
Appeal Decision

Site visit made on 19 October 2020

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th November 2020.

Appeal Ref: APP/T5720/W/19/3242324

58 New Close, Colliers Wood, London SW19 2SY

- 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 Adrian Elenikay against the decision of the Council of the London Borough of Merton.
 - The application Ref 19/P3276, dated 5 September 2019, was refused by notice dated 31 October 2019.
 - The development proposed is described as: alterations to refused planning application 19/P2600 for the erection of extensions, alterations and associated works together with the conversion of the existing dwelling house into five self-contained flats (2 x 1 bed, 2 x 2 bed, 1 x 3 bed).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Additional plans have accompanied the appeal that were not before the Council when it made its decision. These comprise landscape details and a sectional drawing through the appeal building. The Council have had sight of the information and an opportunity to comment. I have therefore assessed the appeal on the basis of this additional information.

Main Issues

3. The main issues of the appeal are:
 - whether the proposed development would provide adequate living conditions for future residents of the flats, with particular reference to external amenity space, internal living space, the outlook from bedrooms in Flats 1 and 2, and access for the disabled and residents with changing needs; and
 - the effect of the proposed access to Flat 2 and the communal external space on the safety, or the perception of safety, of future occupiers of the flats.

Reasons

External amenity space

4. To obtain access to the proposed communal garden, future occupiers of Flats 3, 4 and 5 would have to exit the appeal building from the front entrance, then

along the access path onto New Road, followed by travelling the length of the appeal site along the lane adjacent to No 56 New Road, before entering the communal garden through a side gate. Although this would in general terms be a short distance, it would nevertheless be an inconvenient and protracted journey for residents via internal stairways and through external gates, especially for activities such as clothes drying. The proposed communal garden would be in a poorly designed space that would be disconnected from the internal living areas it would serve and make it undesirable and unappealing to future occupiers.

5. The proposed communal garden would meet the minimum space requirements referred to in the Council's guidance¹, however, this would not overcome my concerns in relation to the space's design and proximity to the Flats or meet the expectations of the guidance, where space should be of a practical shape and utility (paragraph 2.3.31).

Accessibility

6. The recessed side entrance doorway to Flat 2 would incorporate a raised step leading into the appeal building. The height of the step would present itself as an obstacle to wheelchair users and would make entry into that flat challenging and problematic. Flat 2 has three bedrooms therefore it could house a family unit that may grow and require improved accessibility into the building for prams and young children. Yet the raised doorway presents a difficulty at the point of entry into the building.
7. A ramped access could be provided in place of the stepped entrance, yet it has not been evidenced whether this could be achieved to the required gradient given the short distance from the doorway's edge to the side boundary of the appeal property, and whether it could be wholly contained within land controlled by the appellant. In the absence of any clarity on this, the proposal fails to incorporate an inclusive access for residents, and consequently would have an unacceptable effect on future occupiers of Flat 2.
8. Notwithstanding the above concerns, the approach to Flat 2's entrance from New Close along the side access lane, and to the rear communal garden, is flat, while the surface is in reasonably good condition. It does not, in my view present any issues for those travelling along it on wheelchairs or pushing prams.

Internal Living Space

9. Flat 5 exceeds the minimum internal floorspace required for a single bedroom property, yet the Council suggest that about 8m² of that internal space is located within the front roof gable. This would amount to a small shortfall below the minimum standard. However, going by the appellant's section drawing it is likely that those areas, within the front gable, where there would be lower headroom would be utilised for kitchen storage and thus represent a practical use of the space within the flat. Therefore, Flat 5, would provide acceptable internal space arrangements for future occupiers.

¹ Standard 26 of the Housing Supplementary Planning Guidance, March 2016, London Plan 2016 Implementation Framework

Outlook

10. The ground floor bedroom, in Flat 2, adjacent to the entrance door to the flat would have its lower window panes obscure glazed to afford some privacy to that room from the side walkway. The upper window panes would not be obscure glazed, while positioned at a height that would comfortably allow occupiers of the room to look outside onto the access lane, and obliquely, towards New Close, ensuring a satisfactory outlook for future residents.
11. Flat 1's rear bedroom would open out on to an enclosed courtyard. Although the outlook onto this space would not overlook any external areas around the dwelling, it would nevertheless be softened by the 'greenwall', while, the lack of a roof covering would allow light to enter the courtyard from above. Although the courtyard would be somewhat limited in size it would provide a satisfactory outlook for occupiers of the rear bedroom.

Findings on living conditions

12. I have found that the proposed flats would comply with aspects of local planning policy in terms of internal space arrangements, while there would be no unacceptable harm to the outlook of the future occupiers of bedrooms relating to Flats 1 and 2.
13. However, the proposed development would provide unacceptable living conditions to future residents with particular reference to the external communal garden area and access to Flat 2 for the disabled and residents with changing needs. It would therefore be contrary to Policy DM D2 of the Sites and Policies Plan and Policies Maps, adopted 9th July 2014 (SPP), and Policies 3.5 and 7.2 of the London Plan, 2016 (the London Plan). These policies, amongst other matters, require new housing to be of the highest quality internally, externally and in relation to their context, while having no disabling barriers, so everyone can use them independently without undue effort and separation.

Crime and Safety

14. Houses in this part of New Close are arranged around a cul-de-sac and a large communal parking area. From these areas the proposed entrance to Flat 2 and the communal garden area would be visible, while a flank wall window in No 56 would directly overlook the entrances off the side access lane. During times of low light conditions, the security lighting proposed would illuminate the area around the appeal building thereby enhancing visibility when people would be entering and leaving the appeal property.
15. To my mind, there would be good levels of lighting and passive surveillance onto the entrances into the appeal property. Therefore, the proposed development and its surroundings would create a place that future residents would deem safe. It would therefore comply with Policy DM D2 of the SPP and Policy 7.3 of the London Plan, where they require proposals to take account of layouts that are safe, secure and take account of crime prevention.

Other Matters

16. The draft London Plan indicates that the annual housing required for the Borough exceeds that which is outlined in the Council's adopted development

plan. However, given the status of the draft London Plan I have given this matter little weight.

17. I acknowledge that small housing sites such as the appeal proposal play an important role in the provision of the Borough's housing supply. However, new housing needs to comply with development plan requirements in being well designed and providing an acceptable living environment for residents. Given I have found there to be harm in these respects, the small increase to the housing supply attracts little weight in this instance.
18. The appellant has provided an extensive list of developments the Council has approved where flats have not had direct access to a communal garden. However, I have not been given full details of these cases or what policies and guidance they were considered against. A more detailed example of a consented scheme at 48 Elm Gardens shows that entry to a rear communal space would need to be obtained from a side access lane. Although this would bear some similarities to the appeal scheme, I have considered the appeal scheme on its own merits and consider that the proximity of its proposed communal garden is unacceptable in this particular case.

Conclusion

19. Although I have found that some aspects of the scheme would be acceptable in terms of outlook, internal living space and crime/safety, it would, nevertheless, have an unacceptable effect on the living conditions of future residents in terms of external amenity space and accessibility. The harm incurred would also conflict with the provisions of the development plan and accordingly, for these reasons the appeal is dismissed.

R. E. Jones

INSPECTOR