

Appeal Decision

Site visit made on 7 May 2021

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL

an Inspector appointed by the Secretary of State

Decision date: 21 June 2021

Appeal Reference: APP/T5720/W/20/3265532

Land at 227 Western Road, Colliers Wood, London SW19 2QD

- 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 Mesari Ventures Ltd against the decision of Merton London Borough Council.
 - The application (reference 20/P1517) is dated 1 May 2020.
 - The development proposed is described in the application form as: *"The demolition of the existing building, all site preparation works and redevelopment of the site for 9 new homes (C3), together with associated landscaping, access and cycle parking"*.
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Decision

1. The appeal is allowed and planning permission is granted for *"The demolition of the existing building, all site preparation works and redevelopment of the site for 9 new homes (C3), together with associated landscaping, access and cycle parking"*, at 227 Western Road, Colliers Wood, London SW19 2QD, in accordance with the terms of the application (reference 20/P1517, dated 1 May 2020), subject to the conditions set out in the attached Schedule of Conditions.

Application for costs

2. An application for costs was made by Mesari Ventures Ltd (the Appellants) against Merton London Borough Council. This application is the subject of a separate Decision.

Preliminary points

3. Although the site address is given in the appeal form as 277 Western Road, this appears to be a clerical error, since the correct address is 227 Western Road, as stated in the planning application form and on the location and site plans.

Main issues

4. There are three main issues in this appeal. The first is the effect of the proposed development on the character and appearance of the surroundings. The second is the effect of the scheme on different aspects of highway safety and convenience, while the third is its effect on climate change mitigation.

Reasons

5. The appeal site lies at a busy road junction on the A236, where it leaves Christchurch Road (or Church Road) and turns towards the south-east as Western Road. The junction is controlled by traffic lights and Church Road itself continues southwards as a major road in its own right. A short way to the north, the A236 Church Road joins the A24.
6. To the south and west of the highway junction, the townscape is dominated by residential development of various ages and styles, including Victorian terraces and modern flats. To the north and east of the junction, the buildings are markedly different, however, including large commercial buildings. Some of these buildings have the appearance of bulky factories or warehouses, with substantial retail developments some way to the north.
7. The existing building at number 227 Western Road is a somewhat isolated modest residential building on the north-east side of the A236 junction, although it has previously been in office or mixed use. It is constructed in a traditional form, with a two-storey main element that has rendered external walls under a pitched roof. Parking spaces are laid out across the frontage of the site (in a side cul-de-sac where the old route of Western Road has been cut off) and there is an open area at the rear which is concealed behind a high site hoarding.
8. To the west, across Church Road, there is an area of residential terraces, with residential development also to the south, across this part of Western Road (a link to Church Road). Immediately to the east across the cul-de-sac, by contrast, there is an area of industrial-type development, large "sheds" that are served by large lorries. Adjoining the site to the north is a Shell petrol station, with a wide, brightly coloured canopy and rows of fuel pumps.
9. Colliers Wood Town Centre (a "District Centre") is located a short way to the north of the appeal site, with its southern boundary to the north of the petrol station. Other amenities (including public open space) are also within easy walking distance of the appeal site.
10. It is now proposed that the application site should be cleared and a new four-storey building constructed, to contain nine independent flats, with associated landscaping, access and cycle parking.
11. The 'National Planning Policy Framework' stresses the need to encourage development in principle and it reinforces policies aimed at concentrating new buildings in sustainable locations, making the best use of "brownfield" land and urban land to provide new homes. The need to achieve higher levels of house building has been emphasised and Paragraph 47 makes clear the aim to "boost significantly the supply of housing".
12. Of course, the 'National Planning Policy Framework' also lays stress on the aim of "achieving well designed places" in the broadest sense (notably at Section 12), while making effective use of land and encouraging economic activity. It is aimed at achieving good design standards generally, which includes protecting existing residential amenities and providing good standards of accommodation in new residential development. It does, however, acknowledge that modern design can have a role to play in creating a

