



Appeal Decision

Site visit made on 25 September 2024

by Alison Scott (BA Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2024

Appeal Ref: APP/T5720/W/24/3337450

1A Kenley Road, Merton Park, Merton, London SW19 3JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr and Mrs Stefano and Giovanna Bosi against the decision of the Council of the London Borough of Merton.
 - The application Ref 23/P0326 was approved on 22 September 2023 and planning permission was granted subject to conditions.
 - The development permitted is Demolition of the existing garages and outhouses on the site and the erection of a three bedroom single store dwelling house with sunken bedroom and access from Kenley Road.
 - The condition in dispute is No. 21 which states that: Before the development hereby permitted begins a scheme shall be agreed in writing with the local planning authority and be out in place to ensure that, with the exception of disabled persons, no resident occupier of the new house on drawing 21-1130-101 Rev P received 31 January 2023 shall obtain a resident parking permit within any controlled parking zone which may be in force in that area at any time, nor a season ticket/enter a contract to park in any car park controlled by the Council.
 - The reason given for the condition is: To ensure that the development does not generate an increased demand for on-street car parking to the detriment of the free flow of traffic, the conditions of general safety along neighbouring highways, the amenity of the area and to accord with Policy T6 of the London Plan 2021, Policy T16.4 (Parking and Low Emissions Vehicles) in the Merton Draft New Local Plan and the Council's car parking policy and standards.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I understand from the evidence before me that the Merton Draft Local Plan is progressing to adoption stage and is in the final stages of its plan preparation and has been subject to examination in public. I afford this substantial weight in my decision-making process.
3. The site is located within a PTAL rating of 1b, therefore very low accessibility to services and amenities.

Main Issue

4. The main issue is the effect that removal of the disputed planning condition would have with respect to on-street parking demand.

Reasons

5. Planning permission¹ has been granted for a new three bedroom dwelling to replace a garage and outhouses described by the Council as land to the rear of Number 84 Mostyn Road, with vehicular access from Kenley Road, within the area of Merton Park. The site is known by the parties as 1A Kenley Road. As part of this planning approval, space to park one vehicle has been included within the site to the front of the proposed bungalow.
6. The local area is covered by a Controlled Parking Zone (CPZ). On-street signs explain that to park within the CPZ requires permit holders only Monday to Friday between the hours of 10am and 4pm. Outside those hours, there is no restriction on parking.
7. The disputed planning condition is Number 21 attached to the original planning permission. All existing residents within this CPZ have access to obtain on-street parking permits from the Council. As this is a new residential development, the occupants are precluded from obtaining such by way of Condition 21. This condition seeks to ensure that occupiers of the new dwelling, apart from disabled people, are ineligible to obtain residents parking permits should they apply to the Council. The reasons given for the condition relate to parking stress on local roads by safeguarding the free flow of traffic, general safety along the highway and the amenity of the area. The condition also restricts the occupiers' access to a season ticket or contract to park within any council-controlled public car park.
8. The local plan policy attached to the imposed condition Number 21, relates to the draft Policy T16.4 Parking and Low Emissions Vehicles. It has been modified from its original consultation to be more prescriptive and outlines the requirement for all new developments within CPZ to be permit free, with occupants being ineligible to apply for on-street parking permits. It goes on to explain that where developments are in less accessible locations with a low PTAL rating, should provide the minimum necessary amount of parking in accordance with the London Plan standards. I understand from the Council's Statement of Case that there are no significant unresolved objections to this draft policy progressing through to full adoption, and therefore I afford this policy substantial weight.
9. The Council also include London Plan Policy T6 within Condition 21. This policy aims to control parking provision in London. It includes reference to the maximum car parking standards set out in London Plan Policy T6.1 Residential Parking and is part and parcel of this Policy. I accordingly apply significant weight to this policy.
10. Whilst there is some flexibility built into the London Plan Policy T6, the maximum parking provision for residential developments takes into account PTAL. Within outer London locations in an area with a PTAL rating of 0-1, a three bedroom dwelling or above is required to provide a maximum of 1.5 spaces per dwelling. I note that as this number of parking spaces is set within the London Plan at a maximum parking provision and is not a minimum, the appellants could also have supplied no parking on site. Nevertheless, the Council have supported the appellant's inclusion of one incurtilage parking space.

