



Appeal Decision

Site visit made on 5 November 2024

by O Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2024

Appeal Ref: APP/T5720/W/24/3339666

East Lodge, Mitcham Park, Mitcham, Merton CR4 4EG

- 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 Jamie Stocks against the decision of the Council of the London Borough of Merton.
 - The application Ref is 23/P3302.
 - The development proposed is demolition of existing two-storey building and erection of two-storey building with roof accommodation consisting of 6 self-contained flats (1 x 4-bed, 2 x 3-bed, 2 x 2-bed, 1 x 1-bed) all with private outside amenity space and access to secure/enclosed cycle and refuse storage.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - the character and appearance of the area, including the Mitcham Cricket Conservation Area (CA), within which the site sits,
 - the effect of the proposal on the living conditions of the occupiers of nearby properties with regard to privacy, outlook, light and noise,
 - whether the proposal would make adequate provision for car-free development,
 - whether the proposal would provide suitable cycle and bin storage, and
 - whether the proposal makes adequate provision for the impacts and risks of flooding.

Reasons

Character and Appearance

3. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The CA includes large areas of open space, such as the Cricket Green itself, as well as buildings of varying designs and ages.
4. The area around the appeal site includes Mitcham Park, a leafy avenue of two-storey, semi-detached Edwardian houses, laid out in a formal pattern. These houses have modest frontages and deep rear projections in large plots. Nearby

is the four-storey Art Deco flatted block at Bramcote Court, a Police Station and a school. Relevant to the appeal, the significance of the CA is its attractive buildings, spaces and street scenes.

5. The appeal site consists of a modest detached dwelling and its garden. Although possibly one of the oldest buildings in the immediate area, the dwelling has been significantly altered and extended. As such, although not unattractive, it has no particular architectural merit and makes a neutral contribution to the character of the area.
6. The proposal seeks to demolish the existing dwelling and to erect a new building containing six flats. Its elevations include dormers and gabled bays to break up its mass, together with decorative sash windows and balconies. The external materials proposed include yellow brick, render and tiles. These features seek to reflect properties in Mitcham Park. Given this context, I see no reason why the proposed material palette would be unacceptable, subject to samples being approved.
7. The proposal would be lower than the highest parts of Bramcote Court and 2 Mitcham Park (No. 2). Nevertheless, it would consist of built form of appreciable height and scale. Despite the gabled bays, it would have a predominantly horizontal form, which would conflict with the narrow, more vertical frontages of most properties in Mitcham Park. The use of the chamfered corner is not a feature common to the area and its siting and design would not particularly reflect other positive buildings in the area, such as Bramcote Court.
8. Moreover, the large scale and mass of the building, together with the parking area and bin storage, would largely fill the plot. This would leave little space around the building, giving it a cramped and overdeveloped appearance, particularly in the context of other properties in Mitcham Park. Whilst some key views would be retained, it would be prominent in the street scene. As a result, the proposal would be visually intrusive and dominant, and would fail to reflect the attractive buildings, spaces and street scenes of the CA.
9. For these reasons, I conclude that the proposal would harm the character and appearance of the area, including the CA as a whole. It would therefore conflict with policies DMD2 and DMD4 of the Merton Sites and Policies Plan (SPP), July 2014, Policy CS14 of the Merton Core Strategy (Core Strategy), July 2011, and policies D3, D4 and HC1 of the London Plan (LP), March 2021. These require proposals to conserve and enhance heritage assets and local distinctiveness and achieve a high standard of design. However, as a replacement building, I find no conflict with SPP Policy DMD3, which relates to extensions and alterations to existing buildings.
10. In accordance with the National Planning Policy Framework (the Framework), I give great weight to the preservation of the CA as a designated heritage asset. In the language of the Framework, the harm to the CA would be less than substantial. Accordingly, I will weigh this harm against the public benefits of the proposal under Other Considerations, below.

Living Conditions

11. The proposal would introduce new windows at first and second floor levels. A planning condition could require that some proposed windows are obscure

glazed and of restricted opening, to maintain the privacy of neighbouring occupiers. With these measures, the proposed ensuite windows at first and second floor level would not result in an undue loss of privacy or its perception to the adjacent garden of No. 2.

12. However, such measures would not be appropriate for windows serving habitable rooms, such as bedrooms, because of the need to ensure a reasonable outlook for the future occupiers of these rooms. As a result, and due to their height, position and close proximity, the proposed windows facing Bramcote Court, and numbers 2 and 4 Bramcote Avenue, would result in an undue loss of privacy to the occupiers of these properties, including their amenity spaces.
13. The proposed building at its southern end would be positioned close to the communal garden of No. 2. The tall height, mass and scale of the proposal, together with its close proximity, would have an overbearing and overshadowing impact on this garden, making it a less pleasant place to reside. The garden is currently overgrown, but future occupiers may well choose to use this space more actively. The rear garden of number 4 Mitcham Park (No. 4) is further from the proposal. This greater distance is sufficient to ensure that the outlook of occupiers of the garden of No 4 would be maintained.
14. A Daylight and Sunlight Assessment was submitted with the proposal. This concludes that there would be no adverse impact on the daylight to neighbouring properties and that they would receive acceptable levels of sunlight. Framework Paragraph 125(c) requires a flexible approach, as long as acceptable living standards would be provided.
15. Even so, the Assessment does not include details or diagrams showing the potential overshadowing impacts of the proposal over the seasons of the year. In the absence of these details, I am not satisfied that the proposal would have an acceptable effect on the daylight and sunlight available to occupiers of neighbouring properties, including No. 2 and its garden.
16. The proposal includes several Air Source Heat Pumps, to be located on elevations close to the garden of No. 2. The operation of these pumps could result in additional noise and disturbance. In the absence of a noise assessment, I do not have sufficient information to demonstrate conclusively that the noise effects on No. 2, or other nearby properties, would be at acceptable levels. Any necessary mitigation measures, for example screening, may have implications for the character and appearance of the area or the living conditions of future occupiers. As such, this matter cannot be safely left to a condition.
17. For the reasons given, the proposal would have a harmful effect on the living conditions of the occupiers of nearby properties with regard to privacy, outlook, light and noise. Accordingly, it would be contrary to SPP policy DMD2, DMEP2 and LP policy D3. These require appropriate levels of sunlight and daylight, outlook, privacy and amenity to adjoining buildings and gardens, including no significant noise effects.
18. However, SPP Policy DMD1, Core Strategy Policy CS14 and LP Policies D2 and D4 relate to urban design more generally rather than amenity and so I find no

