



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: 16TH March 2022

Appeal Ref: APP/T5720/W/21/3282960

7 Christchurch Close, Colliers Wood, London, SW19 2NZ

- 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 David Fountain against the decision of the London Borough of Merton Council.
 - The application Ref 21/P0943 dated 26 February 2021, was refused by notice dated 13 July 2021.
 - The development proposed is demolition of existing garage and erection of 1 x 2 bedroom two storey detached dwellinghouse.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing garage and erection of 1 x 2 bedroom two storey detached dwellinghouse at 7 Christchurch Close, Colliers Wood, London, SW19 2NZ in accordance with the terms of the application ref: 21/P0943, dated 13 July 2021, subject to the following conditions:
 - 1) The development to which this permission relates must be begun not later than the expiration of three years, beginning with the date of this decision;
 - 2) The development hereby permitted shall not be carried out otherwise than in complete accordance with the following approved plans: 400(PL)06 Rev B; 100(PL)07 Rev D; 100(PL)08 Rev D; 100(PL)09 Rev C; 400(PL)05 Rev B; 400(PL)04 Rev B;
 - 3) The facing materials to be used for the development hereby permitted shall be those specified in the application form unless otherwise agreed in writing by the Local Planning Authority;
 - 4) No development shall be occupied until the boundary walls/fences have been implemented in accordance with the approved drawings. The walls and fencing shall be permanently retained thereafter;
 - 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no extensions, other than that expressly authorised by this permission shall be carried out without planning permission first obtained from the Local Planning Authority;
 - 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no window, door or other opening other than those expressly authorised by this permission shall be

- constructed on the first floor eastern and northern elevations without planning permission first being obtained from the Local Planning Authority;
- 7) No development shall be occupied until a scheme for the storage of refuse and recycling has been submitted in writing for approval to the Local Planning Authority. The development shall not be occupied until the scheme has been approved and carried out in full. Those facilities and measures shall thereafter be retained for use at all times from the date of first occupation;
 - 8) Access to the flat roof of the development hereby permitted shall be for maintenance or emergency purposes only, and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area;
 - 9) No demolition or construction work or ancillary activities such as deliveries shall take place before 8am or after 6pm Mondays - Fridays inclusive, before 8am or after 1pm on Saturdays or at any time on Sundays or Bank Holidays;
 - 10) The development shall not be occupied until the existing redundant crossover/s have been removed by raising the kerb and reinstating the footway in accordance with the requirements of the Highway Authority;
 - 11) No development shall be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and thereafter retained for use at all times;
 - 12) No part of the development hereby approved shall be occupied until evidence has been submitted to, and approved in writing by, Local Planning Authority confirming that the development has achieved CO2 reductions of not less than a 19% improvement on Part L regulations 2013, and internal water usage rates of not more than 105 litres per person per day.

Procedural Matters

2. I have utilised the Council's description of the proposal as it more concisely describes the proposed development.

Main Issue

3. The main issue is the impact of the proposal upon the character and appearance of the Christchurch Close, the surrounding streetscene and neighbouring visual amenity.

Reasons

4. The appeal proposal before me is noted to have been recommended for approval by planning officers, however, this recommendation was overturned by local members who refused the proposal for the reason set out in the decision notice. The only submissions from the Council, as part of this appeal, are the original planning committee report, a modifications sheet (for which there were no amendments for this particular proposal) and the committee minutes. The Council has not submitted a statement of case which seeks to justify the refusal reason stated as part of this appeal as decided by the planning committee. As is usual practice I have considered the appeal based upon the evidence before me.

