



Appeal Decision

Site visit made on 21 February 2022

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15TH march 2022

Appeal Ref: APP/T5720/W/21/3281310

41 Eastfields Road, Mitcham, CR4 2LS

- 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 Heritage Applications Ltd against the decision of the London Borough of Merton Council.
 - The application Ref 21/P2135 dated 27 May 2021, was refused by notice dated 23 July 2021.
 - The development proposed is demolition of existing detached building and erection of new part 2-storey/part 3-storey detached building with roof accommodation consisting of 8 self-contained flats (1 x 3 bed, 5 x 2-bed, 2 x 1-bed) all with private outdoor amenity space and associated secure and covered cycle and refuse storage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has submitted revised plans during the appeal stage to try and address the Council's refusal reasons. It is not the purpose of an appeal to try and evolve a refused scheme where such amendments could have been the subject of withdrawal and resubmission to the Council. I note that there are interested third parties who have objected to the proposals with regard to privacy and overall appearance of the proposal and I consider that they should be given opportunity to adequately consider the revisions.
3. Looking at the revisions I find that interested third parties would be prejudiced by acceptance of the submitted revisions within this appeal on this occasion given they seek to change items upon which comments were specifically received. For this reason I have determined the proposal upon the refused plans and have not accepted the revised plans submitted within this appeal.
4. The National Planning Policy Framework 2021 (the Framework) was revised on 20 July 2021. The appeal before me was submitted a month after (19 August 2021) but the appellant's submissions reference the 2019 Framework which had been revised. For the avoidance of doubt any references I have made to the Framework within this decision letter are made with reference to the 2021 Framework except where specified and relating them to the submissions.

Main Issues

5. The main issues are the impact of the proposal upon i) the character and appearance of the area, ii) the living conditions of neighbouring occupiers with regard to loss of privacy, overbearingness unneighbourly development and iii) whether the proposal can provide suitable cycle storage.

Reasons

Character and appearance

6. The appeal site is a triangular shaped plot with frontage to both Eastfields Road and Roper Way. It is currently occupied by a two storey, detached, single family house constructed in around the 1960/70s as well as a detached single storey garage which is accessed from Roper Way. The house itself is set back from the main building line of Eastfields Road. The appeal site is within a residential area which I noted to be relatively uniform in terms of the immediately adjacent built form and development pattern.
7. The proposal would introduce substantial built form at two and three storeys with a ground floor footprint which would cover an exceedingly high percentage of the appeal site. This is illustrated in the CGI proposed aerial view (drawing number 10). From the plans before me I find that this would not be characteristic of the development pattern in the area which is generally created by uniform plots with a lower percentage of built form compared to plot size. The proposal is considerably out of scale for the comparatively small plot.
8. The proposal would form a prominent development when stood within the respective street scenes. Whilst I note there is some three-storey development on Eastfields Road in this case the three storey element, with loft, would have limited visual coordination with the two storey adjoining properties and would therefore create an abrupt visual transition between new and existing buildings along this part of the street as a result of the bulky roof profile. The loft's roof profile does not integrate well with the building and the roof level therefore appears odd and visually inconsistent with the main floors beneath.
9. The number of openings and general design details results in very visually busy elevations which provide a clear visual indication towards the density of the development inside the building. This visible density would appear as a strong contrast when viewed against the character of the surrounding houses that are designed and occupied as modest family homes. I do not find that the scale of the building is broken down into varying components to ensure the proposal complements and relates to the adjacent buildings nor that the elements add visual interest. The general level of visual activity the design proposes I find would only contribute to it contrasting to the neighbouring buildings and appearing more prominent in general appearance, as result of design, when combined with scale and massing.
10. Given that the proposal would stand on a corner plot I consider it important that any proposal addresses both streetscenes which it would essentially become part of. The proposal does take some, limited, design cues from the street scene along Eastfields Road but I find from the streetscene within Roper Way the elevation provided would present as busy, awkward and disjointed as a result of overdevelopment due to the number of units proposed.
11. When considering the proposal from the street and from the private gardens of adjoining neighbours, the development would be perceived against the context of its immediate surroundings, which are two-storey, post-war houses. I do not find that the proposal therefore responds acceptably to the surrounding built form. The scheme has been designed to provide setback from the site boundaries at the upper levels, however, I do not find that these measures would compensate for the harm I have found due to overall scale of the

