



Appeal Decision

Site Visit made on 30 November 2021

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 20th December 2021

Appeal Ref: APP/T5720/W/21/3272488

39 Mitcham Park, Mitcham CR4 4EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Aziz Kochev, PHA Properties Ltd against the decision of the Council of the London Borough of Merton.
 - The application Ref: 20/P1975, dated 19 June 2020, was refused by notice dated 5 November 2020.
 - The development proposed is described as change of use from small HMO (use within Class C4 to a 14 person HMO (Sui Generis Use)).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A new version of the London Plan (LnP) was published in March 2021 and a new version of the National Planning Policy Framework (the Framework) was published in July 2021. The parties have had opportunity to comment on the engagement of these new policy documents in relation to the appeal, and so will not be disadvantaged by my consideration of them.

Main Issues

3. The main issues in this case are:
 - Whether the proposal would preserve or enhance the character or appearance of the Mitcham Cricket Green Conservation Area (CA);
 - The effect of the proposed development on the living conditions of future occupants of the HMO, with particular regard to communal facilities; and
 - The effect of the proposal on the living conditions of neighbouring residents, with particular regard to noise and disturbance.

Reasons

4. Noting the previous appeal dismissal decision¹ for a 17 person HMO proposal at the appeal property, and assessing the specifics of the current 14 person appeal scheme, I find as follows.

¹ Appeal Ref: APP/T5720/W/20/3254265 (the February 2021 appeal decision).

Conservation Area

5. The appeal site comprises a two-storey, semi-detached house and its garden areas. It is located within a mainly residential, suburban area within the CA.
6. The CA covers an area that spreads out from Mitcham Lower Green and is bounded by Mitcham Common to the east. Its green spaces, tree stock and architecture contribute to its relatively spacious, traditional suburban character.
7. The CA's significance, insofar as it relates to this appeal, lies in the evolution of its townscape from the medieval period to the twentieth century, with particular focus on the Edwardian suburban character and traditional identity of the Mitcham Park part of the CA.
8. Criterion a)v of Policy DM H5 of the SPP is generally supportive of housing with shared facilities and bedsits, provided that it avoids an overconcentration of similar uses, detrimental to residential character.
9. Mitcham Park forms the south-western leg of the CA. Here Edwardian domestic architecture is typically articulated by L-shaped semis of considerable depth, behind relatively modest front facades. This includes the appeal house. Some more recent evolution of the CA's character is also perceptible in Mitcham Park, in the conversion of some houses into flats, and care and retirement homes, and some more recent buildings. This evolution is manifested for example in signage, forecourt parking, and proliferation of bins and utilities meter boxes in some front gardens.
10. The above together contribute to an evolved townscape character in the Mitcham Park part of the CA, that is rooted in a historic design ethos of family residences in a fairly spacious suburban setting, with some more modern intensification and diversification of residential occupation.
11. Within this evolved, delicately balanced character context, Mitcham Park's traditional family townscape and atmosphere remain important ingredients of the CA's distinctive identity.
12. The proposal would entail nine units, of which five would be double occupancy and four single occupancy. This would result in an intensification from the building's existing four-person HMO use, to occupancy by fourteen people.
13. No alterations to the facades of the appeal building are proposed. Nonetheless, the proposed intensification of the HMO would entail a substantial amount of outdoor bin storage, the full extent and location of which are not finalised in the proposal. There would be the likely temptation, for convenience of collection, to store the increased number of bins potentially prominently in the front garden of this property, which has no front wall and little vegetation, and is thus relatively open to views from the street.
14. As such, a potentially intense and prominent proliferation of bins, either in or in addition to a bin store or stores, is likely to result from the appeal proposal. Both the scale of bin accumulation and its amplification of the presence of the HMO and its intensification would stand out discordantly in the evolved suburban scene. I therefore have no certainty that a bin storage scheme submitted at planning condition stage would conserve the delicate townscape balance of Mitcham Park and its remaining traditional family feel, which are important to the CA's distinctiveness.

