



Appeal Decision

Site visit made on 9 March 2021

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2021

Appeal Ref: APP/H5960/W/20/3264421

Rear 165C Mitcham Road, London, SW17 9PG

- 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 Toby Colbourn against the decision of London Borough of Wandsworth.
 - The application Ref 202/3342, dated 28 September 2020, was refused by notice dated 3 November 2020.
 - The development proposed is "The proposed demolition of an existing carpet warehouse at the rear of 165 Mitcham Road, and the erection of a new 3 storey residential building. Work started in 2016 to add a second story to the warehouse, permitted under application number 2014/7326. Since then construction has been put on hold by the client in order to pursue a more ambitious development that provides additional housing."
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Decision

1. The appeal is allowed, and planning permission is granted for the proposed demolition of an existing carpet warehouse at the rear of 165 Mitcham Road, and the erection of a new 3 storey residential building at Rear 165C Mitcham Road, London, SW17 9PG in accordance with the terms of the application, Ref 202/3342, dated 28 September 2020, subject to the conditions in the Schedule attached to this decision.

Preliminary Matters

2. Despite the suggestion of the Council that the logical implication of their validation letter is agreement to their changed description of development, I have used a version of that provided by the appellant, on the basis that planning permission is granted for the development they applied for. I have however removed the narrative element from my formal decision, limiting it instead to the development that has been applied for and approved by this decision.

Main Issues

3. The main issues are the effect of the proposal on i) the living conditions of future occupiers of the ground floor flat, with specific regard to outlook and light, ii) the living conditions of occupiers of neighbouring properties with specific regard to visual intrusion and overbearing effects, and iii) whether or not the proposal would prejudice the development of adjacent sites, and is capable of providing sustained, appropriate living conditions for future occupiers with regard to outlook, daylight and sunlight.

Reasons

Living conditions for future occupiers

4. The proposed ground-floor flat has substantively the same floor-plan as those above it, with an area of outdoor amenity space to the front directly in front of the main windows. Unlike at the upper-floor flats, the ground-floor flat amenity space is screened from the public domain by obscurely glazed screens. These screens are taller than the brick screens for the upper-floor flats in order to increase the separation between the public and private domain and increase the level of privacy for occupiers of the ground floor flat. Whilst I acknowledge the concerns of the Council over the potential outlook from the ground-floor flat, I do not consider that the proposal is unacceptable in this regard. A degree of outlook will still be achieved, and the windows into the flat itself are proposed to be full height, with the obscure screens set away from them, which would allow views beyond the outdoor amenity space. In addition, I am now satisfied that the flat would be provided with sufficient light, from the windows to the front, the lightwell to the rear, and the high-level side-facing windows.
5. The appellant has offered a condition to require measured levels of light in the ground floor unit. Whilst I acknowledge this, I do not consider that such a condition would be appropriate, as I am not wholly convinced that any such condition could be suitably worded to meet the tests and requirements of the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (the PPG), particularly with regard to precision and enforceability. In any event, as I have concluded that the proposal would be acceptable with regard to the living conditions for future occupiers with specific regard to levels of light and outlook, I do not consider it necessary.
6. I therefore consider that the proposal would be acceptable in terms of the living conditions of future occupiers of the ground floor flat, with specific regard to outlook and light. It would therefore accord with the requirements of Policies DMS1 and DMH4 of the Wandsworth Local Plan Development Management Policies Document, March 2016 (the DM Policies), which set out general development principles, ensure high quality design, layout, and space standards internally and externally. The proposal would also accord with guidance in the Wandsworth Local Plan Supplementary Planning Document, Housing, November 2016 (the Housing SPD) which expands on the relevant development plan policies, and advice in the Framework around ensuring high standards of amenity.

Living conditions for occupiers of adjoining properties

7. The appeal proposal would represent a change in the outlook and context to views from north-east facing windows and terraces at the Mitcham Road flats close to the appeal site. The proposal is taller than both the existing building, and the alternative, consented development proposals on the site. However, I do not consider that the additional height is excessive or would be unduly or unacceptably overbearing or over-dominant. In particular, I note the separation distance between the proposal and windows in neighbouring properties as well as the use of high-level windows in the proposal, which will avoid any undue loss of privacy. In addition, as the appeal site is to the north-east of the Mitcham Road flats, this will limit any effects on light. Nor do I consider that the overall scale and mass of the building and its relationship to neighbouring properties is unacceptable given the dense, urban environment and context.

8. I therefore consider that the proposal would not have an unacceptable effect on the living conditions of occupiers of neighbouring properties with specific regard to any visual intrusion or overbearing effect. As such, the proposal would comply with Policy DMS1 of the DM Policies which seeks to ensure, amongst other things that development does not harm the amenity of nearby occupiers, as well as guidance in the Framework on the same.

