
Appeal Decision

Hearing Held on 20 February 2018

Site visit made on 20 February 2018

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 28th March 2018

Appeal Ref: APP/T5720/W/17/3180585

2 Merton Hall Road, Wimbledon Chase, London, SW19 3PP

- 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 William Cooke against the decision of the Council of the London Borough of Merton.
 - The application Ref 17/P0061, dated 22 December 2016, was refused by notice dated 11 April 2017.
 - The development proposed is demolition of existing garage & proposed new build dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing garage & proposed new build dwelling at 2 Merton Hall Road, Wimbledon Chase, London, SW19 3PP in accordance with the terms of the application, Ref 17/P0061, dated 22 December 2016, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr William Cooke against the Council of the London Borough of Merton. This application is the subject of a separate Decision.

Procedural Matters

3. Amended plans were submitted with the appeal documentation that proposed an enlarged light well at the rear of the dwelling, and an amended rear garden area. These are relatively minor alterations that would not have a significant effect on any neighbouring property. In my view, the amended plans would not significantly change the development, or prejudice any interested party by depriving them of the opportunity of consultation on these changes. Accordingly, I have based my Decision on these revised plans.
4. The Council indicated at the hearing that if I were minded to accept these drawings, then it would overcome its second reason for refusal. I see no reason to take a different view. Accordingly, I do not propose to explore the second reason for refusal in any further detail in my Decision.

Main Issue

5. The main issue is whether the development would prejudice the delivery of the Crossrail 2 scheme.

Reasons

6. The appeal site is located at the north western end of Merton Hall Road. It is currently occupied by a large single storey garage attached to No 2, and adjoins a major railway corridor containing the South Western Main Line and Thameslink line.
7. The adjoining railway corridor is subject to the 2015 Safeguarding Directions for Crossrail 2. The safeguarding process allows government to issue directions to local planning authorities in order to protect land from development. Planning applications within the safeguarded area are referred to Transport for London (TfL) for advice. The appeal site directly adjoins the safeguarded area, and on this basis, the Council consulted TfL at the planning application stage. TfL advised that whilst the appeal site is currently outside of the safeguarded area, more recent design work indicates that it will be required in order to deliver the Crossrail 2 scheme. This advice informed the Council's first reason for refusal.
8. At the hearing, TfL stated that it had produced a revised scheme for the delivery of Crossrail 2, based on detailed design and engineering work that has recently been undertaken. That scheme is not currently in the public domain, although it is envisaged that it will be published as part of a further round of public consultation in 2019. There is therefore no plan before me showing the revised area of land that would be required to deliver Crossrail 2 in this location. Moreover, as an unpublished document, the revised scheme currently has no formal status.
9. In the absence of a published plan, I am reliant on the written and verbal evidence provided by TfL that the appeal site is necessary in order to deliver the development. In this regard, TfL explained that the tunnelled section of Crossrail 2 is likely to emerge in close proximity to the appeal site. During the construction period, it will also be necessary to keep open the existing South Western Main Line and Thameslink lines. These considerations indicate that a wider corridor of land will be required in this location in order to accommodate the construction of Crossrail 2.
10. TfL stated at the hearing that were the appeal to be allowed, then the site would be compulsorily purchased in order to deliver Crossrail 2. However, the appeal proposal would increase the cost of acquiring the land.
11. TfL are a public body with overall responsibility for delivering Crossrail 2. I note TfL's statement that the most recent design work indicates that the site will be necessary for a worksite to deliver Crossrail 2. However, the weight I can attach to this consideration is limited by the fact that any revised scheme is not currently in the public domain and has no formal status. There is also an established procedure for safeguarding land for major transport projects and this site is not currently within the safeguarded area. Moreover, TfL confirmed at the hearing that their revised scheme could be subject to further changes and alterations in the future. It is therefore uncertain at this stage that the appeal site will be required in order to deliver Crossrail 2.

12. Crossrail 2 is also a regionally significant infrastructure project with very significant costs attached to it. Whilst successive rounds of funding have been granted to continue developing the scheme, at present the funding required to deliver it has not yet been committed. It is therefore uncertain whether the scheme will be implemented. Given the substantial costs associated with Crossrail 2, it could also be subject to significant delays. At present, it is envisaged that Compulsory Purchase Orders for the scheme would likely be issued in the mid-2020s, although delays could push this back significantly.
13. For the above reasons, I consider that the potential additional cost to delivering Crossrail 2 carries only limited weight at this stage. Based on the evidence before me, I do not consider that the development would prejudice the delivery of the Crossrail 2 scheme. The development would therefore be consistent with Policy CS 19 of the Merton Core Strategy (2011). This policy seeks to ensure that proposals do not have an adverse effect on transport within the vicinity of the site. In the circumstances of this appeal, the material considerations considered above do not justify making a decision other than in accordance with the development plan.
14. The Council's Decision Notice also cites Policy DM T4 of the Merton Sites and Policies Plan (2014). This seeks to restrict development which impacts on sites/land serving transport functions or safeguarded for transport uses. However, the appeal site does not currently serve a transport function, nor is it currently safeguarded for transport uses. I therefore do not consider that this policy is directly relevant to the appeal proposal at the current time.

