



Appeal Decision

Site visit made on 12 August 2019

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2019

Appeal Ref: APP/T5720/W/19/3229911

114 High Street, Colliers Wood, London SW19 2BW

- 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 Waris Syed against the decision of the Council of the London Borough of Merton.
 - The application Ref 18/P4452, dated 15 November 2018, was refused by notice dated 27 March 2019.
 - The development proposed is described as 'Conversion of terraced house into two flats. 3 Bedroom flats split on Ground floor and First floor and a 1 bed flat on the first floor and loft'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Notwithstanding the above description, I note the appeal proposal also includes the demolition of the existing single storey rear extension, the erection of a new single storey rear extension and a rear roof extension. I have considered the appeal on this basis.
3. There is a discrepancy between the name of the applicant on the planning application form and the appellant on the appeal form. It has however been clarified that the appellant is the applicant, Mr Waris Syed.

Main Issues

4. The main issues are:
 - i. The effect of the appeal proposal on the living conditions of the occupiers of 112 High Street, with particular regard to daylight and outlook;
 - ii. On the living conditions of future occupiers, with particular regard to floor space provision;
 - iii. On highway safety;
 - iv. Whether the proposal would provide suitable cycle parking facilities;
 - v. Whether it would make adequate provision for refuse storage and collection; and
 - vi. Whether it would minimise water use and reduce carbon dioxide emissions.
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Reasons

Living Conditions (existing occupiers at 112 High Street)

5. The appeal property is a mid-terrace dwelling. It has a single storey rear outrigger. Part of the proposal would remove this outrigger and introduce a new single storey side and rear extension. The proposed extension would cover the full width of the appeal property to the boundary with No 112 and would extend along its boundary for some 5m to a height of approximately 3.3m.
6. No 112 has a large window on its rear elevation close to the boundary which appears to serve a habitable room. It currently appears to have a reasonable level of daylight and outlook given the off-set of the existing rear outrigger at the appeal property from this shared boundary and the limited height of the existing boundary treatment.
7. Without any substantive evidence to demonstrate otherwise, the height of the proposed extension and its proximity to the abovementioned window of No 112, combined with its considerable length, would be likely to give rise to a harmful loss of daylight to this window. By consequence, the proposed extension would be likely to create a significant sense of enclosure to this window and lead to a harmful loss of outlook from it. On this basis the proposal would result in significant harm to the living conditions of the occupiers of No 112.
8. The development to the rear elevations of 88-108 High Street, drawn to my attention by the appellant relate to a very different context. These are to the rear of commercial units and do not provide any justification for the appeal. I am not familiar with the circumstances of that other development and in any case all applications are determined on their individual merits. I accept that the extension would be subordinate to the host dwelling and would not result in a loss of privacy for neighbouring dwellings.
9. However, the appeal proposal, for the reasons outlined above, would be contrary to Policies DM D2 and DM D3 of the Merton Council Sites and Policies Plan (2014) (MCSPP) which amongst other things seek to ensure that development should not have an unacceptable impact on the living conditions of existing occupiers.

Living Conditions (future occupiers)

10. Policy 3.5 of the London Plan (2016) (LP) sets out that housing developments should be of the highest quality internally, externally and in relation to their context and to the wider environment. Table 3.3 of the Policy provides minimum space standards and requires a minimum gross internal area of 84m² for a three-bedroom, four-person, two-storey dwelling. This is a minimum, which developers are encouraged to exceed.
11. Both parties agree that the three-bedroom flat would provide a gross internal area of 81m². Whilst I accept that this is a shortfall only of 3m² it nevertheless falls short of the requirement such that the appeal proposal would result in cramped accommodation which would not be the high quality housing that this policy plans for. Consequently, the flat would provide fail to provide suitable living conditions for future occupiers.

12. The appeal proposal would therefore be contrary to Policies DM D2 and DM D3 of the MCSPP which require that development should provide acceptable living conditions for future occupiers and Policy 3.5 of the LP which requires housing to be of high quality.