Development of adjacent sites

9. At present, the appeal site is set amongst car parking, garages and various other service buildings, areas and rear accesses to the rear of buildings fronting onto Mitcham Road. Development proposals are, apparently, at various stages for surrounding sites, and the Council has drawn my attention to a withdrawn proposal from 2019 for one of these sites, citing the potential effects of that proposal, were it to go ahead, on the appeal proposal before me.
10. I acknowledge that the withdrawn proposal exhibited by the Council would alter the outlook from and context to the appeal proposal, and that proposals on other adjoining sites could do the same. However, the front of the site (the south-east elevation) faces onto an existing access, and there are no windows in the north-east elevation. A full-height, corner lightwell is proposed in the northernmost corner of the site, within the envelope of the site and the proposed building. In addition, whilst development to the south-east could alter the outlook from the proposal, there is nothing before me to suggest that the width of the access would be lost, and as such, sufficient light and outlook for the south-east elevation would be preserved. As noted above, I do not consider that such a close relationship between buildings would be particularly unusual, given the dense, urban context to the site, or otherwise unacceptable.
11. Turning to the potential effects of the appeal proposal on uses that might take place on adjacent sites, and the potential effect on those uses by the need to protect residential amenities on the appeal site, I have not been presented with any substantive evidence to support this point. In addition, there are already residential properties close to the site, which would be as affected by potential future uses on adjoining sites as development on the appeal site.
12. As a result, I do not consider that the appeal proposal relies on adjoining sites for acceptable levels of outlook, daylight or sunlight. Nor do I consider that the proposal would prejudice the development of adjacent sites or harm the ability to optimise their development or use through the need to protect the residential amenity of future occupiers of the appeal proposal.
13. I therefore consider that the proposal would be capable of providing sustained, appropriate living conditions for future occupiers with regard to outlook, daylight and sunlight. In this respect, it would accord with Policy DMS1 of the DM Policies which sets general development principles, as well as guidance in the Framework around achieving well-designed places.

Conditions

14. Having had regard to the requirements of the Framework and the PPG I have imposed standard conditions concerning commencement (1) and compliance with the submitted plans (2), in order to ensure the satisfactory appearance of the completed development.

15. The Council has suggested a number of conditions to be attached, should planning permission be granted. I am satisfied that they are necessary to ensure the satisfactory appearance of the completed development and to ensure compliance with development plan requirements around energy and resource efficiency. In response to concerns over the appearance of the terrace screening, particularly for the ground-floor flat, I have modified condition 3, suggested by the Council, to make it explicitly clear that those materials require approval under that condition. The conditions meet the tests in, and requirements of both the Framework and the PPG.

Other Matters

16. The appeal site is close to the Grade II listed St Boniface Church and within the viewing corridor of St Nicholas's Church, also Grade II listed. As such, there is a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Although the proposal would be visible in the context of these buildings, such views would be brief and amongst other, surrounding development of mixed age, scale, character and appearance which comprises the setting of these buildings, to which the site makes a neutral contribution. The scale, design and appearance of the proposal would have a neutral effect on the setting and would therefore preserve it.

Conclusion

17. For the reasons given above, I conclude that the proposal accords with the development plan, and I have found no material considerations of such weight to indicate that a decision be taken other than in accordance with it. The appeal should therefore be allowed, and planning permission granted.

S Dean

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 shall be carried out in accordance with the reports, specifications and drawings submitted with the application; 264-P-01, 264-P-04, 264-P-05, Right of Light Consulting Daylight and Sunlight Study, 165c Mitcham Road, London SW17 9PG, 13 November 2017.
3. Prior to commencement of above ground works, details and samples of materials proposed to be used on all external surfaces of the development, including those for the balcony screens for all flats, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials and thereafter so retained.
4. Prior to the commencement of above ground works (excluding demolition), details of the siting, design and materials of refuse and recycling storage to serve the development shall be submitted to and approved in writing by the local planning authority. The refuse storage facilities shall be provided in accordance with the approved details prior to occupation of the development and shall be retained thereafter.
5. Prior to the first occupation of the development, details of the location, appearance and size of the cycle parking facilities to provide at least one cycle parking space per unit shall be submitted to and approved by the local planning authority. The development shall be constructed and made available for use upon first occupation in accordance with the approved details.
6. The development hereby approved shall achieve a minimum of a 19% reduction in CO2 emissions below the maximum threshold set in Building Regulations Part L 2013. Prior to first occupation of the development, evidence (e.g. photographs, copies of installation contracts and as-built worksheets prepared under SAP) shall be submitted to and approved in writing by the local planning authority, to demonstrate that the development has achieved at least a 19% reduction in CO2 emissions below the maximum threshold set in Building Regulations Part L 2013. The installed measures shall be retained in accordance with the approved details.
7. The development shall achieve a maximum water use of 105 litres per person per day (plus 5 litres for outside use) in line with the Water Efficiency Calculator for new dwellings from the Department of Communities and Local Government. Prior to first occupation, evidence to demonstrate that the internal water consumption of the development will not exceed 105l/p/day must be submitted to the local planning Official authority and approved in writing. Measures integrated shall be retained for the lifetime of the development.

End of Schedule of Conditions