- contemporary townscape, for example at paragraph 126, which states that planning policies “should allow a suitable degree of variety where this would be justified”.
13. Evidently, the pursuit of good design includes a requirement to pursue the “objective of contributing to the achievement of sustainable development” and climate change mitigation is part of that.
 14. An emphasis on the importance of good design is also to be found in the Development Plan.
 15. The revised version of ‘The London Plan’ was adopted in March 2021 and it also stresses the need to achieve better use of urban land to build more houses, while achieving good standards of design in doing so. Notably, Policy D3 focusses on optimising capacity through the design led approach while Policy D8 is concerned with design in the context of the public realm.
 16. Particular attention has also been drawn to Policies DM D1 and DM D2 of Merton’s ‘Sites and Policies Plan’ (adopted in July 2014) and Policy CS14 of their ‘LDF Core Planning Strategy’ (adopted in July 2011). These policies underpin general principles that are also to be found in the NPPF and ‘The London Plan’ and they emphasise the importance of good design and the aim of protecting urban character and achieving good design in the public realm.
 17. ‘The London Plan’ sets out some detailed space standards, while the national ‘Technical housing standards – nationally described space standard’, which deals with internal space within new dwellings, is also relevant in this case.
 18. Other specific Policies in both ‘The London Plan’ and the ‘Core Strategy’ focus on the need to achieve high levels of sustainability and good standards of environmental quality and to mitigate against climate change.
 19. Under the broad heading “Promoting sustainable transport”, Section 9 of the revised ‘National Planning Policy Framework’ (2019) deals with a number of transport related issues. It points out the need to address concerns about the transport network (in terms of “capacity and congestion”) and to prevent significant impacts on highway safety (notably at paragraphs 108 and 109). It is intended that congestion ought to be reduced and, hence, that new development should not inhibit the free flow of traffic, in principle.
 20. Attention has also been drawn to Policies in the Development Plan that are relevant to highway and parking concerns, notably Policies T2, T4, T6, and T7 of ‘The London Plan’, Policy CS20 of Merton’s ‘Core Strategy’ and Policies DM T2, DM T3 and DM T5 of their ‘Sites and Policies Plan’.
 21. The existing site is clearly underused and discussions have been taking place over a long period of time about its potential for redevelopment. Indeed, a previous scheme was the subject of a planning appeal that was dismissed in 2019, though this project was for the construction of a much larger, seven-storey building, containing eighteen flats and some commercial floorspace. In the meantime, moreover, greater emphasis has been laid on the need to build more homes.
 22. The appeal scheme would involve the construction of a four-storey building, primarily facing south towards the highway junction, with its rear elevation

- presented towards the petrol station (which adjoins the appeal site to the north). There would be three flats on each of the upper three floors and the proposed nine flats would provide a mix of one-bedroom and two-bedroom dwellings. The proposed development would incorporate a roof garden and the ground floor would provide various communal facilities as well as service spaces. The usefulness of the proposed "library/lounge" and "party room" has been doubted to some extent, but any future change of use would clearly require planning permission and this benefit is also to be taken into account.
23. The loss of the existing building would not be regretted; indeed, the redevelopment of this prominent site would be desirable in terms of the potential enhancement of the townscape. Moreover, planning policies specifically encourage the aim of enhancing local distinctiveness and responding to local character. In this case, however, the character of the immediate local area is somewhat nondescript and the introduction of a new feature could enhance the locality.
24. Although the proposed new building would be taller than its immediate neighbours, there are taller buildings a short way to the north and the industrial and commercial buildings in the immediate vicinity are large buildings without being tall. In addition, there are other modern buildings containing flats to the south of the site. The appeal site occupies part of the area that has been cut off in the past by the realignment of Western Road and, in this location, the taller building that is now proposed would not be out of place, recognising that local character can evolve over time.
25. The proposed design would be best viewed from the south and the submitted drawings and computer graphics show that it would be an interesting and thoughtful design with significant architectural quality. It would provide a varied and careful interplay of volumes and materials on an awkward site that might otherwise be unattractive. Thus, the redevelopment of the appeal site could create a marker for a change in the nature of the townscape, at the approach to Colliers Wood Town Centre.
26. Nevertheless, the north elevation would represent a powerful element in the streetscene. It is asserted that the petrol station site could be redeveloped in the future but there are, apparently, no clear plans for that at present and, in any case, it may be that a redevelopment scheme would continue to support the transport-related character of the site. The aim of allowing for future development of the petrol station site is sensible and practical but it could have made the north elevation very unprepossessing, in spite of the fact that the wide canopy of the petrol station would obscure views of the north elevation, to some extent, especially in near views.
27. The submitted design addresses these concerns, however. The proposed north elevation would be deeply modelled (allowing for future "lightwells") and it would incorporate carefully designed brickwork and materials detailing, in order to provide visual interest in views towards the site from the north.
28. In short, I am persuaded that the proposed scheme would not have a harmful effect on the character and appearance of the surroundings. It does achieve a high standard of architecture on a difficult site and it would comply with

