



Appeal Decision

Site visit made on 14 February 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th April 2024

Appeal Ref: APP/T5720/W/23/3321318

124-128 Haydons Road & 2a Cardigan Road, South Wimbledon, Merton, London SW19 1AE

- 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 Monopoly Investments against the decision of the Council of the London Borough of Merton.
 - The application Ref is 22/P2255.
 - The development proposed is the construction of a vertical extension of two additional storeys comprising 3 x one bed flats and 1 x two bed flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A Unilateral Undertaking was submitted with the appeal, in response to the third reason for refusal. The appeal documents also included two reports by MES Building Solutions, both dated March 2023, updating daylight and sunlight evidence submitted with the application. I have had regard to this updated evidence, and the Council's comments on it, when considering the appeal.
3. The National Planning Policy Framework (the Framework) was revised in December 2023, while this appeal was under consideration. The main parties have had the opportunity to comment on whether those revisions have relevance to their cases, and I have taken comments received into account.

Main Issues

4. The main issues are:
 - the effect of the proposed development on living conditions for occupiers of neighbouring properties, including existing flats within the appeal site,
 - whether the development would provide satisfactory living conditions for future occupiers of the proposed flats, and
 - the effect on the character and appearance of the area.

Reasons

Living Conditions: Neighbouring Properties

5. The appeal site currently contains a two-storey building divided into flats. It includes a rooftop terrace providing private amenity space behind the first-floor

flats. The adjoining dwelling at 2 Cardigan Road has a small courtyard garden at the rear.

6. The garden at 2 Cardigan Road is already enclosed by buildings on all sides, but the nearest building elements are on one or two storeys only. The proposed development would introduce an additional two storeys, including windows on the third and fourth floors, facing towards the garden. These would be both more numerous and at a significantly higher elevation than the existing window openings on surrounding buildings. Consequently, there would be a material loss of privacy within the garden of 2 Cardigan Road, compared to the existing situation. Since the proposed second and third floor flats would be almost entirely single aspect, it would be unreasonable to require that all these window openings were obscure glazed.
7. The increased height of the building would also considerably increase the sense of enclosure around this neighbouring garden. While some level of enclosure is to be expected within what is a tight knit urban environment, the proposed extension would have an overbearing presence which would be detrimental to enjoyment of this small private amenity space. It would have a similarly intrusive presence above the first-floor terraces within the appeal site, undermining enjoyment of these private outdoor spaces for the occupiers.
8. Although the appeal evidence concludes that most of the existing windows within the appeal site would retain adequate daylight and sunlight, a material deterioration is identified in a small number of cases, and not all the windows analysed would meet relevant Building Research Establishment (BRE) guidance. The evidence does not clearly identify the location of the adversely affected windows or the use of the rooms in question. Therefore, based on the evidence before me, I cannot be confident that adequate living conditions would be retained for occupiers of the existing flats in all cases.
9. The appellant's evidence concludes that adequate daylight and sunlight would be available within the garden at 2 Cardigan Road and based on the evidence before me, I have no clear reason to reach a different view. It does not appear that evening sunlight to the first-floor terraces would be obstructed, since the extension would be largely to the east. While the additional storeys would be close to the mansard roof windows at 130 Haydons Road, the nearest part of the extension would be alongside this existing upper storey and would not intrude to a material degree into the outlook from those windows.
10. Nevertheless, for the reasons given above, I conclude that the proposed development would have a harmful effect on living conditions for occupiers of neighbouring properties, including existing flats within the appeal site. It would conflict with relevant requirements in Policy DM D2 of the Merton Sites and Policies Plan (2014) (SPP), which include that proposed development should ensure provision of appropriate levels of sunlight and daylight, quality of living conditions, amenity space and privacy, to both proposed and adjoining buildings and gardens and that existing development should be protected from visual intrusion, for the benefit of existing occupiers.

Living Conditions: Future Occupiers

11. The proposed second and third floor flats at the rear would include windows set tightly into the internal corner formed by the L-shaped extension. The plans indicate that these would serve the main kitchen/dining/living area on the

second floor and a sleeping area on the third floor. The positioning of the windows in a far corner of each room, with a blank wall to the south, would provide a restricted and enclosed outlook for future occupiers. In the case of the third floor flat, this would be the only window serving the sleeping area, so the outlook from that room would be particularly limited.

12. The updated daylight and sunlight evidence indicates that the second and third floor flats would mostly meet required standards, although the third-floor bedsit flat would fall short of BRE guidance. The appellant suggests that this flat would provide a balanced level of daylight provision. However, if the daylighting evidence is considered in combination with the restricted outlook from the corner window, it appears that the sleeping area in particular would be a rather gloomy and unappealing area.
13. For the above reasons, I conclude that the development would not provide satisfactory living conditions for future occupiers of the proposed flats at the rear. This aspect of the proposal would conflict with relevant requirements in Policy DM D2 of the SPP, which requires that development provides an appropriate quality of living conditions for future occupiers.
14. The fourth reason for refusal also refers to Policy DM1 of the SPP and I have been provided with a copy of Policy DM D1, which appears to be the intended reference. This policy relates to design quality, but it focusses on the public realm and urban design matters, rather than the quality of indoor space. Therefore, I have given this particular policy limited weight when considering this aspect of the appeal.

