



Appeal Decision

Site visit made on 9 April 2024

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th May 2024

Appeal Ref: APP/T5720/W/23/3333129

The Holistic Fitness Studios, Broadway Court, Wimbledon, SW19 1RG

- 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 Mr S Dixon against the decision of the Council of the London Borough of Merton.
 - The application Ref is 23/P1113.
 - The development proposed is the erection of a mixed use three storey building with additional basement and associated light wells (comprising of 2no. self-contained duplex flats at first and second floor levels, E(g) use class (Office) at ground floor level and E(d) use class (gym/studio) at ground floor and basement levels); following the demolition of the existing two storey building.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a mixed use three storey building with additional basement and associated light wells (comprising of 2no. self-contained duplex flats at first and second floor levels, E(g) use class (Office) at ground floor level and E(d) use class (gym/studio) at ground floor and basement levels); following the demolition of the existing two storey building at The Holistic Fitness Studios, Broadway Court, Wimbledon SW19 1RG in accordance with the terms of the application, Ref 23/P1113, subject to the conditions in the attached schedule.

Preliminary Matters

2. The parties have confirmed that the plan numbers referenced in condition 2, which do not completely align with those on the decision notice, are correct.
3. I have been provided with a draft unilateral undertaking (UU) which, if completed, would include obligations to restrict the entitlement of future occupiers of the development from securing resident's parking permits. However, because the UU has not been signed and dated, I have not taken it into account in my decision.

Main Issues

4. The main issues are:
 - the effect of the proposal on the living conditions of the occupants of 13-17 South Park Road, with particular regard to outlook; and
 - whether the proposed development would comply with relevant development plan policies in respect of parking and permit-free development.

Reasons

Living conditions

5. The appeal site is located on Broadway Court, which is a narrow road comprising a mix of buildings of 1-3 storeys in height. The appeal building is a two-storey property. Its rear elevation marks the boundary between the appeal site and the rear gardens of 13-17 South Park Road, which are two-storey dwellings. From my observations, the outlook to the rear of Nos 13-17 is towards the rear façade of the appeal property and, beyond that, towards taller buildings on the other side of Broadway Court and The Broadway.
6. The proposed development would replace the host property with a new building on a similar footprint. Therefore, there would be no change to the proximity of its rear elevation to Nos 13-17. Moreover, whilst the proposed building would be taller than the existing structure, the roof would slope downwards from the Broadway Court frontage towards Nos 13-17. Therefore, and given there would be no change to the rear eaves level, the proposed development would not be unacceptably tall or bulky when observed from the rear.
7. Moreover, although some of the existing buildings near to the appeal site are two storeys high, a broader mix of building heights is a common feature in the locality. Therefore, views of the proposed development would be characteristic of the existing outlook from Nos 13-17, which is towards the built-up area on Broadway Court and The Broadway, including buildings of three and more storeys in height. Consequently, the height of the proposed building would be characteristic of the area including other properties on Broadway Court.
8. Overall, given the proposed design of the roof slope and the presence of other tall buildings in the locality, the proposed development would not have an unduly deleterious effect on views from Nos 13-17.
9. Therefore, I conclude that the development would not cause harm to the living conditions of the occupants of 13-17 South Park Road, with particular regard to outlook. Therefore, there would be no conflict with Policy DM D2 of the Sites and Policies Plan and Policies Maps (09 July 2014) insofar as it seeks to protect existing development from visual intrusion so that the living conditions of existing and future occupiers are not unduly diminished.

Parking permits

10. Policy CS20 of the London Borough of Merton LDF Core Planning Strategy (Adopted July 2011) (CPS) aims to implement effective traffic management through a number of measures. This includes supporting permit-free developments in areas with Controlled Parking Zones (CPZ), which benefit from good access to public transport (Public Transport Accessibility Level (PTAL) 4-6), good access to facilities and services, and/or are in a town centre location.
11. No parking facilities are proposed as part of the appeal scheme. However, the site lies very close to a wide range of services and facilities in Wimbledon town centre and, with a PTAL of 6b, it has very good access to public transport options, with bus, rail, and London Underground services within less than five minutes walking distance.

12. Consequently, it is reasonably likely that future occupants of the proposed development would be able to access the site and a full range of services and facilities without the need to travel by private car. This would mean that the development would be unlikely to contribute to pressure for car parking spaces or traffic congestion in the local area.
13. Moreover, whilst Policy CS20 of the CPS provides support for permit-free development, it does not preclude development without restricted access to parking permits. I note that the Council's Highway Officer did not object to the proposal and there is no substantive evidence before me that parking pressure within the CPZ is acute.
14. Therefore, taking all of the above into account and based on the evidence before me, I am not persuaded that a legal agreement securing permit-free development is necessary to make the development acceptable in planning terms.
15. I conclude that the proposed development would comply with relevant development plan policies in respect of parking and permit-free development. There would be no conflict with Policy CS 20 of the CPS, which seeks to implement effective traffic management including through support for permit-free proposals.

Other Matters

16. The appeal site lies within the setting of The Broadway, Wimbledon Conservation Area (CA), which includes land along The Broadway and Queens Road. From my observations, the significance of the CA lies in the collection of buildings, streets and spaces that reflect the historical evolution of the commercial heart of Wimbledon. The appeal site is of limited architectural value and is tucked away on a narrow street off The Broadway. It therefore makes a limited contribution to the setting and, thereby, the significance of the CA. The appeal proposal would replace the existing property with a modern building and would have a proposed design and mix of uses that would be appropriate to the locality. Accordingly, the proposal would not cause harm to the significance of the CA through development within its setting.
17. The appeal scheme has evolved in response to previous planning applications that have been refused permission at the site. However, the evidence indicates the appeal proposal is materially different to those schemes in terms of the proposed internal accommodation and the angle of the roof slope. I have determined the appeal scheme on its own merits. Therefore, the fact that previous proposals have been unsuccessful is not determinative to my decision.
18. Concerns have been raised by third parties about the impact of the proposal on the living conditions of neighbours, including through loss of daylight, sunlight and privacy. However, given the conclusions of the Daylight and Sunlight Report, I have no reason to disagree with the Council's conclusions that there would be no undue harm caused through loss of daylight and sunlight. Moreover, there would be no windows in the rear elevation of the proposed building and the proposed side windows would be obscured glazed. Therefore, there would be no harm through overlooking or loss of privacy.
19. I am mindful of concerns expressed by neighbours regarding the potential for vermin during the construction period, including during underground works in

the vicinity of a strategic sewer. However, there is no substantive evidence before me to indicate there would be disruption caused to the sewerage network as a result of the proposed development. Moreover, conditions restricting piling and requiring the submission of a ground water management scheme would mitigate any risk of damage to the sewer or sewer flooding. Thames Water has not raised any objection to the proposal and, based on the evidence, I see no reason to withhold planning permission due to this matter.

20. It has been put to me that there is no demand for the proposed development and that family sized accommodation should instead be provided. However, the proposed gym facilities would replace an existing and established use. Moreover, the appeal building does not currently include any dwellings and, therefore, the proposed development would support the national objective to significantly boost the supply of homes.
21. I am mindful of concerns raised about safety, including the risk of fires and the accessibility of the site by emergency vehicles. However, no changes are proposed to the vehicular access to the building and emergency vehicles would continue to access the site as per the current arrangements. Moreover, the safety of buildings is a matter that is covered by separate legislation.
22. My attention has been drawn to the potential for swift bricks to be incorporated into the proposed building. However, there is limited evidence before me to indicate that swifts frequent the area immediately around the appeal site. Therefore, I am not persuaded it would be reasonable to require swift bricks to be secured through the planning process.
23. There would be potential for disruption during the proposed demolition and construction process. However, this would be for a temporary period and could be managed through appropriate construction management.

Conditions

24. The Council provided a list of suggested conditions, which I have considered against the tests set out in paragraph 56 of the Framework and the Planning Practice Guidance (PPG). Where appropriate, I have adjusted the wording of the conditions to improve precision and enforceability, and to prevent unnecessary duplication.
25. In addition to the standard time limit condition, I have attached a condition to define the permitted drawings to provide certainty.
26. I have included a condition requiring details of measures to manage surface and ground water to be submitted for approval. This condition is necessary to ensure the development does not increase the risk of flooding to the local area. The condition is a pre-commencement condition because underground works may be required to be undertaken prior to the construction of the development.
27. A pre-commencement condition is required to secure a Demolition and Construction Method Statement and Management Plan in order to protect the living conditions of the occupants of neighbouring properties. Although the construction process is not normally a matter that is controlled through the planning system, in this instance the appeal site is located on a narrow road and close to other commercial and residential properties. It is also likely to entail complex construction methods associated with the demolition of the

existing building and the construction of the basement in particular. The condition is a pre-commencement condition as it relates to the demolition and construction period.

