



Appeal Decision

Site visit made on 7 November 2023

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th November 2023

Appeal Ref: APP/T5720/W/23/3318617

16 Seely Road, Tooting, Merton, London SW17 9QR

- 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 Ben Kerr against the decision of the Council for the London Borough of Merton.
- The application Ref 22/P3085, dated 17 October 2022, was refused by notice dated 2 December 2022.
- The development proposed is described as "rear single story extension under permitted development. Change of use from C3 dwelling houses one unit to C3 dwelling house two units both with external amenities at rear."

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development cited in the planning application form differs to that contained within the decision notice and appeal form. There is no evidence that this change was formally agreed. In the interests of clarity, I rely upon the description included in the application form for the purposes of the heading above.

Main Issues

3. The main issues are the effect of the proposal on i) living conditions for potential occupiers; ii) the effect on the supply of family housing; iii) parking provision; iv) the character and appearance of the area and the host property; v) the living conditions for existing nearby residents; and vi) waste provision.

Reasons

Living conditions for potential occupiers

4. The Government's nationally described space standard, March 2015 (NDSS) contains the minimum internal space requirements for new dwellings. These requirements are also applied in a local context within Policy D6 and Table 3.1 of the London Plan (LP) March 2021 and Policy CS14 of the Merton Core Planning Strategy (MCS) 2011 to ensure a high-quality of design. Under the NDSS and LP requirements a 1-bedroom 2-person dwelling laid out over two storeys requires 58m² gross internal area (GIA), with a 2-bedroom 3-person dwelling laid out over two storeys requiring 70m² GIA.
5. Taking the above into account, I have applied the appellants figures in respect to the proposed two storey units which are indicated as 62.3m² (Flat A – 2-bedroom unit) and 43m² (Flat B – 1-bedroom unit). These figures highlight that neither unit would meet the required space standards. Given that these figures

are minimum standards which are intended to act as a benchmark for high design quality, the shortfall in floorspace is not appropriate. The proposal would provide oppressively confined and unsuitable living conditions for future occupiers.

6. Consequently, the living conditions of future occupiers would be unsuitable due to inadequate internal space. As such, because the minimum internal qualities of housing would not be provided, the proposal would not comply with the NDSS, LP Policy D6 and MCS Policy CS14 which amongst other things, seek to achieve high quality housing, along with the National Planning Policy Framework (the Framework), which amongst other things, seeks high quality design and a good standard of amenity for future occupants of buildings.

Supply of family housing

7. MCS Policy CS14 states, amongst other things, that the conversion of single dwellings into two or more smaller units of accommodation require the re-provision of at least one family sized unit. The LP defines family housing as a dwelling that by virtue of its size, layout and design is suitable for a family to live in and generally has three, four, five, or more bedrooms.
8. The proposal would result in the loss of a four bedroomed family property. Neither of the replacement units proposed have three or more bedrooms and as such would not be considered as family units. Given Policy CS14 is explicit in its requirements to protect family housing, the proposal would result in the loss of a small-medium family unit of accommodation, for which no exceptional circumstances have been demonstrated, and thus conflicts with the Council's local plan. Furthermore, I have not been provided with any substantive evidence to indicate there is an adequate provision for this type of housing in the area.
9. As such, the proposal would have a harmful effect on the supply of family housing within the area in direct conflict with MCS Policy CS14. The development would also be contrary to Policy H2 of the LP which, amongst other things, aims to diversify the sources, locations, type and mix of housing supply.

Parking provision

10. LP Policy T6.1 sets-out the applicable maximum parking provision by reference to the Transport for London Public Transport Accessibility Levels (PTAL). With the aim of encouraging greater use of non-car modes of transport in areas with higher PTAL. MCS Policy CS20 supports permit-free developments in areas within Controlled Parking Zones (CPZ) which benefit from good public transport and require permit free agreements for proposals with or without off-street parking.
11. The appeal site is located within a CPZ and has a high PTAL of 6a, indicating that the site benefits from sustainable transport measures. As such the proposal could be delivered as a car-free development. To deliver a car-free development a mechanism is required to ensure that occupiers of the development would not be eligible to apply for a parking permit within the CPZ operating within the area, unless they were a Blue Badge holder.
12. It is acknowledged that no parking is proposed as part of the scheme, and that the site is located close to public transport options. However, without suitable

assurance in respect to parking permit ineligibility, it has not been adequately demonstrated that occupants of the development are precluded from applying for parking permits which would result in an inevitable demand for on-street parking.

13. The Council have submitted that the appropriate mechanism to secure that the development would be car-free would be through a planning obligation made under Section 106 of the Town and Country Planning Act 1990 (as amended), and I have no reason to disagree. The planning obligation would be necessary to make the development acceptable in planning terms, so that it would comply with LP Policies T6 and MCS Policy CS20. The planning obligation would be directly related to the development and would be fairly and reasonably related in scale and kind to the development. Such an obligation would therefore accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out at paragraph 57 of the Framework.
14. Without the required planning obligation there is no mechanism to secure that the development would be car-free nor, in turn, prevent the harmful effects that would be caused by an increase in on-street parking pressure contrary to LP Policy T6 and MCS Policy CS20.
15. Furthermore, no details have been supplied in respect to cycle stores for each of the two proposed units. Any provision would be required to be covered and secure. Given the modest external spaces at the front and the rear of the site any capacity for cycle storage would be extremely limited, and it is unlikely that further details for cycle storage could be secured via condition on this occasion. I therefore also conclude that the proposal would not make adequate cycle parking provision and as such, it would not comply with LP Policy T5, which seeks, amongst other matters, for cycle parking to be secure, accessible, convenient and weatherproof.

