



Appeal Decision

Site Visit made on 22 June 2020

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 October 2021

Appeal Ref: APP/T5720/W/20/3245507

7 Streatham Road, Mitcham CR4 2AD

- 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 Nizar (Tony) Mitha against the decision of the Council of the London Borough of Merton.
 - The application Ref 19/P1591, dated 16 April 2019, was refused by notice dated 5 December 2019.
 - The development proposed is for the retention of existing enlarged outbuilding for use as a self-contained 1 bed unit.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There is disagreement between the main parties regarding the description of development. The point of contention is whether the building in question was already a separate dwelling. If it was, then the proposal would be for an extension to that dwelling. If it was not, then both the use of the building as a separate dwelling and the works to it require planning permission. At various points the appellant's application and appeal submissions have referred to the existing building as both an outbuilding and a dwelling. The appellant's current agent queries the description used by the Council and the approach of the previous agent, contending that the planning application was not for a separate dwelling but for additional family accommodation. However, it is also suggested that the building was previously in use as a separate dwelling.
3. There is no substantive evidence before me in the form of a Certificate of Lawful Development to confirm that the building was anything other than an incidental outbuilding. Regardless of this, the application submission indicates the proposal as being for a separate dwelling. Therefore, on the evidence before me, I agree that the description used in the Council's decision notice and by the appellant in the appeal form most closely reflects the situation and proposal. I have therefore used it in the heading to this appeal.
4. At the time of my visit the structure itself was largely completed although external finishing was yet to be applied. Internally, the space had been divided into rooms. Although the building is in the position indicated on the submitted drawings, neither the window/door openings as installed nor the internal layout, corresponded to the submitted drawings. For the avoidance of doubt, I have determined this appeal on the basis of the submitted drawings, which would have been considered by the Council when making its decision.

5. Between the determination of the planning application and the appeal coming before me, the new London Plan¹ and a revised Framework² were published. The Council has subsequently indicated that Policies D3, D4, SI2 and SI5 of the new Plan are relevant to this appeal. The views of the appellant have been sought on the new London Plan and I have referred to it in my findings. Similarly, both main parties have had an opportunity to comment on the revised Framework.

Main Issues

6. The main issues are a) the effect of the proposed development on the character and appearance of the area; and b) whether the proposed development would meet carbon dioxide and water consumption requirements.

Reasons

Character and Appearance

7. The appeal site forms part of the rear garden to an existing detached dwelling located on the southern side of Streatham Road, at its junction with Graham Road. The area has a mix of property styles and sizes although most are generally two storeys in height with pitched or hipped roofs. The terraced properties in Graham Road, to the south east of the site, have a more regular and uniform appearance. The rear garden of the host property therefore provides an important visual break to allow a transition from the host property to the terraced properties in Graham Road.
8. The buildings in Graham Road that are opposite the appeal site, although of varying styles and sizes, have a built form which is broadly complementary to one another. They also have sufficient space between and around them to allow a transition from one building/style to another without appearing incompatible or unduly cramped.
9. The appeal building's position, size and roof design would give it prominence when viewed from both Graham Road and Streatham Road. It would very clearly be read within the street scene as a separate unit, with a separate curtilage and entrance. Whilst I agree with the appellant, that if the proposal is for a separate unit, then it does not necessarily have to be subservient to the main dwelling, the building nevertheless still has to have regard to its surroundings and context.
10. The appeal building would have similarities to the host property in terms of external finishes. However, the building's scale and large mono-pitch roof would dwarf the lean-to extension to the host dwelling and create an awkward juxtaposition and visual relationship with it. The appeal building would have no compatibility in terms of materials, size or form with 1 Graham Road such that it might be viewed positively in the context of that building or the rest of the Graham Road terrace. Not only is the proposal's design and appearance at odds with the surrounding built form but in combination with its proximity to both adjacent buildings, it would appear cramped and thus an incongruous form of development within the established street scene.

