



Appeal Decision

Site visit made on 18 December 2024

by **David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 JANUARY 2025

Appeal Ref: APP/T5720/W/24/3342437

8 Harwood Avenue, Mitcham CR4 3AS

- 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 Girish Gowda against the decision of the Council of the London Borough of Merton.
 - The application Ref is 23/P3395.
 - The development proposed is change of use of the property from a 5-bedroom House (Class C3) to a 6-bedroom/6-person HMO (Class C4).
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Girish Gowda against the Council of the London Borough of Merton. This application is the subject of a separate Decision.

Preliminary Matters

3. A revised National Planning Policy Framework (the Framework) was published in December 2024 but there are no material changes relevant to the substance of this appeal.
4. Reference has been made to other planning decisions relating to the appeal site. This includes planning permission for a change of use from a 5-bedroom house (class C3) to a 5-bedroom/5-person House in Multiple Occupation (HMO) (C4)¹ and the discharge of conditions², including in respect of refuse and recycling as well as cycle parking. I have been provided with copies of relevant documents and have had regard to them when reaching my decision. Based on the evidence before me, there is nothing to prevent the extant permission for a 5-bedroom/5-person HMO being implemented, and I therefore give it great weight as a fallback scheme.
5. At the time of my visit, the property appeared to be in use as an HMO, although this was for a 6-bedroom HMO rather than the 5-bedroom HMO that has previously been approved.

Main Issues

6. The main issues are:
 - Living conditions of future residents with regards to communal amenity areas;

¹ Application Number: 23/P3191

² Application Number: 24/P0353

- Cycle and waste storage; and
- Flood risk.

Reasons

Living Conditions

7. The property includes garden space to the rear, which would be of a suitable size and provide good levels of sunlight and privacy for residents. The original dwelling and the approved 5-bedroom HMO would provide direct access onto this amenity space from within the building for all residents.
8. However, other than for 2 of the proposed bedrooms which would face onto the rear garden, access to this external amenity space for the appeal proposal would be via the front door and a passageway to the side of the building. This convoluted route would not be convenient for the majority of residents and would deter the use of this outdoor space. Moreover, I observed that the passageway was of a limited width that made it difficult to pass through, particularly if carrying washing or garden furniture. The arrangement and constraints of the access route would significantly hinder the functionality of this outdoor amenity space to most residents of the HMO, with commensurate harm to their living conditions.
9. The appellant contends that the proposal is for the conversion of a living room to a bedroom, and they consider that works relating to the interior of the building are not considered to be development requiring planning permission. However, the appeal proposal relates to the change of use of the property from a house to an HMO, and therefore the appeal proposal should be considered as a whole rather than simply relating to the conversion of a single room.
10. That said, I have had regard to the fallback of the permission for a 5-bedroom HMO. However, that permission is subject to a condition limiting the occupation of the property to a 5-bedroom 5-person HMO, which would enable a room to be retained on the ground floor to provide for access to the rear garden. Although the internal arrangement of the rooms may be altered without planning permission as long as there is no conflict with relevant conditions, it has not been demonstrated that this is more than merely a theoretical prospect. The potential for the internal reconfiguration of the property therefore carries minimal weight in favour of the appeal.
11. With regards to internal amenity space, the proposal would include a ground floor kitchen/diner for bedrooms 1-4, and a kitchen for bedrooms 5-6 on the second floor. The Council's HMO SPD³ advises that as well as kitchen space, additional communal space internally should be provided to improve the quality of the HMO and improve living conditions for future occupiers. As set out by the Council, this is so that residents would not have to rely on their bedrooms for dining, relaxation and leisure.
12. However, the room sizes of the proposed HMO meet or exceed that recommended in the SPD for single rooms with a shared kitchen; as opposed to the smaller room sizes for HMOs which also have a shared living and dining room. The proposed kitchens would comply with the size and arrangement set out in the HMO SPD, and the ground floor kitchen would also provide extra dining space. On the basis of the

³ Houses in Multiple Occupation Supplementary Planning Document 2023

evidence before me, I conclude that the proposal would provide suitable internal layout standards in accordance with the SPD.

13. Notwithstanding my conclusions in respect of internal amenity space, the appeal proposal would not make suitable provision for access to the external amenity area to the rear, with significant harm to the living conditions of residents. The proposal would therefore be contrary to Policy H9 of the London Plan 2021; Policy CS 14 of the Core Strategy⁴; and Policies DM H5 and DM D2 of the SPP⁵ with regards to amenity and compliance with relevant standards. The proposal would also be contrary to the advice of the HMO SPD with regards to the provision of outdoor amenity space of a high standard.
14. I have considered the potential for the internal rearrangement of the property within the terms of the extant planning permission. But, the minimal weight to be given to this possibility does not negate my conclusions on the harm arising from the appeal before me and the conflict with development plan policy.

Cycle and Refuse Storage

15. The appeal proposal would include secure storage for 2 cycles as well as refuse bin storage in the front garden. In its reasons for refusal the Council states that neither of these are sufficient, although I note that the Council's Officer Report specifies that only 2 cycle parking spaces are required.
16. However, these matters were also addressed by conditions placed on the fallback scheme of the 5-bedroom HMO. These conditions have subsequently been discharged. Although the appeal proposal would introduce a further resident at the property compared to the permitted HMO, it has not been demonstrated that this increase in occupation is such that these issues could not be addressed by condition in the same way as the fallback scheme .
17. Subject to appropriate conditions, I conclude that the proposal would make suitable provision for cycle and refuse storage. The proposal would therefore not be contrary to the cycling, sustainable transport and waste management requirements of Policies T5, SI 7 and SI 8 of the London Plan; Policy CS 17 of the Core Strategy; and Policy DM T1 of the SPP.

Flood Risk

18. The Council refers to issues of ground and surface water flooding. It highlights works in the front and rear gardens which could have an impact on flood risk, including evidence that the gardens have been cemented over.
19. However, the appellant has prepared a Flood Risk Assessment which concludes that any impermeable hardstanding areas on the site could be replaced by permeable surfacing, as well as other measures such as planters on downpipes. These mitigation measures could be secured by condition.
20. Subject to a planning condition requiring further works to mitigate flooding issues, including the effects of water run-off, the proposal would not lead to harm in respect of flood risk. The proposal would therefore not be contrary to the flood risk

⁴ London Borough of Merton, LDF Core Planning Strategy, Adopted July 2011

⁵ Sites and Policies Plan and Policies Maps, Adopted July 2014

and sustainable drainage requirements of Policy CS 16 of the Core Strategy; Policies DM F1 and DM F2 of the SPP; and Policy SI 13 of the London Plan.

Conclusion

21. Notwithstanding my conclusions in respect of cycle and refuse storage as well as flood risk, the proposal would lead to significant harm to the living conditions of future residents with regards to access to external amenity space. The proposal would therefore be contrary to the development plan when read as a whole in respect of the living conditions of residents.
22. There are no material considerations of such weight that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

David Cross

INSPECTOR