- proposal as a result of increased massing and height. The proposal would still present as a stark contrast to the neighbouring development.
12. The appellant has referenced 21 Eastfields Road and Garages between nos. 21 and 27 Eastfields Road (13/P1383) and No. 20 Rialto Road (17/P3884). Photographs of the sites are provided along with extracts from what is presumably a Council report but information before me is limited which limits the weight which can be placed up the proposals. Notwithstanding this it was considered that the block at Rialto Road was more representative of the scale and massing of the terraces of houses on the opposite side of the street. I also consider, from the images before me, that the other sites referred to by the appellant are more simplistic and quieter in their design which is key to their integration when combined with scale, height and massing. This is not the case for the proposal within this appeal for the reasons I have outlined above.
 13. The boundary wall as submitted would assist in providing protection from overlooking and other disturbance from the street which is needed in itself to provide suitable amenity for future occupiers. A reduced boundary wall height would not therefore secure these necessary benefits. Lowering the boundary wall would also expose users to of the public pavement to general outside paraphernalia associated with main gardens, which could create a cluttered building frontage which I find would further contribute to the visual impacts of the proposal.
 14. I note examples of the proposed boundary treatment having been utilised on other sites but I find that the proposed boundary wall would present as out of character within the street scene and would serve to further emphasise the visual dominance of the overall development. The enclosure to the bin store would further contribute to a sense of enclosure, as it would create an intrusive element within the streetscene as a result of sufficient facilities being required for all eight units together as noted as a requirement by consultees.
 15. I note the appellant's comments, in 6.1 and 6.2 of their statement, which highlights a need to positively boost housing supply. The Framework notes support for development of underutilised land and buildings to contribute towards this supply. The Council confirm that the principle of development and increased density is acceptable and I have no reason to conclude differently. A larger, appropriately designed, proposal may well be possible compared to the existing site. The issue is, I find, that the proposal represents excessive overdevelopment of the site which is in turn harmful to the character and appearance of the area.
 16. It is acknowledged that policy seeks to ensure optimal use of the potential of each site (paragraph 125 of the Framework) as well as effective use of land. This should, however, be considered alongside the fact that good design is a key aspect of sustainable development. In accordance with paragraph 130 of the Framework developments should function well and add to the overall quality of the area, be sympathetic to local character and not discourage appropriate innovation or change (such as increased densities) and create placed with a high standard of amenity for existing and future occupiers.
 17. For the reasons outlined in this decision letter, I do not find the proposal is consistent with these objectives. The proposal does not demonstrate appropriate change. Overall I find that the proposal would, as a result of design, scale, height, massing and boundary treatment appear visually

dominant and incongruous. I find that this would cause significant harm to the character and appearance of the area as a result of overdevelopment of the appeal site.

18. The proposal would not be consistent with Sites and Policies Plan 2014 (SPP) Policy DM D1 which requires that development proposals must impact positively on the character and quality of the public realm and SPP Policy DM D2 which requires developments to relate positively and appropriately to the siting, rhythm, scale, density, proportions, height, materials and massing of surrounding buildings and use appropriate architectural forms, language, detailing and materials which complement and enhance the character of the wider setting.
19. The proposal would be contrary to Core Strategy 2011 (CS) Policy which requires all development to be designed in order to respect, reinforce and enhance the local character of the area in which is located. The proposal would be contrary to London Plan 2021 (LDN) Policy D3 which seeks to enhance local context by delivering buildings that positively respond to local distinctiveness and LDN Policy D4 which seeks to deliver good design.

Living conditions of neighbouring occupiers

20. At the time of my site visit I noted that the existing dwelling has limited presence within a good sized plot, compared to the size of the existing dwelling itself, next to the rows of terraced housing to the east (Eastfields Road) and north (Roper Way). The neighbouring terraced properties benefit from private rear gardens. The proposal would introduce substantial built form at two and three storeys with a ground floor footprint which would cover an exceedingly high percentage of the appeal site. I find this would unacceptably reduce the outlook currently benefitting neighbouring properties including 43 – 47 Eastfields Road and 2 – 8 Ropers Way.
21. The CGI proposed east elevation (drawing number 11) further demonstrates the scale, height and massing which would be experienced by the adjoining properties – particularly 43 Eastfields Road and 2 Roper Way as the closest neighbours. The scale would also have further impacts for neighbours in the immediate area albeit this would reduce with distance from the proposal. I find the proposal would result in an unneighbourly presence and one which would be dominating, enclosing and significantly overbearing to the detriment of the living conditions of neighbouring occupiers. The scheme has been designed to provide setback from the site boundaries at the upper levels, however, I do not find that these would compensate for the issues I have found due to overall scale of the proposal as a result of increased massing and height on the site as previously outlined.
22. The existing dwelling does have three windows at first floor level and some degree of overlooking is evidently expected within a residential area of this nature. I do not, however, find that the proposal lessens the degree of overlooking by comparison. The existing property is orientated as such to limit natural views down the rear garden to the side elevation of 2 Ropers Way with some views beyond the site which are natural for an urban setting. I note that some windows would be high level but the windows in the upper levels would, I find, further contribute to a feeling of being overlooked for neighbours which would be detrimental to their living conditions.