5. I acknowledge the site's planning history including the dismissed appeal in 2017. I have before me a copy of the Inspector's decision letter¹ as well as the refused plans as part of the appellant's submissions. Whilst character and appearance were a main issue I note other issues which contributed to the scheme dismissal. I note that the Inspector's refusal was based upon the design of the proposed studio flat. The previous plans show a quite uninspiring, single storey, box shaped studio flat which little to evolve the scheme from appearing like a garage building. The scheme before me within this appeal is, I find, materially different in terms of siting, design and layout.
6. Since these previous proposals I note that housing targets for the borough have more than doubled and the new London Plan 2021 (adopted since the previous proposals were refused/dismissed) specifically acknowledges that the accommodation of change in the character of an area will need factoring into the assessment of development proposals. The proposed development of this plot should be assessed on its own merits against the relevant Local Plan policies and material considerations in force at the point of determination.
7. The application site lies at the end of the garden to 7 Christchurch Close and is bounded by a vehicular access path to its west, with neighbouring gardens north and east. There is an existing flat roofed garage building on the site and the site was also in use at the time of my visit for the parking of two vehicles. The shape, size, location and character of the plot is not similar to that of the existing neighbouring properties due to historic subdivision.
8. At the time of my site visit I noted that Christchurch Close is generally regular in character with groups of two-storey terraced properties facing one another across T shaped roads on one side, with the rear of Fortescue Road properties on the other. The terraced properties have pitched roofs with hipped roofs at both ends of the terrace and are generally regular in form. The western end of the road is more varied but there are some similarities throughout the road in that the houses are generally two storeys, with a reasonable set back to the road frontage and pitched roofs.
9. The front building line of the proposal would be set back 1.8m from the pedestrian pathway and would stand consistently with the building line of 7 Christchurch Close. Whilst the proposal is contemporary in design the proposed use of brick and timber takes cues from the existing palette of materials in the surrounding area despite the proposed use of timber cladding and feature brickwork. The side elevations (east and west) are animated with appropriate window openings and a curved brick wall to soften neighbouring views. This also avoids large expanses of blank unappealing facades which would create unattractive features within the streetscene and when viewed from neighbouring properties.
10. The London Plan 2021 acknowledges that change is a fundamental characteristic of London, respecting character and accommodating change should not be seen as mutually exclusive. Understanding of the character of a place should not seek to preserve things in a static way but should ensure an appropriate balance is struck between existing fabric and any proposed change. Opportunities for change and transformation, through new building forms and typologies, should be informed by an understanding of a place's distinctive character, recognising that not all elements of a place are special and valued.

¹ APP/T5720/W/17/3190253

11. The proposal would be two storey with the flat roof design evenly matching the eave height of the neighbouring properties which I find allows the more contemporary design to integrate within the streetscene without being incongruous or overbearing. The proposal is, in terms of scale, subservient to the existing terraces. I note that the submitted Design and Access statement clearly outlines the evolution of differing schemes through to the scheme before me in this appeal as a result of pre-application advice. Due regard has clearly been given to the existing street hierarchy, building type, forms and proportions prior to submission of the proposal.
12. The proposal makes optimal use of the plot and I find that if the proposal had, for example, tried to replicate the design of the neighbouring terraces more strongly (as opposed to the more modern proposal submitted) it would either result in a proposal which would look like an awkward miniature version of the surrounding dwellings or would have looked cramped due to the plot characteristics and layout. Either one of these options would have appeared incongruous and/or prominent. The plot characteristics allow for some deviation in design compared to the immediate properties. The design, whilst of contrast to the terraced dwellings described above, has sufficient distinctive merit to contribute positively to the character and appearance of the streetscene and visual amenity.
13. I note that members of the committee stated that the proposal would be unneighbourly but this has not been justified or explained with no statement of case from the Council. The proposal has been assessed as appropriate in terms of neighbouring amenity and in that regard I have no evidence before me to conclude differently. The Council's committee report confirms that the unit would accommodate up to three persons for which the proposed 35 sq./m garden (40 sq./m of overall external space) would provide a sufficient usable external space. Overall I find the proposal to be a well-designed new home on a small site which would contribute to London's housing needs.
14. The proposal would be consistent with Sites and Policies Plan 2014 (SPP) Policy DM.D2 which requires proposals to relate positively and appropriately to the scale, density, proportions, height, materials and massing of surrounding buildings and existing street patterns and use appropriate architectural forms, language, detailing and materials which complement and enhance the character of the wider setting. The proposal would also be consistent with Core Strategy 2011 (CS) Policy CS14 which seeks to promote high quality urban design.
15. The proposal would be consistent with London Plan 2021 Policy D3 which requires development proposals to enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions.