28. A condition limiting demolition and construction hours is proposed to protect the living conditions of neighbours outside of normal working hours on weekdays, at weekends, and on Bank and Public Holidays, when residents are most likely to be at home. I have allowed works to be undertaken on Saturday mornings so as not to unreasonably elongate the construction period.
29. I have included a condition that prevents piling from being undertaken prior to the approval of a Piling Method Statement. This is to protect the living conditions of neighbours from the adverse effects of damage to underground sewerage infrastructure.
30. A condition is included to ensure the windows in the side elevations of the proposed development are obscured glazed to protect the privacy of neighbouring residents as well as the future occupiers of the proposed development.
31. I have imposed a condition requiring the submission of details of external materials to protect the character and appearance of the area.
32. A condition is included to secure the implementation of the proposed refuse and recycling facilities. This condition is necessary to ensure the character of the area is not adversely affected by open waste storage.
33. I have also included a condition requiring the implementation of the proposed bicycle parking facilities, which is necessary to promote travel by sustainable modes.
34. Water consumption rates are normally controlled by Building Regulations, and I have not been provided with sufficient evidence to justify a departure from the mandatory minimum requirements. Therefore, it would not be reasonable to include the Council's suggested condition in relation to water consumption rates.

Conclusion

35. The proposed development is in accordance with the development plan and the material considerations do not indicate a decision should be made other than in accordance with it. Therefore, for the reasons given above, the appeal should be allowed.

E Catcheside

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 773_01_001 A, 773_02_101 A, 773_03_100 J, 773_03_101 J, 773_03_102 J, 773_03_103 J, 773_03_104 J, 773_04_101 J, 773_05_101 J, and 773_05_102 J.
- 3) No development shall take place until a scheme for the management of ground and surface water has been submitted to and approved in writing by the local planning authority. The scheme for the management of ground and surface water shall thereafter be implemented in accordance with the approved scheme prior to the occupation of the development and maintained thereafter.
- 4) No development shall take place, including any works of demolition, until a Demolition and Construction Method Statement and Management Plan has been submitted to and approved in writing by the local planning authority. The submitted details shall include:
 - provisions to be made to accommodate all site worker's, visitor's and construction vehicles;
 - details of arrangements for loading and unloading of plant and materials;
 - measures for the storage of plant and materials used in the demolition and construction process;
 - details of the erection and maintenance of security hoarding;
 - details of the method of demolition;
 - details of the method for the excavation, underpinning and construction of the basement retaining walls;
 - measures to control the emission of dust and dirt during demolition and construction;
 - measures to control noise during demolition and construction;
 - a scheme for the recycling and disposal of waste arising during the demolition and construction process;
 - a scheme to manage surface and ground water during the demolition and construction process.

The approved Demolition and Construction Method Statement and Management Plan shall thereafter be adhered to throughout the demolition and construction period.

- 5) Demolition and construction works, including ancillary activities and deliveries, shall take place only between the hours of 8am and 6pm on Mondays to Fridays (inclusive), and between 8am and 1pm on Saturdays. No demolition or construction works, including ancillary activities and deliveries, shall take place on Sundays or Bank/Public Holidays.

- 6) No piling shall take place until a Piling Method Statement has been submitted to and approved in writing by the local planning authority. The piling method statement shall include:
- Details of the depth and type of piling to be undertaken;
 - the methodology by which piling would be carried out;
 - a construction programme including timing of piling; and
 - measures to prevent and minimise damage to subsurface sewerage infrastructure.

All piling shall thereafter be undertaken in accordance with the submitted Piling Method Statement.

- 7) Notwithstanding any materials specified on the application form or approved plans, no development shall take place above damp-proof course level until details of particulars and samples of the materials to be used on all external faces of the development hereby permitted, including window frames and doors, have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 8) The development hereby permitted shall not be occupied until the windows in the side elevations, shown on approved plan 773_05_102 J, have been fitted with obscured glazing and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed, the obscured glazing and non-opening parts of the windows shall be retained thereafter.
- 9) The development hereby approved shall not be occupied until refuse and recycling storage facilities have been provided in accordance with the details shown on approved plan 773_03_101 J. The refuse and recycling facilities shall be retained as such thereafter.
- 10) The development hereby approved shall not be occupied until bicycle storage facilities have been provided in accordance with the details shown on approved plan 773_03_101 J. The bicycle storage facilities shall be retained as such thereafter.

END OF SCHEDULE