

# Appeal Decision

Site visit made on 26 October 2021

**by J Bell-Williamson MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 06 November 2021.**

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## **Appeal Ref: APP/T5720/W/21/3270978**

### **243 London Road, Mitcham CR4 3NH**

- 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 & Mrs Velautham & Thayalini Kirubakaran against the decision of the Council of the London Borough of Merton.
  - The application Ref 20/P3794, dated 24 November 2020, was refused by notice dated 9 February 2021.
  - The development proposed is ground and first floor rear extensions to incorporate new one bed flat at first floor, and new storage area at ground floor.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. The Council's decision notice refers to policies from The London Plan 2016. However, since the decision was made the new London Plan has been published, in March 2021, and the Council has updated relevant policy references in its appeal statement. I have, therefore, had regard to the relevant policies from the new plan.

### **Main Issues**

3. The main issues are:
  - the effect of the proposed extensions on the character and appearance of the host building and the surrounding area;
  - whether the proposed flat would provide an adequate standard of accommodation for future occupiers, with regard to external amenity space, privacy and overall size.
  - the effect on the living conditions of neighbouring residents, with regard to privacy, daylight and outlook;
  - the effect on parking; and
  - whether the proposal makes adequate provision for waste and recycling collections.

### **Reasons**

*Character and Appearance*

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4. The appeal property is a mid-terrace building of three storeys to the front, with two and one storey elements to the rear. The ground floor is in commercial use with a residential flat above this, reflecting the uses apparent across the terrace as a whole.
5. Policies DM D2 and DM D3 of the Merton Sites and Policies Plan (2014) (SPP) concern design considerations and alterations and extensions to existing buildings. They require well-designed proposals that will respect the appearance, scale, bulk, form, proportions, materials and character of the original building and its surroundings. Policy CS 14 of the Council's Core Strategy (2011) requires that all development needs to be designed in order to respect, reinforce and enhance local character. Policy D3 of The London Plan 2021 requires development to enhance local context by delivering buildings that positively respond to local distinctiveness.
6. The original terrace to the rear appears to comprise the main three storey buildings and the two storey element adjoining this, which cover around half the overall depth of the plots. Beyond this is a variety of largely single storey extensions or separate outbuildings. As such, the original form of the terrace to the rear is readily apparent, particularly as the scale and bulk of the buildings diminish towards the rear boundary.
7. The proposal would add an additional storey running to almost the rear boundary and would infill the characteristic existing gap between properties by developing over two storeys up to the shared side boundary. As such, it would add considerable bulk and mass to the building and infill a feature that contributes to the uniformity of the terrace's character and appearance. The extent of the proposed development would result in it being a visually dominant feature to the rear, which would compete with and detract from the original form and scale of the rear terrace. Moreover, the flat roof at first floor level would not respect the pitched roof form across the terrace.
8. These harmful effects would be readily apparent from the access road to the rear, from the rear gardens of the nearest properties on Langdale Avenue and from passing views along Langdale Avenue itself.
9. Accordingly, for these reasons, I conclude that the proposed extensions would have an unacceptably harmful effect on the character and appearance of the host building and the surrounding area. Consequently, the proposal is contrary to Policies DM D2 and DM D3 of the SPP, to Policy CS 14 of the Core Strategy and to policy D3 of The London Plan 2021, as described above. Policy DM D1 of the SPP is less relevant in my reading as it concerns urban design and the public realm.

#### *Standard of Accommodation*

10. Policy DM D2 of the SPP includes a criterion requiring appropriate provision of outdoor amenity space, whether public, private or communal which accords with appropriate minimum standards. I am not aware of such local standards, and therefore Policy D6. F(9) of The London Plan 2021 is relevant. It says that where there are no higher local standards in the borough Development Plan Documents, a minimum of 5m<sup>2</sup> of private outdoor space should be provided for 1-2 person dwellings, as is the case here.

11. The appellants contend that the proposed flat is likely to be occupied by young residents for whom external space is less likely to be important; and public open space is available nearby. I give some weight in principle to the argument concerning the proximity of public space, which can help to offset the absence of the desirable amount of external space in flatted developments. However, in this case the sideways extension of the building means that even the small amount of accessible external space to the side of the building would be lost with no alternative provision being made available. This reflects a harmful overdevelopment of the appeal site and, as such, the lack of provision of alternative external amenity space must count against the proposal.
12. The proposed forward-facing bedroom window would be positioned relatively close to and directly facing the window serving the kitchen of the existing first floor flat. As such, I agree with the Council that there would be harmful overlooking and loss of privacy to future occupiers using this habitable room.
13. The application form indicates that the flat would have a gross internal floor area of 48m<sup>2</sup> and with a double bedroom shown on the plans it could accommodate two people. Policy D6. F(1) of The London Plan 2021 requires that dwellings must provide at least the gross internal floor area set out in Table 3.1. For a two-person one bedroom dwelling the minimum floor area is 50m<sup>2</sup>. While the shortfall from the required standard is limited, the policy is clear that this standard is a minimum that must be met or exceeded. Consequently, the overall size of the proposed dwelling would result in substandard accommodation that would not meet the needs of future occupiers.
14. Therefore, taking these findings as a whole, I conclude that the proposal would not provide an adequate standard of accommodation for future occupiers, due to its failure to meet requisite standards in Policy D6 of the London Plan 2021 for external amenity space and floor area. It is also contrary to Policy DM D2 of the SPP insofar as it requires development proposals to provide privacy for future occupiers.