Character and appearance

16. The appeal site is located in Seely Road close to the junction with Ascot Road in Tooting. The area has a general suburban feel, with a distinct traditional character made up of terrace properties exhibiting gable roofs with two storey bays fronting the street scene. Whilst there is variation in the materials used on the external facades, there is nevertheless a cohesive and rhythmic pattern to the front of the properties in Seely Road.
17. The former Tooting Police Station, a large 6 storey municipal building is in close proximity to the modest rear gardens in this section of Seely Road. At the rear, the properties have more modest elevations lacking the architectural detailing of their front facades. There are several incremental alterations and additions, particularly at ground floor and roof levels. This provides a varied character with differences in the scale of additions with a noticeable lack of coherence or symmetry.
18. The appeal scheme would provide a single storey extension at the rear and the incorporation of an external staircase. In respect to the single storey extension, the Council consider that in isolation there is no harm to the character of the area, and it would be acceptable. I concur with this assessment, as this part of the proposal would be appropriate, given that this type of development is a defining characteristic along the rear of the terrace.

19. Turning to the external staircase, it has been set down as low as possible and would be located adjoining the proposed extension and an existing single storey extension at the adjoining property of No 18 Seely Road. Given the modest garden size and scale of the surrounding development, views of the external staircase would be extremely limited. Furthermore, despite its functional appearance it would be relatively subordinate compared to the size of the host property. Whilst rear staircases of this type are not intrinsic to the character of the dwellings in the surrounding area, its relatively concealed and rear location would not appear as a dominant feature. As a result, the proposed external staircase would not detract from the character and appearance of the surrounding area.
20. The appellant highlights the external staircase has been provided as an emergency access in the event of a fire. The potential for the staircase to be used as a fire escape is a matter for other regulatory regimes, as such, I have limited my assessment of the external staircase to its appearance on the character and appearance of the area and host property only.
21. For the reasons above, I conclude that the proposed development would not unacceptably harm the character and appearance of the area and would provide an appropriate form of development in respect to its context. Consequently, it would adhere to LP Policies D3 and D4; MCS Policy CS14 and Policies DM D2 and DM D3 of the Merton Sites and Policies Plan (MSPP) 2014. The proposal would also be consistent with the Framework, insofar as it seeks high quality design.

Living conditions of existing nearby residents

22. The tight relationship of the terrace houses already provide a degree of overlooking from the upper floor rear windows into neighbouring gardens and vice versa. There would be a modest increase in overlooking from the top of the external staircase because its projection beyond the rear wall of the host property would allow slightly more of the neighbouring gardens to be seen. However, the top landing platform would be relatively small, thus would provide limited opportunity to dwell for a significant period. Therefore, people would generally spend little time on the staircase beyond that necessary to ascend or descend.
23. In any case, use of the staircase would be occasional and transitory, so people would not have prolonged opportunities to see into other premises. As such, any increase in overlooking resulting from the staircase would not be so great as to be harmful to the privacy of neighbouring occupiers.
24. Consequently, the proposal would not have a harmful effect on the living conditions of nearby residents, with particular regard to privacy. Accordingly, I find no conflict with Policy DM D2 of the MSPP, insofar as it seeks to ensure a good quality of living conditions, amenity space and privacy. I also find no conflict with the Framework where it seeks a high standard of amenity for existing users.

Waste provision

25. The appeal proposal would utilise the refuse storage area that serves the existing dwellinghouse at the appeal site. I have been supplied with no information in respect to either the required waste storage capacity or any

deficiency in the existing waste storage capacity at the site. In the lack of any evidence to the contrary, I have not identified any problems arising with the use of the existing facility. Although the addition of a new flat will increase the need for waste and recycling storage, this is not a major development or one that will generate large amounts of waste or storage capacity.

26. As such, I am satisfied that the proposed arrangement would not be inconvenient or contrary to nearby occupants and would not be harmful to the free flow of traffic in the locality, to the detriment of highway or pedestrian safety. Furthermore, the provision of a refuse store could be secured through a condition. I therefore conclude that the proposed development would be acceptable in relation to waste storage and as such, the scheme would not conflict with MCS Policy CS17 or LP Policies SI7 and SI8 insofar as they relate to adequate waste facilities.

Other Matters

27. I have been referred to other properties in the vicinity that have been converted to smaller units. However, I have been presented with limited details in respect to these cases nor do I have any information relating to the planning history, or policy in place at the time associated with these units. It is therefore unclear what issues have been considered and whether or not they are applicable to the appeal scheme before me. In any case, each scheme must be considered on its own merits. While consistency in decision making is important, ultimately, each application needs to be determined in the light of the specific circumstances and context of each case. I am not therefore persuaded that these examples are directly comparable to the proposal before me. As such, I afford them limited weight.
28. The appellant also draws my attention to the principle of the development being acceptable, however this matter is not in dispute, and in any case would be neutral in the planning balance, and thus would not outweigh the harm I have identified above.

Conclusion

29. Notwithstanding my conclusions about the character and appearance, living conditions of existing residents and waste storage and collection, I have still found there to be unacceptable harm to the living conditions of future occupants, the loss of family housing and a lack of car and cycle parking provision. The proposal would therefore conflict with the development plan taken as a whole. There are no material considerations that would indicate a decision should be made other than in accordance with the development plan.
30. For the reasons given above, I conclude that the appeal should be dismissed.

Robert Naylor

INSPECTOR