for consideration outside the planning regime. There is no substantial professional evidence to support concerns on risk from fire and concerns over noise and disturbance during construction work could have been dealt with by condition had I been minded to allow the appeal.

Conclusion

16. I have found no harm in relation to the third-party "other matters" referred to above. However, I have found harm in relation to the 3 main issues and for these reasons it is concluded that the appeal should be dismissed.

R J Marshall

INSPECTOR