#### *Living Conditions*

15. I have found above that the relationship between the proposed forward-facing bedroom window and the existing flat's kitchen window would result in a harmful loss of privacy to future occupiers of the proposed flat. Conversely, it follows that the same harm would result to the occupiers of the existing flat through loss of privacy due to mutual overlooking between the two windows.
16. The existing kitchen window currently enables open views to the rear of the property. The proposed sideways upper floor extension would block these views resulting in a substantive degree of enclosure and resultant harm to outlook from the kitchen window. However, despite the proximity of the extended building, the increase in height would not be sufficient to harmfully effect the daylight to this window.
17. The living room of the proposed flat would include a main rear-facing window positioned close to the appeal site's rear boundary. This would face the side garden of No 1 Langdale Avenue. I agree with the Council's assessment that due to the window's elevated position and proximity to the garden, this would

enable direct views of this neighbouring garden, which would harmfully compromise the occupants' privacy and enjoyment of their garden.

18. Accordingly, for all these reasons, I conclude that the proposal would result in material harm to the living conditions of occupiers of the neighbouring first floor flat at No 243, with regard to privacy and outlook, although there would be no such harm with regard to daylight; and to the occupiers of No 1 Langdale Avenue, with regard to privacy. Therefore, the proposal is contrary in this regard to Policies DM D2 and DM D3 of the SPP, insofar as these require development to protect the living conditions of future and existing occupiers. Policy CS 14 of the Core Strategy appears to be less relevant to this issue as it does not refer directly to the effect of development on living conditions.

### *Parking*

19. Policy DM T1 of the SPP promotes the importance of active and sustainable travel, while Policy T6. B of The London Plan 2021 says that car-free development should be the starting point for all development proposals in places that are well-connected by public transport. Policy CS 20 of the Core Strategy requires, amongst other matters, that developers should demonstrate that development will not adversely affect pedestrian or cycle movements, safety, the convenience of local residents, on-street parking and traffic management.
20. The appeal property has relatively high accessibility by public transport and it is also located within a controlled parking area. No on-site parking provision is made as part of the proposal and it is possible that the occupants could wish to park private vehicles on surrounding streets. The appellants have not provided evidence that this would not result in harmful effects with regard to parking and inconvenience to local residents, contrary to Policy CS 20; nor would the proposal accord with Policy T6 of The London Plan, which promotes car-free development in locations such as this with good public transport accessibility.
21. I note the appellants' suggestion that this matter could be resolved through a planning condition to prevent future occupiers obtaining parking permits. However, the Council takes the view that a legal agreement is the more appropriate means to secure this outcome. As this is a specific requirement of Policy DM T3 of the SPP concerning car parking and servicing standards, I must agree with the Council and conclude that in the absence of such an agreement the proposal is contrary to the development plan policies referred to.
22. I acknowledge the appellants' contention that they were not made aware of this requirement, to enable them to complete an agreement prior to the application's determination. However, this does not overcome the conflict with the development plan that has been found and, in any case, this issue is not determinative with regard to the outcome of this appeal given the conclusions above on the first three main issues.

### *Waste and Recycling*

23. The appellants suggest that to overcome the Council's concerns about waste and recycling collections, bins would be left at the end of the service road leading to Elmwood Road. It is not clear from the information provided or the inspection where this location is in relation to the appeal property. As the

Council notes, it is not one of the roads at either end of the service road running behind the terrace. Therefore, there is some uncertainty about this matter, which, despite the Council's concerns, could be addressed by a condition requiring details of bin storage and collection to be submitted. However, as noted with regard to the preceding issue, this matter is not determinative on the outcome of the appeal.

### **Conclusion**

24. I have found that the proposal would result in material harm and is contrary to relevant development plan policies with regard to the majority of the main issues. There are no other material considerations that outweigh the conflict with the development plan. Accordingly, it is concluded that the appeal should be dismissed.

*J Bell-Williamson*

INSPECTOR