- national and local policies that are intended to encourage good standards of architectural design.
29. In reaching that conclusion, I have noted that the proposed flats would comply with internal space standards that are set out in 'The London Plan' but would fall short of the standards in respect of balconies. The shortfall would be minor, however, and would not be crucial to the overall quality of the design, taken as a whole.
30. I have also formed the view that the scheme would have only a minimal impact on the amenities of nearby commercial properties and that, although it would be visible from residential properties to the south, it would not have an undue impact on the amenities of those neighbours, for example by giving rise to an unacceptable degree of overlooking.
31. Turning to highways related matters, I am conscious that the appeal site is located alongside an awkward and busy road junction. It has been pointed out in the submissions that, even now, some large vehicles may mount the footpath when manoeuvring to gain access to nearby sites. Evidently, there will be a need for larger vehicles to service the appeal site from time to time but refuse vehicles, for example, would not be expected to enter the site as a matter of routine and the waste disposal provisions are adequate.
32. The site layout provides for a single car parking space, which is marked "parking/loading" on the appeal drawings, but I accept that a degree of flexibility can be catered for in accordance with the applicable policies, bearing in mind the relatively small scale of the development (for less than ten dwellings). The on-site parking provision would be adequate, therefore.
33. More generally, it is pointed out that the location is only rated as "moderate" in terms of its accessibility, although Colliers Wood Underground Station is about 600 metres to the north of the appeal site and there are good bus services on the main roads. The surrounding area is not within a Controlled Parking Zone, though there is evidence of on-street parking stress.
34. The appeal scheme is relatively small in scale, as the Council have pointed out, and, on balance, I have concluded that the likely level of car ownership by future residents at the proposed new flats would not have a significant impact on parking pressure in the area. Indeed, I am not persuaded that a condition is necessary to secure the provision of membership to a car club, as suggested by the appellant.
35. Again, in relation to pedestrian movement, the appeal scheme would not add significantly to flows on the footpaths adjoining the site. The footpath would be widened in places, between columns and other projections, creating a greater sense of space, even though there does not appear to be any suggestion that the existing situation requires the intervention of a public project to widen the footpath or improve the road layout.
36. It must be acknowledged that the construction process itself must inevitably cause some awkwardness and disruption, when materials are delivered, for example, but that would be a short-term issue for local residents and others, rather than a fundamental objection to the project, and a construction

