



Appeal Decision

Site visit made on 30 July 2019

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2019

Appeal Ref: APP/T5720/W/19/3226607

54 Marryat Road, Wimbledon Village, London SW19 5BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr M Brune against the Council of the London Borough of Merton.
 - The application Ref 19/P0893, is dated 8 February 2019.
 - The development proposed is described as the demolition and re-building of 54 Marryat Road on a like for like basis as per planning permission 17/P3878.
-

This decision is issued in accordance with Section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 29 August 2019.

Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing dwelling house and erection of a new two storey detached dwelling house on a like for like basis (to match planning permission 17/P3878) with accommodation at basement level and within the roof space, together with the provision of off street parking and associated landscaping works at 54 Marryat Road, Wimbledon Village, London SW19 5BD in accordance with the terms of the application Ref 19/P0893, dated 8 February 2019, subject to the schedule of conditions attached to this decision.

Application for Costs

2. An application for costs was made by Mr M Brune against the Council of the London Borough of Merton. This application is the subject of a separate decision.

Procedural Matters

3. In my formal decision I have used the description of development from the appeal form as this fully describes the appeal proposal.
4. The Council's Statement refers to a mature tree within the curtilage of the neighbouring property, No 56 Marryat Road. However, there is not a No 56 Marryat Road and therefore this appears to be a typographical error. Based on the evidence from the main parties and my site visit, it is clear that the Council are referring to No 58 Marryat Road. I have dealt with the appeal on this basis.

5. The National Planning Policy Framework was revised in February 2019 (the Framework). I have taken the Framework into account as part of the determination of this appeal.

Main Issues

6. The main issues are (i) whether the proposal would preserve or enhance the character or appearance of the Merton (Wimbledon North) Conservation Area, and its effect on non-designated heritage assets; and (ii) the effect of the development upon an existing tree at No 58 Marryat Road.

Reasons

Heritage Assets

7. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the Merton (Wimbledon North) Conservation Area (the 'CA').
8. The CA has a spacious and verdant residential character and is an example of an early 20th century suburban estate development. The properties were built on land that formerly belonged to Wimbledon House and its associated parkland, until it was sold for development in 1898. The dwellings are predominately large and detached and are positioned within spacious plots of a uniform size and there are large gaps between properties. This adds positively and distinctively to the character and appearance of this part of the CA. However, there is a diversity to the housing stock in terms of the size, age, height and the decorative detailing of the residential properties. Within the immediate area, several historic properties have been demolished and replaced with new developments.
9. The appeal property is a two-storey detached dwelling, which dates from around 1902. The design of the dwelling has been influenced by the Arts and Crafts movement and the building has a rough cast render exterior, which has been later pebble dashed, timber framed leaded windows and a green slate roof. The appeal property was locally listed by the Council in June 1997 and therefore it is a non-designated heritage asset, as defined by the Framework. The dwelling was one of the early buildings to be constructed as part of the development of the Wimbledon House Estate and forms part of a group of three properties (Nos 37, 39 and 54) on Marryat Road of a similar Arts and Crafts style. Given its appearance, the appeal dwelling adds positively to the character and appearance of the CA.
10. The building is in a deteriorating state of repair and planning permission¹ was granted on 11 January 2018 to erect a two-storey rear extension, partial basement, replacement garage with accommodation within the roof space and to upgrade the external materials of the dwelling. The external works include re-roofing the property with natural 'Vermont green slate'; the substitution of roughcast render with a smooth white render applied on 50mm thick external insulation; and the replacement of the existing windows with timber framed double glazed units of a similar appearance. The application followed an appeal

¹ Council Ref: 17/P3878

decision² from 18 March 2015 which granted planning permission for extensive external repair work to the property.