Highway Safety

13. The appeal site is located on the A24 which forms one of London's red routes and which also hosts Cycle Superhighway 7 at this location. No off-street parking is available at the site. The evidence indicates that the site is within a Controlled Parking Zone where parking permits are required. No mechanism has been put in place as part of the appeal proposal to ensure that the future occupiers of the site would be prevented from obtaining parking permits.
14. Evidence within the appeal documents suggests that where off-street parking is available within side streets close to the appeal site it is at saturation level.
15. If the occupants of the proposed flats were to obtain residents' parking permits and no spaces were available there is a significant risk that this would lead to additional drivers circulating on already busy roads in search of any available spaces. Any restriction in traffic flow in relation to the A24 would be to the detriment of highway safety, particularly bearing in mind its strategic importance to the London road network.
16. While this is a highly accessible location by public transport and even in the event car club vehicles are available there is no guarantee that future residents would not use private vehicles. I have no evidence before me which indicates that the Council has non-planning powers to restrict the availability of parking permits.
17. The appellant accepts that he would be willing to enter into a planning obligation to ensure that future occupiers could not obtain parking permits.
18. This is not a matter which could be resolved through a condition because Planning Practice Guidance advises that a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence will only be appropriate in exceptional circumstances. Given the small scale of the proposal, it is not strategically important and would not represent an exceptional circumstance.
19. Therefore, the appeal proposal would conflict with Policy DM T3 of the MCSPP, Policy CS20 of the London Borough of Merton LDF Core Planning Strategy (2011) (LBMCPs) and Policy 6.13 of the LP, which amongst other things seek to minimise the impact of parking on the road network and protect highway safety.

Cycle Parking

20. The Council are concerned that only two cycle parking spaces are shown within the front yard at the appeal site. Policy 6.9 of the LP and Policy CS 18 of the LBMCPs amongst other things require that developments provide good quality cycle parking facilities with three spaces required across the two flats.
21. Given that there is external space to the front and rear of the property no evidence before me suggests that it would not be possible to accommodate appropriate cycle storage within the site of the appeal proposal. If I were

minded to allow the appeal this could be a matter that could be appropriately addressed through a condition. Therefore, the appeal proposal would not conflict with Policy 6.9 of the LP, Policies CS 18 and CS 20 of the LBMCPs and Policy DM T1 of the MCSPP.

Refuse Storage

22. Both Policies 5.17 of the LP and Policy CS 17 of the LBMCPs require that waste be managed sustainably. The appeal proposal currently shows only a limited area within the front yard for waste storage and the Council consider that the identified area would be insufficient to accommodate the required receptacles.
23. Some dry mixed recycling and food waste would be stored indoors and given that there is external space to the front and rear of the property, no evidence before me suggests that it would not be possible to accommodate the appropriate refuse storage at the site upon the formulation of a suitable scheme. If I were minded to allow the appeal this could be a matter that could be appropriately addressed through a condition. Therefore, the appeal proposal would not conflict with Policy 5.17 of the LP and Policy CS 17 of the LBMCPs.

Water use and carbon dioxide emissions

24. Policies 5.1, 5.2 and 5.3 of the LP and Policy CS 15 of the LBMCPs amongst other things require the minimisation of water use and carbon dioxide emissions.
25. How this would be achieved in relation to the appeal proposal is not clear. However, I agree with the Council and appellant that this could be a matter that could be appropriately addressed through a condition. Therefore, the appeal proposal need not conflict with Policies 5.1, 5.2 and 5.3 of the LP and Policy CS 15 of the LBMCPs.

Conclusion

26. I acknowledge the public benefit of the scheme which would see the provision of an additional residential unit, although this benefit would be limited given the small scale of the proposal.
27. Notwithstanding the absence of harm in relation to some of the main issues set out above, due to the harmful effect in relation to living conditions and highway safety, the appeal should be dismissed.

T J Burnham

INSPECTOR