Other Matters

16. The Transport Officer, as consultee, is noted to have requested a Unilateral Undertaking (secured via a S106 legal agreement) which would restrict future occupiers of the unit from obtaining on-street residential parking permits in the surrounding controlled parking zone. The appellant's appeal confirms no S106 is to be submitted with this appeal. I would consider that a S106 agreement should ideally have been completed with this appeal given that it was clearly

stated, within the committee report and recommendation, that the proposal would have been granted subject to conditions and completion of such a document.

17. Despite this, lack of such an agreement is not included as a refusal reason but should this appeal be allowed there is no mechanism before me to ensure a car free development. The proposal would be for a two bedroom, three person, dwelling based upon the proposed plans before me within a highly sustainable location. The number of occupants would therefore be limited on this basis as would the potential number of occupants requiring a car associated with their occupation.
18. The Council note that CS Policy CS20 and SPP Policy DM T5 require that development would not adversely affect pedestrian or cycle movements, safety, the convenience of local residents, street parking or traffic management. Paragraph 111 of the National Planning Policy Framework 2021 is clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Taking into account these facts I do not find there is sufficient evidence before me to warrant refusal due to the lack of a completed S106 agreement on this occasion due to the small nature of the proposal and limited occupants.
19. I note a number of objections to the proposal during the application process as well as further comments during the appeal process itself. I have dealt with matters relating to character, appearance and visual amenity within the main body of this decision letter with regard to design, layout and siting. The proposal has been assessed by the Council as not impacting upon daylight, shading or privacy and they have concluded the proposal would not have any unduly harmful impact towards neighbouring amenity. The proposal has been assessed with regard to the 25-degree code which, through the submitted sections, shows that suitable daylight is maintained for Flat 7a as the proposal is not in breach of the 25-degree guidance.
20. Fear of precedent is not a reason for refusal – each case must be considered on its own merits. Reference is made to schemes in Fortescue Road; however, no further details have been submitted to enable me to take these into account or attribute them weight. No concerns have been raised by the Council with regard to drainage or sewage. The alley to the side of the proposal may well be utilised by neighbouring properties, however, the proposal will not impact upon this and in any case private rights of way (for example in relation to scaffolding during construction) are a private matter not a planning consideration. Impact upon property values is not a material planning consideration. I have no evidence before me to suggest the proposal would cause stress to school acceptance or noise which would require refusal given the proposed residential use in a residential area.

Conditions

21. The Council have suggested a number of conditions which were set out, fully worded, in the original planning committee report. A condition requiring the development to be in accordance with the approved plans is required in order to control and define the development which is granted consent. A time condition is attached to comply with section 51 of the Planning and Compulsory Purchase Act 2004. Conditions relating to the materials, walls and fences to be

utilised is required to ensure a satisfactory appearance for the lifetime of the development. Conditions controlled use of permitted development rights are required to ensure that any changes to the approved proposals can be appropriately assessed with regard to potential impacts on neighbouring properties prior to any works being undertaken.

22. Cycle parking, refuse and recycling is required by condition to ensure satisfactory facilities are provided. Prevention of the flat roof being utilised as a roof garden, terrace, patio or similar amenity area and the condition regarding construction hours are both required to protect neighbouring amenity. A condition requiring removal of redundant crossovers and footway reinstatement is required by the Highway Authority. A condition relating to CO2 emissions and water consumption is required to ensure that the development achieves a high standard of sustainability and makes efficient use of resources.

Conclusion

23. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Eleni Randle

INSPECTOR