¹ The London Plan 2021

² National Planning Policy Framework (2021)

11. Accordingly, the proposal would cause harm to the character and appearance of the area. As such, it would be contrary to Policy CS 14 of the Core Strategy³, Policies DM D1 and DM D2 of the Local Plan⁴ and Policies D3 and D4 of the London Plan, which amongst other things, seek to ensure that developments are of an appropriate form that relate to their surrounding area and do not diminish the public realm.
12. I have not been provided with copies of the Council's Supplementary Planning Documents (SPD) regarding small sites⁵ and the character of the borough⁶. However, I find that the policies I have cited above, copies of which I have seen, are more than sufficient to relate to this main issue.
13. Although the Framework was not referenced in the reason for refusal, the appellant has drawn my attention to it and considers the proposal to be compliant in terms of achieving well designed places. However, for the reasons set out above, I disagree and find that the proposal would be out of keeping with the surrounding area. As such, it would be contrary to Paragraphs 130 and 134 of the Framework, which respectively indicate that amongst other things, new development should be sympathetic to local character and that development which is not well designed should not be permitted.

Carbon Dioxide and Water Consumption

14. The Council was concerned that the proposal had failed to demonstrate compliance with the necessary carbon dioxide reduction and water consumption requirements and so help reduce the effects of climate change. The appellant points out a number of initiatives and undertakings which might help to ensure compliance. To retrospectively achieve this for some elements of the development may be difficult but not necessarily impossible. Both the main parties have indicated that a suitably worded condition could address this issue. Had I been minded to allow this appeal, then I am satisfied that a condition could have been imposed which would have enabled the Council to consider such matters prior to occupation of the building. On that basis, the proposal could meet the requirement of Policy CS 15 of the Local Plan and Policies SI2 and SI5 of the London Plan, which amongst other things, seek to ensure that new development minimises greenhouse gas emissions and water consumption.

Other Matters

15. The appellant has indicated that the accommodation would be for a family member whose health dictates a need for equipment and proximity to family. The unit would provide for such needs whilst enabling a degree of independence. However, the building is to all intents and purposes a separate unit which would have no dependence upon the existing dwelling. It could be occupied by anyone and function as an independent unit. There are no features which indicate that the accommodation is in some way designed for the particular needs of the appellant's circumstances. As there does not appear to be any functional or ancillary relationship to the main dwelling there would not appear to be any basis on which to impose a condition requiring the building to be used in this way. Any linkages would therefore solely be through whoever

³ London Borough of Merton LDF Core Planning Strategy (2011)

⁴ Merton's Local Plan - Sites and Policies Plan and Policies Maps (2014)

⁵ Small Sites Toolkit Supplementary Planning Document (2021)

⁶ Merton Character Study Supplementary Planning Document (2021)

were occupying the building. The Planning Policy Guidance⁷ advises that only in exceptional circumstances would a personal permission be appropriate, as permission runs with the land. I have no doubt that the space would assist the appellant's family circumstances but any weight that I could attribute to this issue would not outweigh the harm that I have identified.

16. The appellant points out that there was previously an outbuilding on the site and directs me towards householder permitted development rights. However, there is no Certificate of Lawful Development before me to confirm what could be erected on site. Nevertheless, given the differences between an outbuilding incidental to the main house constructed under permitted development and the appeal proposal, I can attribute only limited weight to this stated fall-back position.
17. There are a number of other altered dwellings which are visible within the street scene. However, these appear to assimilate acceptably in terms of their design and do not, based on what I have seen, harm the character and appearance of the area in the same way the appeal proposals would. They do not therefore lead me to allowing the appeal.
18. The appellant also points out that the Council has not raised concerns in respect of such matters as the impact upon neighbours, parking/cycle provision etc. and notes that the proposal would provide sufficient garden space and comply with the space standards⁸. However, these factors would represent a lack of harm and accordingly would be neutral in any balance.

Planning Balance and Conclusion

19. I have found that the proposal would harm the character and appearance of the area, contrary to the development plan taken as a whole. The policies cited in this respect above are not out-of-date because the need to protect the character and appearance of the area is perennial and in direct compliance with the Framework. The harms I have found would lead to conflict with paragraph 130 of the Framework, which, amongst other things, seeks to ensure that new development is sympathetic to local character.
20. The appellant suggests that the proposal would represent an efficient use of land. An additional dwelling would accord with the Framework's support for windfall sites. The Council acknowledges the benefit of providing housing through the intensification of small sites. The provision of a single dwelling would make a small contribution towards housing supply and there would be associated social and economic benefits although some of these would be limited by virtue of time and the scale of the proposal. As such, these benefits would be insufficient to outweigh the conflict with the development plan as a whole.
21. The appeal should therefore be dismissed.

Stewart Glassar

INSPECTOR

⁷ Planning Policy Guidance - Paragraph: 015 Reference ID: 21a-015-20140306

⁸ Nationally Described Space Standards (2015)