

Appeal Decision

Site visit made on 18 December 2020

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11/02/2021

Appeal Ref: APP/T5720/W/20/3254265

39 Mitcham Park, Mitcham CR4 4EP

- 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 Aziz Kocheck against the decision of the Council of the London Borough of Merton.
 - The application, Ref. 20/P0285, dated 14 January 2020 was refused by notice dated 11 March 2020.
 - The development proposed is the conversion of the existing 4 person HMO (C4 use class) to a larger 17 person HMO (sui generis use class).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the acceptability or otherwise of (i) the principle of the use of the premises as a sui generis larger HMO and (ii) the proposed level of occupancy.

Reasons

3. Mitcham Park is Character Area 5 within the Cricket Green Conservation Area and the Council's concern is that the proposed larger HMO, in conjunction with other former single family dwellings now converted to other uses, would *'further degrade the original family-based demographic and character of the area changing it to a more transient population'*.
 4. The appellant's evidence indicates that before his purchase, the property has been in use as an HMO since at least 2005 and for most of that time with seven residents, albeit currently four. For some if not all of that period, there was also a dance studio on the ground floor. In the appeal proposal there would be no changes to the exterior of the building and the front curtilage is already paved over to provide residents' parking.
 5. Under the current Use Classes Order up to six persons can occupy the building as an HMO before permission is needed for a sui generis HMO. The break point between up to six residents on the one hand and seven or more on the other, recognises that an increase in intensity of use could have consequences for adjoining land uses. By the same token, I consider that there is also likely to be a relationship between the increase in resident numbers above seven and the degree of impact on the building's surroundings.
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6. No. 39 is a large property and has the locational advantage of being opposite a footpath leading directly towards the Mitcham Tram Stop. As mentioned in paragraph 4 above, the forecourt is already paved over for parking and refuse and recycling bins are stored along the front boundary with No. 41. The appeal scheme does not involve any proposed extension to the building and the existing elevations would not be altered. The property has a medium sized private rear garden and has an effective 2m high boundary separation from its neighbours.
7. A considerable number of the original family houses in Mitcham Park are now used as care and retirement homes and self-contained flats and it is in that context that the appeal proposal must be assessed. I recognise the Council's judgement is that a sui generis HMO could result in a further degradation of the area and also that there is the requirement in this case for development to pay special attention to at least preserving the character and appearance of the conservation area.
8. However, on balance I take the view that with the dance studio now gone, this large property does have at least some capacity for an increase in numbers beyond the benchmark figure of six residents and its corresponding move from Class C4 to a sui generis use. In reaching this view on issue (i) that the principle is acceptable, the second issue is whether the proposed level of occupancy would also be acceptable having regard to the Council's policies, the effect on the conservation area and Government policy in the National Planning Policy Framework 2019 ('the Framework').
9. In this instance the number of residents proposed is 17, ten more than the base line for a sui generis use and between two or three times the use for the building's recorded previous occupation. With this intensity of use, the comings and goings would be noticeably different to the previous occupation (leaving aside the much more limited occurrence of dance studio patrons) and similarly far exceeding those of any family house in the locality. This increases the potential for noise and disturbance to the neighbours, as is the case from the use of the rear garden, particularly at weekends and on summer evenings.
10. It can be reasonably argued that the majority of residents would be young professionals who would work long hours and be less likely to cause problems for neighbours. With its proximity to the tram station and the larger rooms justifying relatively high rents by HMO standards, I have some sympathy with this view. However the salient points are that this cannot be assured as part of a permission and therefore material to my decision. Neither can it be guaranteed that the appellant would continue to own the property and pursue this preference, as opposed to a future owner opting for emergency accommodation for residents who may include those who stay at home longer or are even less inclined to respect the social norms appropriate for this location.
11. The living conditions for the future residents of the property are also criticised by the Council. I saw on my visit that the previously very poor quality bedsits (as evidenced from the appeal statement photographs) have been converted to a mixture of double and single rooms, some self-contained and others with shared cooking and sanitary facilities. Although the refurbishment, which

includes the fixtures and fittings, is of a good standard and in some cases generously sized, there are two notable shortcomings.

12. Firstly, there are no rooms set aside for social interaction or dining, either in the form of one modestly sized on each floor or a much larger room on the ground floor. And although I have noted the limited criticisms of the HMO officer, I consider this to be essential in a sui generis HMO, especially one of this size.
13. Secondly, two of the three kitchens are very small with the space in the first floor kitchen particularly inadequate for the number of people that would rely on it. The six residents, comprising the single occupancy of bedroom nos. 6 and 7 and the double occupancy of bedroom nos. 8 and 9, would have to share this kitchen, which is a galley style except that its narrow width only permits a working surface on one side.
14. In practical terms this restricted size would only allow the occupants of one room at a time to prepare a meal with any degree of ease. And if the appellant is right about the HMO being used mainly by young professionals, there would be a limited time period, say 1800- 2000 hours on working days, when the demand for cooking facilities would far exceed the space and equipment available.
15. Turning to ancillary facilities such as refuse / recycling provision and cycle storage, these are shown on Drawing No. 04 and appear to be of good quality. However, I consider the Council is correct to suggest that the size of the refuse / recycling store would need to be increased and that it would be difficult for this to be in keeping with the street scene.
16. The issue of security arrangements was also raised in the Notice of Refusal, but this could be the subject of a condition.

Conclusions

17. Taking all these factors together, I conclude that although on the first issue the principle of a larger sui generis HMO would be acceptable, the proposed occupancy of 17 residents would substantially exceed the number that would be consistent with the avoidance of harm to (i) the character and appearance of the conservation area, (ii) the living conditions for neighbouring residents by way of noise and disturbance and (iii) the living conditions for future residents as regards social and recreational space and food storage and preparation.
18. This harm would conflict with DM Policies D2, D4 & H5 of the Merton Sites and Policies Plan 2014; Policies 7.4 & 7.8 of the London Plan 2016, and Policies CS14 & CS17 of Merton's Core Strategy 2011. There would also be conflict with paragraph 127f) and Section 16: 'Conserving and Enhancing the Historic Environment' of the Framework.
19. For these reasons and having had regard to all other matters raised, the appeal is dismissed.

Martin Andrews

INSPECTOR