- management plan could be used to address this matter, in accordance with a suitable planning condition.
37. In short, I have taken account of the difficult location of the proposed development, at a busy highway junction, but I have formed the opinion, on balance, that the appeal scheme would not be unduly detrimental to matters of highway safety and convenience and that it would not be contrary to the Development Plan or to the principles that are set out in the 'National Planning Policy Framework'.
38. The Council's fourth reason for refusal raises a concern about the effect of the proposed building on climate change mitigation, although I am conscious that matters affecting climate change are also subject to other constraints (for example, those imposed by the Building Regulations).
39. In their appeal statement, the Council urge that "an amended energy statement" is required whereas the Appellant's response during the appeal has provided additional comments, in the light of which I am persuaded that further submissions (to satisfy a planning condition) would be unnecessary. Hence, I am satisfied that that sufficient information has now been submitted to enable me to conclude that carbon dioxide reductions can be achieved so as to make a contribution to climate change mitigation in accordance with Policies in the Development Plan.
40. The proposed development would not have an unacceptable effect on climate change mitigation, therefore.
41. Evidently, the appeal site lies within an established urban area, near to Colliers Wood Town Centre, which is "sustainable" in planning terms, and the proposed new flats would make a very modest but nonetheless useful contribution to the provision of much needed housing in London. I have concluded that the project would provide a well-designed new building in a significant location on a main approach to Colliers Wood Town Centre, and that it would not result in an unacceptable impact on highway safety or convenience. Nor are there any other objections that would justify a refusal of planning permission.
42. Hence, the proposed development would not be in conflict with the Development Plan and I am persuaded that the scheme before me can properly be permitted, subject to conditions. Although I have considered all the matters that have been raised in the representations (including the previous Appeal Decision), I have found nothing to cause me to alter my decision.
43. I have, however, also considered the need for conditions and, in imposing conditions, I have taken account of the conditions suggested by the Council in the usual way (without prejudice to their main arguments in the appeal), subject to modifications necessary, in my opinion, in the interests of clarity, simplicity and enforceability.
44. I have concluded that conditions are necessary, to define the planning permission and to ensure that quality is maintained. I draw attention to the fact that the approved drawings need to be adhered to, especially in regard to architectural details, including for example the treatment of the roof level and the materials and details to be employed (including in respect of the north elevation). Similarly, it will be necessary for details of materials to be used in

- the external surfaces of the building to be submitted to and approved in writing by the Council at an appropriate time (although samples of actual materials would not routinely be necessary).
45. Various of the conditions suggested by the Council require the proper completion of the development, and are necessary and reasonable, to ensure that standards are kept up in the future. In certain cases, however, an unnecessary post-completion verification report can be dispensed with.
 46. Logically, measures relating to the demolition and construction processes themselves need to be settled before the works are commenced. The appellant's statement argues that planning permission ought to be granted "subject to appropriate conditions" and the pre-commencement conditions that have been put forward by the Council have been accepted by the appellant.
 47. On the other hand, I am not convinced that conditions are necessary to require the preparation of a "Delivery and Servicing Plan" for the lifetime of the proposed development.
 48. The Council have also proposed a condition to require the submission of "a detailed scheme for the provision of surface and foul water drainage" (to include a green roof). I have, however, taken account of drawings prepared by Nimbus Engineering Consultants and included in the appellant's list of planning application drawings, and I have concluded that the information that has been submitted is sufficient in this case and is to be adhered to. A further condition is unnecessary, therefore.
 49. The Council's submissions also include the proposition that an agreement is needed under Section 106 of the Town & Country Planning Act 1990, to require a viability assessment to be provided "in the event of applications being submitted further increasing the residential units being delivered within and beyond the building envelope, within a period of two years from substantial completion of the current scheme". Bearing in mind that planning permission would be needed for any significant project, such an imposition is unnecessary, however.
 50. The council's submission in relation to conditions ("without prejudice") includes a number of "informatives". These do not need to be repeated in this Decision.

