



Appeal Decision

Site Visit made on 10 August 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2021

Appeal Ref: APP/T5720/W/20/3262906

90 Garfield Road, London SW19 8SB

- 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 Oppidan (GR) Ltd against the decision of the London Borough of Merton.
 - The application Ref 20/P2721, dated 24 August 2020, was refused by notice dated 19 October 2020.
 - The development proposed is the erection of two additional floors comprising 8 self-contained flats (4 x 2 bed and 4 x studio)
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the Council's decision notice as it simply and accurately describes the development.
3. The principle of the 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.
4. 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.

Main Issue

5. The main issue is whether the proposed development would be granted planning permission by the GPDO with 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 and privacy.

Reasons

The external appearance of the building

6. The appeal property is a modern three storey block of apartments located on a predominantly residential road. Properties on this side of Garfield Road display variety in terms of design and scale. The building's height, form and appearance ensure it blends into this varied street scene.
7. The streets opposite, including Milton Road and Cowper Road, are formed of two storey terraced dwellings which whilst having a tighter urban grain have a coherent and pleasant character.
8. The block is largely constructed from yellow brick with recessed balconies and windows with a vertical emphasis. The top floor has a scale and proportion that complements the host building, but also has its own identity achieved by its set back and external finish.
9. 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.
10. The proposed development would have a contemporary appearance using sympathetic materials. However, it would extend the host property considerably resulting in a significantly large and disproportionate alteration. The bulk of the proposed development would be overly dominant, resulting in a top-heavy building unacceptably harming the appearance of the host property.
11. I conclude that the proposed development would unacceptably harm the external appearance of the host property contrary to Policy CS14 of the Core Planning Strategy (2011) and Policies DMD2 and DMD3 of the Sites and Policies Plan (2014) (SPP) which, amongst other things, promote high quality sustainable design and for alterations and extensions to respect the form, scale, bulk and proportions of the original building.

The amenity of the existing building and neighbouring premises

12. The proposed development would include additional full height windows at the third and fourth floors and terraces. Despite the intervening highway and boundary fences the height and positions of the windows and terraces would allow direct views into the rear gardens of properties along Milton Road and Cowper Road. The proposal would increase the degree of actual and perceived overlooking for the occupants of nearby dwellings. Whilst there is a degree of mutual overlooking in suburban areas the proposed development would result in a significant loss in privacy adversely affecting the enjoyment of gardens.
13. The existing street tree may provide some screening of one garden, but only at times of the year when it is not in leaf. Furthermore, the screening would not extend to other neighbouring gardens which would continue to be affected.
14. I am not satisfied that a planning condition for obscure glazing would be effective in protecting occupiers living conditions, due to the height and positions of the proposed windows.
15. I conclude that the proposed development would unacceptably harm the amenity of occupiers of neighbouring premises contrary to SPP Policy DMD2

which, amongst other things, seeks appropriate levels of privacy for adjoining buildings and gardens.

Transport and highway impacts

16. 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.
17. The UU includes the legislation under which it is made, sets out the requirements, defines the site and is dated and duly executed. As such, I am satisfied that the UU serves to ensure that the development would be car-free by preventing occupiers from obtaining a parking permit.
18. Consequently, the proposed development would not have an adverse highway impact.

Other Matters

19. Whilst the appellant has made some design changes following the Council's decision, in the interests of fairness, I must ensure that what is considered at appeal is what was considered by the Council. I therefore have not taken these drawings into account.

Conclusion

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

B Thandi

INSPECTOR