11. It is proposed to demolish the existing building on the site and erect a replacement dwelling. The proposed dwelling has been designed to reflect the style and appearance of the original building and incorporates the previously approved (but unbuilt) extensions and partial basement, roof slates and timber framed double glazed windows. However, a roughcast render is proposed with no external insulation.
12. The dwelling has been designed to maximise energy efficiency and the appellant estimates that the development would deliver an 87% reduction in carbon emissions compared to the current dwelling. This reduction in carbon emissions has not been disputed by the Council and weighs favourably in the overall planning balance.
13. Whilst the recent planning permission does not appear to have been implemented, it remains extant and the appellant has indicated that they will undertake the works if this appeal is dismissed. Given the deteriorating state of the property and the fact that the appellant has started to discharge the planning conditions³ imposed on the extant permission, I am satisfied that there is a greater than theoretical possibility of this fallback option being implemented. As such, I have afforded significant weight to this fallback position as a material consideration. I am mindful that if the appeal proposal were to be allowed it would result in a visible change to the existing building's contribution to the character and appearance of the CA, which I consider below.
14. The architectural style and overall design of the proposal would retain the appearance, proportionality and siting of the original building, albeit as extended as per the extant permission. In addition, the proposal would replicate important architectural features such as an eyebrow dormer window, a square bay window over the front door, a flat roof porch suspended by metal brackets above and a dormer window flanking the sides of the chimney on the side elevation. As such, the proposal would recreate the characteristics and features of the existing building which contribute positively to the character and appearance of the CA and the group value of Nos 37, 39 and 54.
15. In terms of the external materials proposed, they would be of a high quality and reflective of the original building. The proposed roughcast render would reflect the external finish of the original property, before it was pebble dashed. In addition, the new build development would eliminate the need for external insulation, as approved under the most recent planning permission, thus the reveals around the windows and appearance of the modillion eaves to the roof and bay window would be reflective of the original building. The proposed roughcast render and avoidance of external insulation weighs favourably in the overall planning balance.
16. In conclusion, whilst the proposal would result in the loss of a non-designated heritage asset, the proposed building would maintain the characteristics and Arts and Crafts style of the original building and hence the associated group value of Nos 37, 39 and 54. As such, the development would have a neutral

² Appeal Ref: APP/5720/D/14/2228338

³ Council Ref: 18/P0827

impact upon and thus preserve the character and appearance of the CA as a whole. Consequently, the proposal would accord with Policy DM D4 of the adopted Merton Sites and Policies Plan 2014 (the Plan), which requires new development to conserve and where appropriate enhance Merton's heritage assets. In addition, the proposal would accord with Chapter 16 of the Framework.

17. The Council have drawn my attention to Criterion (d) of Policy DM D4 which states '*The loss of a building that makes a positive contribution to a conservation area or heritage site, should also be treated as substantial harm to a heritage asset*'. Whilst I acknowledge that the existing building is locally listed, I am mindful that the National Planning Policy Guidance states that '*substantial harm is a high test, so it may not arise in many cases*'. In this instance, I have found that the proposal preserves the character and appearance of the CA and therefore there would not be harm to the CA. Whilst the existing building would be demolished and hence technically lost, it would be replaced with a dwelling which would similarly make a positive contribution to the significance of the CA.

Trees

18. The application was not supported by an arboricultural method statement or tree protection plan. Consequently, the Council cite concerns about the impact of the proposal upon a mature tree at No 58 Marryat Road, which is adjacent to the side elevation of the existing property.
19. When granting planning permission for the extant development, the Council imposed a pre-commencement planning condition which required the submission and approval of an arboricultural method statement and tree protection plan.
20. The appellant argues that the root system of the tree would not be disturbed under the current proposal because an existing stretch of footing near the tree would be retained (as per the extant planning permission) and any new footings would be constructed inside the existing footing which would have no impact on the tree protection area.
21. In addition to the above, I am mindful that the level of excavation works associated with the basement would be similar when comparing the extant approval and the appeal proposal. Consequently, I see no reason why the previous conditional approach cannot be used in this instance to secure an arboricultural method statement and tree protection plan prior to the commencement of development. Such a condition would safeguard the health and longevity of the mature tree at No 58 Marryat Road. In addition, the condition would ensure the other trees adjacent to and within the appeal site, which also have amenity value, are safeguarded. Therefore, I conclude that the proposal would accord with Policy DM O2 of the Plan, which requires new development to protect trees of amenity value.

Other Matters

22. Concerns have been expressed by other interested parties about the effect of the proposed development upon surface water flooding and ground water levels in the local area. As explained below, these matters have been dealt with by planning conditions.

23. Concerns have been expressed by other interested parties that allowing this appeal would set an undesirable precedent which would make it difficult for the Council to resist similar development elsewhere within the CA. I have considered the proposal on its individual planning merits and have found that the proposal would accord with the development plan and the Framework. As such, the appeal decision would not set an undesirable precedent.