23. The proposal would also introduce a terrace and side windows at upper levels that would overlook the rear garden spaces for properties in the immediate area along Eastfields Road. The terrace would provide opportunity for views into rear gardens but this would be mitigated to an acceptable extent by the proposed 1.7m obscured glass balustrade.
24. The appellant makes reference to paragraph 123 c) of the 2019 Framework. This is now paragraph 125 c) of the Framework. I do not, however find that it is pertinent to this appeal other than perhaps considering efficient use of land in that it references flexible approach to daylight and sunlight. No objections are raised by the Council with regard to daylight and sunlight given that the appellant has submitted a report to consider these matters. I have no evidence to conclude that neighbouring amenity would be affected in terms of loss of light. Despite the lack of harmful impacts relating to sunlight, daylight and overshadowing with regard to neighbouring properties and an ability to undertake activities noted by the appellant this does not then, in turn, mean that proposals cannot still present as enclosing, overbearing nor impact unacceptably on outlook.
25. The appellant has outlined the potential for alterations to the property under permitted development, more specially an 8m deep-single storey extension, 3m deep first floor extension and a 50 cu/m dormer under permitted development. With regard to the roof alterations outlined in appendix 3 of the appellant's statement, this is shown on a side elevation. The restrictions, within the General Permitted Development Order, would contain limits relating to glazing types and opening in relation to floor levels.
26. Even if such alterations were possible I do find that the additions or alterations to the appeal site claimed under permitted development would not come even close to comparable to the height, bulk, scale and massing of the appeal proposal nor afford the overlooking opportunity as claimed. In addition in *Mansell v Tonbridge and Malling BC & others* [2017] EWCA 1314 the judgement by the Court of Appeal confirms that there should be "real prospect" of a fallback development being implemented. I am not convinced based on the evidence before me that the stated fallback position has a greater than theoretical possibility that it might take place even it had been possible as claimed.
27. Overall I find that the proposal would result in an overbearing, dominant and unneighbourly form of development which would be to the detriment of the residential amenity of neighbouring occupiers. The proposal would be contrary to SPP Policy DM D2 which seeks to ensure provision of appropriate quality of living conditions, amenity space and privacy for both proposed and adjoining buildings and gardens and ensure the living conditions of existing occupiers are not unduly diminished, LDN Policy D3 which seeks to deliver appropriate outlook, privacy and amenity and LDN Policy D4 which seeks to deliver good design.

Cycle Storage

28. The cycle storage requirement for the proposal is seventeen cycle spaces. The proposal does seek to provide the minimum number of cycle spaces, nine of which would be lockers for fold up bikes within the shared entrance hall. Despite this the London Plan is clear that the provision of space for folding

bicycles is not generally an acceptable alternative to conventional cycle parking.

29. The space required for nine conventional cycle spaces would not be insignificant but I find that it is likely that sufficient capacity within the proposal, or appeal site, could be provided to enable these to be accommodated within the scheme. Based upon this reasonable likelihood, that provision could be accommodated in terms of basic space considerations, it is appropriate on this occasion to consider that further details for cycle storage could be secured via condition.
30. Despite the fact I have found that this could have been secured by condition the appeal would still have failed on this occasion because of the other issues I have identified as outlined above. The proposal would be consistent with LDN Policy T5 which seeks to remove barriers to cycling and create a healthy environment in which people choose to cycle.

Other Matters

31. I note that a number of objections raise concerns with the proposal not providing any parking. I note the Transport Planner's consultation response which confirms that the surrounding streets do not contain parking restrictions. The appellant has carried out a parking stress survey within 200m of the site and the average stress records 74% indicating adequate parking capacity. I have no evidence before me to conclude differently with regard to parking and the Council have provided no highways reason for refusal.
32. I have dealt with matters relating to outlook, overbearingness, character and appearance within the main body of this decision letter. Matters relating to bin storage are noted, however, had I found the proposal appropriate in other regard appropriate refuse storage and collection arrangements could have been secured by condition. I note the uplift in density would likely bring additional noise and activity but this would not be to such a degree, in an urban area, which would warrant refusal of the scheme.
33. Matters relating to the alley which is utilised to service other dwellings in the vicinity are a private matter outside the scope of this appeal. The appellant, in constructing the scheme, would need to ensure any necessary agreements are in place with other parties that might have an interest in the land. Matters such as noise during construction would be covered and monitored by the Council's Environment and Health Team, and all work would be expected to adhere to the Council's Construction Code of Practice.

Planning Balance

34. I note the appellant's contention that the proposal should be considered against the three aims for achieving sustainable development and acknowledge the benefits of the scheme. The proposal would provide a net gain of seven units on the appeal site. This would make a contribution to the overall supply of housing in the area which is acknowledged to be in a sustainable location. I afford this contribution of seven units moderate weight in that it is a contribution to housing and the Framework does acknowledge the part small sites can play in helping to meet housing demand. There would be some economic benefits during construction, but these would be short term, and

future occupiers may well contribute to the local economy and I afford these benefits medium weight.

35. Most notably I find that the proposal would have a significant negative impact upon the character and appearance of the area and would provide development which I find would be detrimental to the residential amenity of neighbouring occupiers. The proposal would not therefore fulfil the environmental or social objectives of sustainable development as a result of these adverse impacts. The environmental and social impacts identified mean that overall I find that the adverse impacts would significantly and demonstrably outweigh the limited benefits of a the additional units when assessed against the policies in the Framework taken as a whole. I acknowledge that the Framework seeks to encourage use of underutilised land, however, this should not be to the significant detriment of the character and appearance of the area or the amenity of existing occupiers.

Conclusion

36. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR