



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: 19 February 2018

Appeal Ref: APP/T5720/W/17/3181165

162, Hartfield Road, Merton, London, SW19 3TQ

- 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 Ray Hosker (Hosker Wilson) against the decision of the Council of the London Borough of Merton.
 - The application Ref 16/P1139, dated 11 March 2016, was refused by notice dated 6 June 2017.
 - The development proposed is demolition of existing semi-detached properties at 162 and 164 Hartfield Road. New build residential development of 8 apartments, including a single storey basement.
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Decision

1. The appeal is dismissed.

Background

2. The application was refused permission against the recommendation of the Council's officers. The recommendation to grant planning permission was subject to the completion of a Section 106 Agreement that 4 of the residential units on the site be designated as "Permit Free". No such agreement is in place. Thus in determining this appeal I need, in addition to the Council's reason for refusal, to consider whether the absence of a legal agreement on "Permit Free" parking should stand against the proposal. I have sought the parties observations on this and have taken into account those received.

Main Issues

3. Having regard to the above the main issues in this appeal are: **first**, the effect of the proposed development on the character and appearance of the surrounding area; and **second**, whether absence of a legal agreement on "Permit Free" parking should stand against the proposal.

Reasons

Character and appearance

4. The appeal site is towards the southern end of Hartfield Road. Taken as a whole this road has a varied character. Some way to the north of the appeal site, towards Wimbledon town centre, there are tall residential properties of varied age, design and height. At the far southern end of the road, on the opposite side of the road to the appeal site, are a few new flat developments,

and the Council has recently permitted some new flats adjoining them in a modern contemporary style.

5. In the vicinity of the appeal site development is more uniform being predominantly 2 storey high Victorian style houses with bay windows. On the opposite side of the appeal site these houses are predominantly terraced and on the appeal side they are mostly semi-detached. It is one of these properties that it is proposed to demolish to make way for the proposed development.
6. Although the appeal property is pleasant enough it, along with immediately adjoining properties, is not particularly noteworthy. Moreover, the varied gaps between the houses, a side extension and some rather unattractive garages between some of the houses, makes for a less uniform appearance in the vicinity of the appeal site than might otherwise be the case.
7. The proposed flats would be on the same frontage as the existing property and located between 2 of the semi-detached houses. Substantial additional accommodation would be provided by an extension to the rear and the provision of basement flats.
8. The proposed building would be the same height as the 2 adjoining properties. Like the adjoining properties it would have a hipped roof, albeit with a flat top to allow for the slightly increased roof pitch of the proposed building compared to its neighbours. There would be sufficient similarity between the proposed building and the adjoining houses to ensure that the proposed development would, seen from the roadside, fit in acceptably amidst its surroundings. Assisting in that regard would be its pleasingly uniform front facade with attractive detailing.
9. Seen from the rear the proposed development would have a a rather more contrasting appearance than the neighbouring houses. However, it is an attractive enough design in its own right seen from the rear and the character and appearance of the area is more defined by the front than rear elevations. The provision of a basement well would be visible from some points but not to a degree that would make it appear overly intrusive especially as adequate rear garden space would remain available.
10. There have along Hartfield Road been a few recent attractive conversions of existing Victorian properties. However, this does not mean that new development is unacceptable.
11. It is concluded that the proposed development would not detract from the character and appearance of the surrounding area. There would be no conflict with Policy CS14 of the Adopted Merton Core Planning Strategy and Policy DM D2 of the Adopted Merton Sites and Policies Plan which seek to ensure that new development responds positively and appropriately to the surrounding area and respects and reinforces local character.

Absence of legal agreement

12. No car parking spaces are provided for the proposed development, which lies within a Controlled Parking Zone (CPZ). Given this the Council seeks to limit the number of parking permits to the 4 that are associated with the existing houses.

13. CS Policy CS 20 seeks to implement effective traffic management. To this end it requires, amongst other, that new development does not have an adverse effect on on-street parking and traffic management and supports permit free developments in CPZs such as this with good access to facilities and services.
14. What I saw of the take-up of existing parking spaces and the characteristics of Hartfield Road, supported by the observations of some local residents, backs up the Council's stance in seeking to limit the number of parking permits. The appellant has provided no evidence to the contrary.
15. One of the conditions suggested by the Council at appeal stage requires the appellant to enter into a Section 106 agreement that 4 of the proposed flats be "permit free". The appellant has raised no objection to this condition and considers it to be reasonable and enforceable. However, the Planning Practice Guidance (PPG) advises that a positively worded condition should not be used to require an applicant to enter into a planning obligation. Even a negatively worded condition is likely, it says, to be inappropriate in the majority of cases other than in the exceptional circumstances of more complex strategic development which is not the case here.
16. Given the above, it is concluded that absence of a legal agreement on "Permit Free" parking should stand against the proposal. Without the agreement I cannot be satisfied that there would not be an adverse effect on on-street parking and traffic management and thereby conflict with CS Policy CS 20.

Other matters

17. Local residents raise objections that go beyond those of the Council. However, having regard to the key concerns raised, I am satisfied that subject to conditions on balcony screening the proposed development would not, given its location relative to neighbouring properties, give rise to unacceptable loss of privacy. The rear projection of the proposed development would be sufficiently distant from neighbouring properties to cause no unacceptable harm through visual impact. There is no substantial evidence to support a restriction on basement development and the appellant has provided a detailed technical assessment on its acceptability. There is no evidence to support the contention that the loss of 2 family sized houses would be harmful or that acceptable drainage could not be provided.

Final balancing and Conclusion

18. I have found no harm in relation to the first issue, nor to the "other matters" raised by third parties. However, I find the potential harm in relation to on-street parking and traffic management in the absence of a restriction on the number of parking permits to be a sufficient factor in its own right for the appeal to be dismissed. Taken as a whole the proposal would be contrary to the development plan. And whilst many aspects of sustainable development in terms of the National Planning Policy Framework (the Framework) would be met by the provision of additional housing the potential harm in relation to the on-street parking and traffic management is such that this would not be sustainable development in the terms of that document.

19. For the reasons given above it is concluded that the appeal should be dismissed.

R J Marshall

INSPECTOR