Conditions

24. Planning permission is granted subject to the standard three-year time limit condition. It is necessary that the development is carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. In the interests of the character and appearance of the area, it is necessary to impose conditions relating to materials, landscaping and the storage of refuse and recycling bins. Similarly, I have imposed a condition which removes permitted development rights in relation to the installation of additional windows, dormer windows, roof lights and doors. To ensure that the character and appearance of the CA is preserved, it is necessary for the materials to be agreed prior to the erection of the dwelling.
25. To safeguard trees which are of amenity value, it is necessary to impose a condition requiring an arboricultural method statement and tree protection plan to be agreed with the Council and that the development is undertaken in accordance with the approved details. To ensure that the trees are protected during the entire demolition and construction period, it is necessary for the details to be agreed prior to the commencement of development.
26. To ensure that the development achieves a high standard of sustainability and makes efficient use of resources, I have imposed a condition relating to energy consumption and internal water usage.
27. To prevent surface water flooding, it is necessary to impose a condition relating to surface water drainage works. Similarly, I have imposed a condition relating to the construction of the basement, which will ensure that the flood risks associated with ground water ingress to and from the development are appropriately managed. To ensure that such risks are appropriately managed, it is necessary for these details to be agreed prior to the construction of the basement.
28. Due to the proximity of neighbouring residents, it is necessary to impose a condition requiring a Construction Method Statement to be agreed with the Council and the development constructed accordingly. To ensure that interests of neighbouring residents are safeguarded during the entire demolition and construction period, it is necessary for the details to be agreed prior to the commencement of development.
29. In addition to the above, it is necessary to impose a condition to restrict the hours of construction and demolition, in order to limit noise disturbance in the evenings and at weekends. Similarly, I have also imposed a condition to prevent the burning of waste or other materials during the entire demolition and construction period.

Conclusion

30. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Christopher Miell

Inspector

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing number EX_01
Drawing number P_01 Rev: A
Drawing number P_02 Rev: A
Drawing number P_03 Rev: B
Drawing number P_04 Rev: A
Drawing number P_05
Drawing number P_06
Drawing number P_07
Drawing number 6161/11 Rev: 0
Drawing number 6161/12 Rev: 0
Drawing number 6161/21 Rev: 0
Drawing number 6161/22 Rev: 0
Drawing number 6161/31 Rev: 0
Drawing number 6161/32 Rev: 0
Drawing number 6161/GA/01 Rev: 0
Drawing number 6161/GA/02 Rev: 0

- 3) No development shall commence above ground level until details of all external facing materials have been submitted to and approved in writing by the local planning authority. The relevant works shall be carried out in accordance with the approved details.
- 4) No development shall commence above ground level until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i. earthworks showing existing and proposed finished levels or contours;
 - ii. the trees to be retained and methods of protection during construction or demolition;
 - iii. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate;
 - iv. means of enclosure and retaining structures;
 - v. boundary treatments;
 - vi. hard surfacing materials;
 - vii. an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the

development, whichever is the sooner; and plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 6) No part of the development hereby permitted shall be occupied until full details of the facilities for refuse and recycling storage have been submitted to and approved in writing by the local planning authority. The relevant works shall be carried out in accordance with the approved details.
- 7) 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 windows, dormer windows, roof lights or doors other than those expressly authorised by this permission shall be constructed at the property.
- 8) 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. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v. wheel washing facilities;
 - vi. measures to control the emission of dust and dirt during construction;
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii. delivery, demolition and construction working hours.

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

- 9) Notwithstanding the details contained within the submitted Engineering Design and Impact Statement prepared by Pole Structural Engineers, no development other than demolition shall take place, until a detailed Basement Construction Method Statement has been submitted to and approved in writing by the local planning authority. The details shall include a scheme to reduce the potential impact of water ingress both to and from the proposed development, both during and post construction. The development shall be carried out in accordance with the approved details.
- 10) No part of the development hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to

Policy 5.13 of the London Plan (March 2016) (or any subsequent version) and Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii. include a timetable for its implementation;
 - iii. provide a management and maintenance plan for the lifetime of the development and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 11) Notwithstanding the details contained within the submitted Energy Strategy Report prepared by CBG Consultants Ltd, no part of the development hereby permitted shall be occupied until evidence has been submitted to the local planning authority to confirm that the development has achieved not less than the CO2 reductions (ENE1) and internal water usage (WAT1) standards equivalent to Code for Sustainable Homes Level 4. Evidence requirements are detailed in the "Schedule of Evidence Required for Post Construction Stage from ENE1 and WAT1 of the Code for Sustainable Homes Technical Guide. Evidence to demonstrate a 25% reduction compared to 2010 Part L regulations and internal water rates of 105l/p/day must be submitted to and acknowledged in writing by the local planning authority.
- 12) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
- 13) Demolition or construction works shall take place only between 08:00 and 18:00 on Mondays to Friday, 08:00 to 13:00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.