Character and Appearance

15. The appeal site is prominently located on a street corner. There are a variety of both traditional and contemporary building styles in the surrounding area, including several terraced properties typical of the Victorian or Edwardian eras. Many include decorative brick detailing, which is also found on the appeal site. There are other examples of mansard style roofs, including at second floor level on the adjacent building.
16. Although much of the surrounding development is on two storeys, buildings of three or four storeys are not uncommon on corner sites. They include an elaborately detailed three-storey brick building with steep pitched roof opposite the site. There are also four-storey buildings of more contemporary design on two corner sites nearby.
17. The proposed extension would similarly introduce a four-storey building on the street corner. Like other buildings of a similar height, the uppermost storey would be more subservient in scale, being set back behind a parapet wall in the form of a mansard style roof. The use of smaller windows on upper floors is not untypical on buildings of several storeys. Although the parapet would no longer align neatly with the adjacent building, the attractively detailed first floor windows and the decorative band of brickwork above them would be retained. These would continue to integrate the extended building with its neighbour.
18. There would be an abrupt change in roof line at the boundary between the two buildings, but since there are already some quite significant contrasts in roof line along the street, this would not be inherently harmful.

19. Although the enlarged building would be highly prominent, the massing and design of buildings in Haydons Road is sufficiently varied to accommodate it in this location. The flank elevation would feel more imposing within the rather confined street scene of Cardigan Road. However, public views within this short length of cul-de-sac are limited and the overall effect on the character and appearance of the area would be acceptable.
20. While I note that the Council considers that a previously permitted scheme for a single additional storey¹ would be more successful in design terms, that is not the proposal which is before me.
21. For the reasons given above, I conclude that the effect on the character and appearance of the area would be acceptable. This aspect of the proposal would not conflict with relevant requirements in London Plan 2021 Policies HC1, D3 and D4, Policy CS14 of the Core Strategy² and Policies DM D2 and DM D3 of the SPP. These policies collectively set out, amongst other things, to ensure that development delivers good design that responds positively to its context and fits with its location.

Other Matters

22. As mentioned above, planning permission has been granted for an alternative scheme to provide a single additional mansard storey. According to the appellant, no harm to living conditions was alleged when the Council granted planning permission, and this has not been disputed. However, the development now proposed would be of a materially different scale, particularly in terms of its height. It would increase the number and elevation of proposed rear windows, in a manner which I have concluded to be harmful. As such, while I have no reason to doubt that the permitted scheme could still be implemented, it does not justify the harm arising from this larger proposal.
23. Evidence from both parties indicates that the Council lacks a five-year housing land supply. The appellant also alludes to a Housing Delivery Test result of 71% and I have not been presented with any evidence to the contrary. In those circumstances, the provisions of Framework paragraph 11d are relevant.
24. The proposal would boost the supply of housing. The provision of 1 and 2 bed flats in accessible urban locations is in line with London Plan Policy H10 and the appellant alludes to local identified needs for units of this size. There would be more efficient use of a previously developed site in an urban area with good connectivity to local services and facilities. There would also be some economic benefit during construction and through economic activity by future occupiers.
25. The Framework is supportive in paragraph 124 of upward extensions to increase the delivery of housing on previously developed sites. It specifically supports the introduction of mansard roofs in suitable locations. However, while paragraph 124 gives substantial weight to the value of using suitable brownfield land within settlements, paragraph 135 makes clear that this is not at the expense of ensuring that all development functions well and provides a high standard of amenity for existing and future occupants. Since I have concluded that the proposal would not meet these requirements, this weighs against the benefits of providing housing on this particular brownfield site, when the proposal is considered against the Framework as a whole.

¹ London Borough of Merton planning application ref 21/P0438

² London Borough of Merton LDF Core Planning Strategy adopted July 2011

26. The lack of harm to the character and appearance of the area is a neutral consideration, weighing neither for nor against the proposal. While paragraph 164 of the Framework requires that significant weight is given to the need to support energy efficiency improvements to existing buildings, in this case there is no clear evidence that the proposal would enable improvements beyond relevant requirements in the development plan.
27. While the appeal proposal would increase housing delivery on the site, compared to the permitted scheme, this would be at the expense of providing and maintaining suitable living conditions for existing and future occupiers. This is a matter to which I have given significant weight, in line with the relevant development plan policies and the similar provisions in the Framework. As such, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits associated with the proposal's modest contribution to the supply of housing, when assessed against the policies in the Framework taken as a whole. Therefore, the proposal does not benefit from the presumption in favour of sustainable development as articulated in paragraph 11 of the Framework.
28. There is no dispute between the main parties that the site is suitable in principle for a car-free development, subject to a planning obligation to prevent future occupiers from obtaining parking permits within the Controlled Parking Zone. The appellant is agreeable in principle to the required restrictions and has provided a Unilateral Undertaking to that effect. However, since I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter further.

Conclusion

29. For the reasons given above, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Jane Smith

INSPECTOR