conflict with these policies. I have already found that SPP Policy DMD3 is not relevant to the proposal.

Car-Free Development

19. SPP policy DMT1 encourages the use of sustainable transport modes. The site has a Public Transport Accessibility Level of 3 and so has moderate access to public transport. It is close to a school and there are parking restrictions on some nearby roads, indicating parking pressure at some times. LP policies T4 and T6, SPP policies DMT2 and DMT3 and Core Strategy Policy CS20, seek to mitigate transport impacts. This includes through the provision of car-free development, where secured by a legal agreement. The appellant is willing to enter into such an agreement.
20. However, no finalised, executed planning obligation is before me. Consequently, if the appeal were allowed, occupiers could apply for parking permits. The proposal would significantly increase the number of people living at the site with only one on-site parking space, for disabled people. If not controlled, the proposal would place additional pressure on existing parking spaces and overspill of kerbside parking, risking the safety of highway users and interrupting the free flow of traffic. For the same reasons, the proposal would not accord with the aim of the Development Plan to reduce car use.
21. For these reasons, the proposal would not make adequate provision for car-free development. It would therefore conflict with SPP policies DMT1, DMT2 and DMT3, Core Strategy Policy CS20 and LP policies T4 and T6.

Cycle and Bin Storage

22. The proposal includes a combined internal bin store area and cycle storage facility. There is no dispute that sufficient space for each would be provided. Access to the bin store needs to be made available to everyone, including refuse collectors. However, uncontrolled access would prevent the cycle storage area from being secure, discouraging its use by occupiers of the proposal.
23. I have little evidence that a scheme allowing access only to authorised people, such as occupiers and refuse collectors, would be practical and secure. Other schemes with a combined layout have been referred to by the appellant, but I have few details of them. Nor is the Council's Small Site Tool Kit before me.
24. There is little to suggest that these arrangements would lead directly to adverse effects on highway or pedestrian safety. Nevertheless, for the reasons I have given, the combined bin and cycle storage area would not be adequate or well-designed, as required by LP Policy SI7 and Core Strategy Policy CS17. It would also conflict with the objectives of Core Strategy Policy CS18 and LP Policy T5 to encourage active sustainable forms of transport and for cycle parking that is secure. However, I find no specific conflict with LP Policy T6.1 which relates to car parking.

Flooding

25. Core Strategy Policy CS16 requires flood risk to be managed and reduced from all sources, based on the findings of the most recent Strategic Flood Risk Assessment. The appellant has provided a site-specific Flood Risk Assessment (FRA). In relation to groundwater, based on Environment Agency groundwater

mapping, it finds that the site is not within a Groundwater Source Protection Zone or underlain by a designated vulnerable aquifer.

26. That said, the most recent Borough Strategic Flood Risk Assessment identifies that the site is within an area of increased potential for elevated groundwater. There is no dispute that the FRA has not taken this information into account and consequently no mitigation is proposed to avoid the effects of flooding from this source. It follows that I cannot conclude that the proposal is acceptable in respect of groundwater flooding.
27. For these reasons, the proposal does not make adequate provision for the impacts and risks of flooding. It would therefore conflict with Core Strategy Policy CS16, as well as LP Policy SI12 and SPP Policy DMF1, with seek to minimise and reduce flood risk. However, I find no conflict with LP Policy SI13 and SPP Policy DMF2, which relate to sustainable drainage.

Other Considerations

28. The proposal would positively contribute to housing supply. Future occupiers would make a positive social and economic contribution to the area. It would also have economic advantages, for example to local businesses. The proposal would make more efficient use of land, on a previously developed site close to services and facilities. It would also provide a mix of flat sizes and a biodiversity net gain. However, being for six flats these contributions would be modest. I therefore give these benefits moderate weight.
29. Consequently, I conclude that the public benefits of the proposal are not sufficient to outweigh the less than substantial harm to the CA. Nor do these benefits outweigh the overall harm resulting from the proposal that I have identified above.
30. There is no dispute that the Council cannot demonstrate a sufficient supply of deliverable housing sites. Nevertheless, the policies in the Framework that protect assets of particular importance, including designated heritage assets, provide a clear reason for refusing the proposal in this case. As a result, the tilted balance of Framework Paragraph 11(d) is not engaged.

Planning Balance and Conclusion

31. For the reasons given, I have found conflict with the Development Plan, read as a whole. The material considerations in this case do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

O Marigold

INSPECTOR