Other Matters

15. TfL state that future occupiers of the development would be subject to an unreasonable degree of noise, vibration, and general disturbance associated with the construction and subsequent operation of Crossrail 2. However, the Council did not include this matter as a reason for refusal, and confirmed prior to the hearing that it did not intend to introduce a new reason for refusal when TfL reiterated this point in its letter dated 10 November 2017. Moreover, no detailed evidence has been provided to substantiate these concerns. I further note that the appellant has submitted a Noise Impact Assessment and a Vibration Assessment, which conclude that the operation of the existing rail services would not have a significant detrimental effect with regard to noise and vibration. Accordingly, I do not consider that this matter would justify withholding permission in this case.
16. The development would create a new point of access for No 2 onto Merton Hall Road that would likely result in the loss of an on-street parking space. However, the majority of nearby properties have off-street parking available. There is also no detailed evidence before me that the area experiences significant on-street parking stress. I further note that neither the Council nor the Highway Authority has objected to the development on these grounds.
17. I note that the appellant has raised concerns in relation to the Human Rights Act. However, as I am allowing the appeal I do not propose to consider these matters in any further detail.

Conditions

18. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary in the interest of certainty. Conditions relating to the proposed facing materials, and refuse and recycling facilities, are necessary in order to protect the character and appearance of the area. Further conditions that require the submission and approval of a Construction Method Statement, that control the construction hours, and relating to the rear boundary fence, are necessary in order to protect the living conditions of adjoining occupiers. The Construction Method Statement condition is pre-commencement in nature as it covers the entirety of the construction process.
19. I have also imposed a condition relating to carbon dioxide emissions and internal water usage rates, which is necessary in order to comply with the London Plan. A further condition requiring that the parking areas be constructed prior to first occupation is necessary in order to ensure that these spaces are available for future occupiers of the development.
20. I have also removed permitted development rights relating to rear extensions. This is necessary because any rear extension would involve building over the rear light well, which has been designed to ensure that the living space at basement level receives adequate natural light.
21. The Council suggested a condition that would have required the submission and approval of a landscaping scheme. However, I do not consider that this is necessary or proportionate for a scheme of this size. In addition, the Council suggested a condition that would have required the submission and approval of a scheme for the provision of surface water drainage. However, in this case, the appeal site is very small and comprises an existing garage and hard surfacing. Moreover, the Council confirmed at the hearing that the site is in Flood Zone 1 and not at risk of surface water flooding. In these circumstances, I do not consider that this condition is necessary in order to make the development acceptable in planning terms.
22. TfL suggested a further condition that would have required the submission and approval of construction method statements relating to ground floor structures, foundations, and basements. However, the suggested condition is not reasonable as the proposed locations of the Crossrail 2 structures and temporary works are not finalised. Moreover, given the uncertainties I have identified above, at this stage it is not clear that it will be necessary to achieve foundations of a particular strength.

Conclusion

23. For the reasons given above I conclude that the appeal should be allowed.

Thomas Hatfield

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan, 2aMHR P100 Rev A, 2aMHR P103 Rev A, 2aMHR P104, 2aMHR P105, 2aMHR P106, 2aMHR P107, 2aMHR P110 Rev A.
- 3) The facing materials to be used for the development hereby permitted shall be those specified in the application.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) measures to control the emission of dust and dirt during construction;
 - v) details of the use of any vibro-compaction/displacement piling plant in the construction process
 - vi) a scheme for recycling/disposing of waste resulting from demolition and construction works;

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) No demolition or construction work or ancillary activities such as deliveries shall take place before 8am or after 6pm Mondays - Fridays inclusive, before 8am or after 1pm on Saturdays or at any time on Sundays or Bank Holidays.
- 6) No development shall take place above slab level until details of how the proposed dwelling shall achieve a reduction in carbon dioxide emissions of 19% beyond the 2013 Building Regulations, and internal water usage rates of no greater than 105 litres per person per day, are submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation of the development, details confirming that these carbon dioxide emission reductions and internal water usage rates have been achieved shall be submitted to and approved in writing by the Local Planning Authority.
- 7) No development shall take place above slab level until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the first occupation of the development, and shall be retained thereafter.
- 8) Prior to the first occupation of the development, the vehicle parking area shall be provided in accordance with the approved plans, and retained thereafter.

- 9) The rear garden area shall be enclosed by a solid, opaque boundary treatment of at least 1.8 metres in height. This boundary treatment shall be installed prior to the first occupation of the dwelling.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no rear extension shall be erected other than those expressly authorised by this permission.

APPEARANCES

FOR THE APPELLANT:

Yussuf Mwanza BA (Hons)
MRTPI

MZA Planning

Helen Hutton Dip Law

Charles Russell Speechlys

William Cooke

Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Tim Lipscomb BA (Hons) MRTPI London Borough of Merton

Michael Johnson BSc Hons,
BTP, MRTPI Transport for London

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Letter from Transport for London to Mr William Cooke, dated 9 January 2018
- 2 Transport for London's comments in relation to application 17/04748/RM,
London Borough of Enfield