Roger C Shrimplin

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings:
 - drawing number 730/001 P1 (Location Plan),
 - drawing number 730/013 P10 (Ground Floor Plan),
 - drawing number 730/014 P10 (First Floor Plan),
 - drawing number 730/015 P10 (Second/Third Floor Plan),
 - drawing number 730/016 P9 (Fourth Floor Plan),
 - drawing number 730/017 P9 (Roof Floor Plan),
 - drawing number 730/018 (Site + Floor Plans – Existing),
 - drawing number 730/020 P6 (Section A),
 - drawing number 730/021 P6 (Section B),
 - drawing number 730/030 P8 (South Elevation / Western Rd),
 - drawing number 730/031 P7 (North Elevation),
 - drawing number 730/032 P7 (West Elevation / Christchurch Rd),
 - drawing number 730/033 P7 (East Elevation / Western Rd),
 - drawing number 730/034 P6 (South West Elevation),
 - drawing number 730/SK01 P3 (East Isometric – Existing),
 - drawing number 730/SK02 P7 (East Isometric),
 - drawing number 730/SK03 P5 (Future Development),
 - drawing number 730/SK04 P6 (East Isometric),
 - drawing number 730/SK05 P8 (East Isometric),
 - drawing number 730/SK06 P7 (South West Isometric),
 - drawing number 730/SK07 P7 (North Rear View),
 - drawing number 730/SK08 P6 (View from Christchurch Rd),
 - drawing number 730/SK09 P8 (View from Christchurch Rd),
 - drawing number 730/SK10 P6 (Street View From Western Rd),
 - drawing number 730/SK13 P5 (Street View from Christchurch Rd),
 - drawing number C2335-01A (Surface Water Networks and SuDS Layout),
 - drawing number C2335-02A (Green Roof Plan).
3. No materials shall be incorporated into the external surfaces of the development hereby permitted until samples (or specifications) of those materials, and drawings (at appropriate scales) of the construction details to be used, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details, using the approved materials.
4. The development hereby approved shall not be occupied until the refuse and recycling storage facilities shown on the approved plans have been completed and made available for use. These facilities shall thereafter be retained for use by residents of the development, at all times.
5. The guard rail to the roof terrace as shown on the approved plan (drawing number 730/016 P9) shall be completed before the development is first occupied and shall not be altered (other than for repair or maintenance purposes) or removed, thereafter.

6. No external lighting shall be installed without the prior approval in writing of the Local Planning Authority.
7. The vehicle parking area on the ground floor shown on the approved plans shall be completed and made available for use before the first occupation of the development hereby permitted and shall be retained for parking purposes for occupiers and users of the development and for no other purpose.
8. The development hereby permitted shall not be occupied until the cycle parking shown on the plans hereby approved has been provided and made available for use. These facilities shall be retained for the occupants of and visitors to the development at all times.
9. The finished floor level of the ground floor of the development shall be set at no lower than the 13.5m AODN.
10. Due to the potential impact of noise from the surrounding locality on the development, the recommendations to protect noise intrusion and adequate ventilation into the dwellings, as specified in the Anderson Acoustic report for Mesari Capital Limited (Reference 4566, Dated March 2020), shall be implemented as a minimum standard of mitigation from external noise, incorporating the central mechanical ventilation system as the primary means of ventilation.
11. No development shall take place until a Demolition and Construction Method Statement and Plan shall have been submitted to, and approved in writing by, the local planning authority. The Statement shall include details of: hours of operation, parking of vehicles of site operatives and visitors, loading and unloading of plant and materials, storage of plant and materials used in constructing the development, the erection and maintenance of security hoarding (including decorative displays and facilities for public viewing, where appropriate), wheel washing facilities, measures to control the emission of noise, vibration, dust and dirt during demolition and construction, and measures for recycling or disposing of waste resulting from demolition and construction works. The approved Statement shall be adhered to throughout the demolition and construction period unless the prior written approval of the Local Planning Authority has first been obtained for any variation.
12. For the avoidance of doubt, no demolition or construction work (other than internal works) nor ancillary activities such as deliveries shall take place outside the hours of 0800-1800 on Mondays to Fridays or 0800-1300 on Saturdays, or at any time on Sundays and Bank Holidays.
13. Prior to the commencement of the development hereby permitted (or by such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
 - (1) A preliminary risk assessment which has identified:
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors;
 - potentially unacceptable risks arising from contamination at the site.

(2) A site investigation scheme based on (1), above, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

(3) The results of the site investigation and detailed risk assessment referred to in (2), above, and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required to bring the site to a suitable state for the intended use by removing unacceptable risks to health and the built environment and how they are to be undertaken.

(4) A verification plan providing details of the data that will be collected, in order to demonstrate that the works set out in the remediation strategy detailed in (3), above, are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The site shall be remediated in accordance with the approved measures and timescale.

14. Prior to first occupation of the development hereby permitted, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan, to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, if appropriate, and for the reporting of this to the local planning authority. Any long-term monitoring and maintenance plan shall be implemented as approved.

15. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority (within 14 days of the remediation works being completed) and approved in writing by the local planning authority, prior to first occupation of the development hereby approved.

16. Piling or any other foundation or construction works using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.