



Appeal Decision

Site visit made on 24 July 2023

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16/08/2023

Appeal Ref: APP/T5720/D/23/3324350

217 Tamworth Lane, Mitcham, Merton, CR4 1DH

- 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 Sakthivel Mathialagan against the decision of the Council of the London Borough of Merton.
 - The application Ref 23/P0390, dated 10 February 2023, was refused by notice dated 28 March 2023.
 - The development proposed was described as '*an application for a short frontage footway crossing (Vehicle Crossover)*'.
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Decision

1. The appeal is allowed and planning permission is granted for the formation of a vehicular crossover at 217 Tamworth Lane, Mitcham, Merton, CR4 1DH in accordance with the terms of the application, Ref 23/P0390, dated 10 February 2023, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan dated as 17 Feb 2023 and Short Frontage Footway Crossing Plan referenced Application No: 014346 dated as 11.11.22.

Procedural Matter

2. My formal decision reflects the description of development that was used by the Council on their decision notice. This is an accurate, but more succinct description of the proposal compared with that which was used on the application form, and which I have quoted in the banner heading above.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area having specific regard to street trees.

Reasons

4. Tamworth Lane is a residential classified road lined with terraced properties to both sides. Many have frontages providing off-street parking perpendicular to the highway and accessed via pavement crossovers. The pavements to both sides have intermittent kerbside street trees of various sizes and species with

- no regular pattern to their placement. The proposal is to create a pavement crossover at the kerbside to provide vehicular access to the front of No 217.
5. The Council is concerned that the proposal would result in the loss of a street tree that provides significant amenity value and that this would harm the ecology, natural environment and visual amenity of the locality.
 6. The appellant has argued that there is no street tree of amenity value to be affected. During my visit, I saw this to be the case. There was a tree pit to one side of the frontage to No 217 but no tree. Instead, the ground was poorly maintained, overgrown and occupied by merely a post and dilapidated guard fencing. It offered nothing in terms of visual amenity or ecological benefit, having a distinctly negative effect upon the street scene.
 7. I recognise the value of street trees along Tamworth Lane. Those that exist undoubtedly contribute positively to the visual amenity of the area and offer ecological and environmental benefits. However, in the absence of the loss of any existing street tree in this instance, there would be no harm to the character or appearance of the area, either in terms of visual amenity or environmental damage. I am therefore unable to identify any conflicts with Policy G7 of The London Plan 2021, Policy CS13 of the London Borough of Merton LDF Core Planning Strategy adopted in July 2011, or with Policies DMD2 and DMO2 of the Council's Sites and Policies Plan, adopted in July 2014, as far as they all seek to ensure that development proposals retain existing trees of amenity value.
 8. The loss of a tree pit would not conflict with any of the development plan policies that have been brought to my attention. I have noted reference to the *Merton Tree Strategy* in the Council's appeal submissions but I have not been provided with a copy of this document and neither has its status or relevance to the appeal been explained.

Conditions

9. The Council has suggested a number of conditions which I have considered against the tests set out in the National Planning Policy Framework. I agree that a condition specifying the relevant plans is necessary as this provides certainty.
10. In the absence of the loss of a tree of amenity value, it would be unreasonable to impose a condition that would require a replacement tree. The application was made specifically for the formation of a vehicular crossover. Suggested conditions relating to the use and the construction materials of a hardstanding to the frontage of No 217 would be unreasonable as they would go beyond that for which planning permission was sought. The vehicular crossover hereby permitted would not require the provision of pedestrian visibility splays.

Conclusion

11. For the reasons given, I conclude that there would be no harm to the character or appearance of the area. Accordingly, in the absence of any other conflict with the development plan, and having regard to all other matters raised, the appeal is allowed.

John D Allan INSPECTOR