15. Moreover, the usage of the rear garden of the semi-detached house by the fourteen proposed HMO occupants, and their visitors is likely to be of an intensity that would sit uncomfortably within the street where a less intense, family character of accommodation, and associated atmosphere, remains perceptible, judging by the impression of the architecture and garden space in the locality.
16. Also, the intensified comings and goings of the proposed larger number of occupants, and associated visitors and delivery personnel, together with the potentially more transient occupation of the property would further put the street's delicate character balance and CA's identity at risk.
17. Paragraph 199 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Given the scale and substance of the proposal, I find the harm to the CA to be less than substantial in this instance, but nonetheless of considerable importance and weight. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against public benefits of the proposal.
18. The proposal would contribute to housing supply in the area, in the form of modernised accommodation for fourteen people, which would be an increase of ten more than for the building's existing four-person HMO use. This would have socio-economic benefit through additional custom for local businesses, facilities and services including the public transport network. The public benefits in these respects are limited in scale and do not outweigh the great weight given to the conservation of the CA, and the less than substantial harm to its significance which I have identified.
19. In conclusion, the proposal would fail to preserve or enhance the character or appearance of the CA. As such, it would conflict with Policies DM D2, DM D4 and DM H5 of the SPP, Policy CS 14 of the CPS and Policies D3 and HC1 of the LnP. Together the policies seek to ensure that development complements local character, and conserves and where appropriate enhances the historic environment.

Living conditions of future occupants

20. Informed by the sense of space that I observed within the appeal building during my site visit, I find that the proposed two kitchens and shared living room on the ground floor would provide realistically usable communal indoor space for occupants of the ground floor units.
21. However, the proposed single, smaller communal kitchen on the first floor is likely to be too crowded for the eight upstairs occupants to comfortably use during meal-time peaks. Also, it would be impractical for the upstairs occupants to ferry meals and associated utensils from the first floor kitchen, up and down the stairs, to and from the communal lounge on the ground floor. This, combined with the overcrowding of the shared living room that would result, were upstairs and downstairs occupants to attempt to use it together, would deter use of the proposed shared living room by the first floor occupants. This would uncomfortably limit the choice and variety of interior living space available to occupants of the proposed first floor units. Potential need for some working from home would amplify the discomfort arising from this deficiency.

22. In conclusion, the proposal would harm the living conditions of future occupants of the proposed first floor units in terms of communal facilities. As such, the proposal would conflict with Policies DM D2 and DM H5 of the Merton Sites and Policies Plan (SPP) and Policy D3 of the LnP. Together, the policies seek to ensure that development achieves high quality design through, among other things, protecting residents' living conditions.

Living conditions of neighbours

23. Criterion a)v of Policy DM H5 of the SPP is generally supportive of housing with shared facilities and bedsits, provided that it avoids an overconcentration of similar uses detrimental to residential amenity.
24. As established above, the proposal would result in intensified comings and goings by the larger number of occupants, and associated visitors and delivery personnel. That said, while this would contribute to perceptible harm to the character balance of the street, the following combination of factors mean that comings and goings to and from the property are not likely to result in harmful levels of noise and disturbance to neighbours.
25. There is no substantive track record presented of harmful noise and disturbance arising from comings and goings to and from the property, during previous HMO occupancy of the appeal property. The separation gaps between the pairs of semis in the host row, and the entrances of the appeal property and neighbouring dwellings would not be changed by the proposal. Furthermore, the nearby access to convenient tram links already generates some pedestrian movement on the street, as an alternative to private car use, and intensification of this pedestrian movement is likely to be absorbed within the suburban streetscene.
26. However, the substantially intensified use of the rear garden of the semi-detached house by the fourteen occupants of the proposed nine HMO units, and their visitors, particularly during fairer weather, is likely to be of a perceptible intensity, including associated noise, that would be uncomfortable to residents of neighbouring properties.
27. I therefore conclude that the proposal would harm the living conditions of neighbouring residents, in terms of noise and disturbance arising from intensified use of appeal property's rear garden. As such, the proposal would conflict with Policies DM D2 and DM H5 of the SPP and Policy D3 of the LnP, which together seek to ensure that development is of sufficiently high quality design to protect residents' living conditions.

Other Matters

28. As set out above, I have determined that the public benefits of the proposal are insufficient to outweigh the less than substantial harm that would be caused to the significance of the heritage asset. Accordingly, I confirm that overall the benefits of the proposal are insufficient to outweigh the totality of harm that I have identified in relation to the main issues.
29. I note a) the previous operation of a dance studio at the appeal property, b) the absence of objection by the Council's HMO officer to the current appeal proposal and c) the previous Inspector's finding² of 'at least some capacity for

² In the February 2021 appeal decision.

an increase in numbers beyond the benchmark figure of six residents'. These factors do not alter the identified concerns and specifics in this appeal case, and my consequent findings.

30. Some local residents have expressed concerns about parking pressure which go beyond the reasons for refusal. As I am dismissing the appeal on other grounds, it is not necessary for me to consider this matter further in this instance.

Conclusion

31. The proposed development would be contrary to the development plan and Framework and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal fails.

William Cooper

INSPECTOR