¹ Application Reference 23/P0326

11. Despite this, the appellants comment that Condition 21 is too restrictive given the poor connectivity to local services and amenities that justifies an official PTAL rating of 1b. On that basis of the likely car-dependency that would arise for future occupants, they are seeking the condition to be removed.
12. As the appellants originally proposed a new dwelling on site, it is the requirement of the applicant to undertake the relevant surveys/report as supporting documents for their scheme, and is not the Council's duty to carry out their own independent assessments. However, I am aware that the Council does not dispute the findings or methodology used for the on-street parking survey across three local streets within the CPZ location. This has been taken over a period of two weekday nights between the hours of 04:30am to 05:00am. I am also aware that further photographic and anecdotal evidence has been submitted with the appeal by the appellants to demonstrate there are on-street parking spaces available. The submitted survey demonstrates that there is no parking stress within this particular CPZ location at the time the survey was undertaken as around 42% of the on-street parking was occupied. There is free capacity within this CPZ to accommodate two parking permits as per the request from the appellants. They also include with the appeal, data figures to demonstrate personal injury by way of vehicle and pedestrian collisions to be low.
13. I understand their desire to future-proof the new dwelling with the option to be able to obtain residents parking permits or access to Council run public car parks, especially as the location is poorly served by services and local amenities.
14. The appellants are concerned that health care visits to the site or visits by other essential service providers would be threatened by the restrictive nature of this planning condition. However, there is no substantial evidence before me to convince me that there would be such visits to the site that would generate a compelling need for on-street parking permits.
15. Visitors to the new bungalow and tradespeople may be unexpected and unpredictable although as the appellants inform me, there are 'uncontrolled streets not far away' which they could avail of at a '450 meter walk from the site' according to the appellants. Overspill parking may arise to these other unrestricted streets as a result of this planning condition. However, there is no substantial evidence before me to come to the view that this would lead to a highway safety concern. I must also caution that access to residents on-street parking permits does not guarantee a parking place within close range to the new dwelling, and could be anywhere within the CPZ area.
16. The development is not car-free. The planning condition requires the parties to agree to a scheme to inform the prospective occupiers of this restriction. It would be up to the prospective future residents thereafter to decide whether or not to commit to living there. Issues relating to additional vehicles required for any future occupier's employment and the likes of shift patterns I have considered. However, there are insufficient details before me on how this planning condition would genuinely impact upon them for me to comment upon. Nor is there substantiating evidence presented to explain how this planning restriction would encourage more unsustainable travel modes.
17. Also, there is not enough evidence before me to demonstrate that crime levels, and indeed this can be extended to crime and the use of public transport, is a

genuine threat to the appellants or future occupants, or how by allowing them access to residents parking permits, would alleviate the fear of crime. I cannot reliably comment on the appellants' view that the denial of parking permits leads to a sense of 'underclass' of 'have's and have nots' as this is their personal view.

18. House extensions may generate more people living together and more private vehicles may arise. However, this variable is not accounted for in Council planning policy and therefore I apply minimal weight to this.
19. Overall, taking into account the fact that one parking space is available incutlilage together with their presented arguments, I am not persuaded by this that there is a compelling justification to remove the condition. Nor does an absence of comment on these grounds from the Council's transport officer sway me in favour of removal of this planning condition.
20. Also, as part of my consideration as a whole, I am presented with information by the appellants informing me that there is no restriction to the number of on-street residents parking permits any existing household can obtain, the only limitations being a financial one to them. With this as a real and unrestricted option for existing local residents to take advantage of, and can result in parking pressure, leads me to the view that despite the current evidence of on-street parking availability, residents on street parking should be protected from new development such as this.
21. Also, parking options for the appellants to be able to obtain car park season tickets to utilise council run public car parks does not support the thrust of the Council's policy to manage car use.
22. There are a number of appeal decisions brought to my attention by the appellants. One planning Inspector took into account the on-street parking restrictions but these were different to those at this site. All three Inspectors relied upon the results of the parking survey which was not disputed by the Council, to come to their conclusion, indicating the scheme would not cause undue parking stress. However, most significantly, all three of those appeals related to car-free developments, unlike the proposal before me. Therefore, I am not convinced they adequately compare to the proposal before me and I therefore apportion them minimal weight in the planning balance. In addition, these appeal decisions do not relate to the same borough as the appeal before me.
23. Therefore, all things considered, bearing in mind the tests for conditions as set out within the National Planning Policy Framework, I find this condition to be reasonable and necessary and should not be removed.

Other Matters

24. Any complaints regarding the Council and their service should be directed to them in the first instance and is not within my remit to comment upon.

Conclusion

25. The proposal would conflict with the development plan as a whole and there are no other material considerations which lead me to determine the appeal otherwise than in accordance with it. Therefore, for the reasons given, the appeal is dismissed.

Alison Scott

INSPECTOR