



Appeal Decision

Site Visit made on 13 July 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2021

Appeal Ref: APP/T5720/W/20/3265316

8 South Park Road, London SW19 8ST

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr J Davis of ERE LLP against the decision of London Borough of Merton.
 - The application Ref 20/P2723, dated 11 September 2020, was refused by notice dated 19 October 2020.
 - The development proposed is described as prior notification of the proposal to create a single storey roof extension providing 3 no. of new flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The principle of development is established by Part 20, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO). The prior approval provisions do not require regard to be had to the development plan. I have therefore only had regard to the policies of the development plan in so far as they are material to the matters for which prior approval is sought.
3. The appellant has produced a planning obligation by Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990. The UU would restrict possession of parking permits for future occupiers in order to ensure a car-free development.
4. The revised National Planning Policy Framework (the Framework) has been published since the appeal was submitted. Both main parties have been given the opportunity to comment on this. My decision is made in the context of the revised Framework and I am satisfied that no interested party has been prejudiced by my approach.

Main Issues

5. The main issue is whether the proposed development would be granted planning permission by the GPDO with particular regard to the requirements of paragraphs A.2(1) (a), (e) and (g) relating to transport and highway impacts of the development, the external appearance of the building and the impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light.

Reasons

The external appearance of the building

6. The area is characterised by relatively wide roads, deep frontages and buildings displaying similarity in terms of architecture and scale which results in a pleasant, coherent and spacious suburban environment. The appeal site comprises a three-storey flat roof block of flats forming part of a row of four detached blocks with a similar form, scale and appearance and with a small-scale development formed of single storey dwellings behind. The architecture of these buildings and their tighter urban grain is somewhat at variance to the character of the area.
7. The South Park Gardens Conservation Area (CA) lies to the north of the site and largely derives its significance from South Park Gardens and rows of Victorian and Edwardian dwellings of a similar vernacular creating a largely coherent, leafy and spacious environment.
8. I acknowledge the Council's concerns in relation to the impact on the setting of the CA, the regularity of building heights and that the resultant building's height would be prominent. However, the principle of upward extensions is established by the GPDO. The increased height and a taller building are an inevitable consequence and has to be interpreted as not being inconsistent with the street scene and wider area for the purposes of Part 20, Class A, or indeed, in this regard, its impact on the setting of the CA.
9. There is no definition of the term 'external appearance'. The wording in the context of paragraph A.2(1)(e), in my view, suggests a relatively narrow assessment as to the external appearance of the proposal itself, including the design and architectural features, rather than its effect on the wider area and neighbouring occupiers. The proposed development would be constructed from materials to match the host building, the windows would reflect those of the host building and their positioning would align with the floors below. This would ensure visual continuity. Thus, the additional storey would integrate into the building without being unduly prominent or incongruous.
10. Overall, taking into account the design I find the proposal to be acceptable in terms of its external appearance.

Impact on the amenity of neighbouring premises

11. The properties in Florence Court are single storey and, as the appellant indicates, their layouts have been designed to take account of the position, scale and orientation of neighbouring properties. Whilst there are windows facing the appeal property light and outlook from these windows is already limited by the height and proximity of the boundary wall. Taking into consideration the modest increase in the height of the building and the layout of Florence Court I am satisfied that the proposed development would not result in a significant overbearing effect. The properties on the opposite side of South Park Road, which are further away, are reasonably distanced to avoid an overbearing impact.
12. The proposed development would increase the height of the building, but its height would not be excessive and sufficiently distanced from neighbouring properties. It would not be visually intrusive and would not diminish the

outlook experienced to a degree that it would be overbearing for neighbouring occupiers.

13. I have paid regard to the Daylight, Sunlight and Overshadowing Assessment, which concludes that the impact on daylight and sunlight for affected windows in neighbouring properties would be minor. The report also concludes that overshadowing of gardens would be insignificant. The Council has not challenged the findings of the assessment, and there is no credible evidence to lead me to a different conclusion. Despite the concerns raised by local residents in respect of such matters, I am satisfied that the proposed development would not unduly affect the living conditions of nearby residents in relation to sunlight, daylight and privacy.
14. I conclude that the proposed development would not unacceptably harm the living conditions of nearby occupiers in respect of outlook.

Transport and highway impacts

15. The proposed development makes no provision for on-site parking and there is the potential for it to generate demand for additional on street parking within the Controlled Parking Zone (CPZ). The appellant has provided a UU as the mechanism to ensure that the development would be car-free by preventing occupiers from obtaining a parking permit.
16. The UU could serve to ensure that the development would be car-free by preventing occupiers from obtaining a parking permit. However, it is not dated or duly executed and therefore is not legally binding in relation to the requirements of Section 106 of the Town and Country Planning Act (1990).
17. Consequently, the proposal would not deliver a car free development and would serve to increase parking pressure in the area contrary to Policies DM T1 and DM T3 of the Sites and Policies Plan and Policies Maps (2014) and Policy CS20 of the Core Planning Strategy (2011) which, amongst other things, seek to promote the use of sustainable transport; ensure that the level of residential parking is suitable for its location and managed to limit its impact locally and support car free developments in CPZ's, with good access to services and facilities.

Other Matters

18. I have been made aware of the planning history for the site which includes refused planning applications and dismissed appeals. However, I have only been provided with limited information and the circumstances behind each proposal is likely to be different. In any event, every appeal must be considered on its own merits, as I have done in this case. These decisions do not lead me to reach a different conclusion on the main issues.
19. Interested parties have raised concerns including in respect of bins, overcrowding, access to the police station, leaseholders' rights and precedent. As the appeal is being dismissed for other reasons, it is not necessary for me to consider these matters further.

Conclusion

20. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR