



Appeal Decision

Site visit made on 11 February 2025

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th March 2025

Appeal Ref: APP/T5720/W/24/3352339

28 Beech Grove, Merton, Mitcham CR4 1LH

- 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 Yasin Chanawala against the decision of the Council of the London Borough of Merton.
 - The application Ref is 24/P0307.
 - The development proposed is conversion of single dwellinghouse into 2 x self-contained flats including erection of part single/part two storey and erection of a rear outbuilding.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development has changed from that on the application form and has been taken from the decision notice, which has been confirmed and used in the appeal form. I have omitted the date the development was amended from the description as this does not describe an act of development.
3. Since the determination of the application, a revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. However, as the parts most relevant to the main issue in this appeal have not substantially changed, I have not gone back to the parties to seek further submissions. I consider no party has been prejudiced by this approach.
4. During the course of this appeal, the Council adopted the Merton Local Plan 2024-2037-38 (MLP) on 20 November 2024. This replaced the Sites and Policies Plan (2014) and Core Planning Strategy (2011). In light of this, the main parties have been given the opportunity to provide comments on the new MLP in relation to their cases. I have had regard to the comments received and have considered the proposal against the relevant policies in the MLP.

Main Issues

5. The main issues are:
 - whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to the internal layout and access to private amenity space;
 - whether the proposed development would have adequate parking provision;
 - the effect of the proposal on air quality;

- the effect of the outbuilding on the character and appearance of the area and host property, highway safety and the living conditions of neighbouring occupiers;
- whether the development would provide appropriate refuse storage;
- whether the proposal would deliver appropriate biodiversity enhancements and;
- the effect of the proposal on the character and appearance of the area with particular regard to front boundary treatment.

Reasons

Living conditions

6. The kitchen of flat A forms part of an open living/dining area with a large window on the front elevation. Given the south-easterly orientation, I consider that an adequate amount of natural light would be afforded to this room by the window. The window would also provide passive ventilation for when the cooking area is in use. However, the kitchen would be located directly beneath bedroom 3 of flat B on the floor above. As the use of a kitchen can generate noise (for example from cooking and running a washing machine), this would likely lead to disturbance for the occupants in the bedroom above. Given the proposed layout of flat A, I am not persuaded that this issue could be overcome by way of a condition.
7. Bedroom 1 and 2 of flat A would be located at the rear, each having individual access to the rear garden. Bedroom 3 of flat A does not have access to this garden, but has a separate door providing access to a garden alleyway. However, this cannot be classed as private amenity space because occupants of flat B would need to walk through the alleyway to gain access to their garden. The separate access to the private amenity space for the occupants of the ground floor flat would not be conducive to family living. For example, if the rear bedrooms were in use during the daytime, this could inhibit access to the garden for the family members who occupy bedroom 3.
8. Furthermore, as the occupants of flat B would not have a balcony, they would have to go down the stairs and around the property. This arrangement would not accord with section C10 of the Housing Design Standards London Plan Guidance (2023) which I viewed online. This requires that step free access should be provided for outside space.
9. The layout of the ground floor flat means that bedroom 3 has no window. Whilst there would be a door, it is not clear from the plans if this would have glazing. If it did have glazing this would likely have to be obscurely glazed to ensure an appropriate level of privacy. This would not provide a satisfactory level of outlook. Even if it were not obscurely glazed, because of the close proximity to and height of the neighbouring boundary fence it would be unlikely to provide acceptable levels of outlook and natural light.
10. No other concerns have been raised by the Council with regard to the internal layout of flat B. Based on the submitted floor plans, I have no reason to come to an alternative view.

11. For the above reasons, whilst I have no concern with the amount of light and ventilation afforded to the kitchen, the proposed development and intensification of the site would overall not provide acceptable living conditions for future occupants with particular regard to the internal layout and access to the private amenity space. It would therefore conflict with Policies D6 and D7 of the London Plan (2021). These, read together, seek accessible housing of a high quality design with comfortable and functional layouts. The proposal would also conflict with Policy D12.1 of the MLP. This seeks development that enhances physical and mental well-being, social cohesion and creates buildings, spaces and environments that are well -managed, accessible and inclusive. It would also conflict with Policy D12.3 of the MLP which requires a high standard of amenity for future occupants.
12. Policy D12.11 of the MLP has been cited by the Council in respect of this main issue. However, this relates to basement and subterranean design. As such it has not been determinative in this appeal.

Parking

13. The appeal site is not within a controlled parking zone and as such surrounding streets have no parking restrictions. However, many properties have off-road parking across their frontage. This consequently limits the ability to park on the road and I observed on my site visit that there was limited on-street parking availability, likely exacerbated by the lack of any parking restrictions. The appeal site also has a public transport accessibility level (PTAL) score of 1b, which indicates poor accessibility to public transport.
14. A parking survey was submitted as part of the application. The survey recommended the provision of off-street parking by dropping the kerb at the front of the property to provide two parking spaces. No off-street front parking is currently available and neither is any proposed as part of the development. The parking survey does not provide any substantive evidence to demonstrate whether the additional demand arising from the creation of an additional residential unit could be accommodated on-street. Therefore, I cannot be certain that the proposal would not exacerbate parking pressure which could lead to inconsiderate and potentially dangerous parking of which would be to the detriment of highway safety. Whilst cycle storage is being provided, this does not mean that future occupiers would not own a car.
15. I note the design and access statement refers to 1 parking space being provided within a garage at the rear of the site. I did not observe a garage on site, but in any case, even if this were available it would not alter my conclusions above given the additional residential unit proposed.
16. In the absence of sufficient information, I cannot be satisfied that the proposal would have adequate parking provision. It would thus conflict with Policy T16.4 of the MLP which amongst other matters, seeks proposals to manage car use and parking to ensure safety and for developments to provide minimum levels of car parking necessary and that proposals do not compromise pedestrian amenity or highway safety. It would also conflict with Policy T6 of the London Plan (2021) which requires development to be designed to provide the minimum parking necessary.

Air quality

17. The London Borough of Merton is designated as an air quality management area. Policy SI 1 of the LP seeks to improve air quality. Part B2 of this policy requires, as a minimum, that development proposals are air quality neutral. An air quality statement was submitted as part of the proposal.
18. Whilst the statement sets out a range of measures, including that no on-site parking or gas boilers are proposed, it also states that active charging points would be provided. As no on-site parking is proposed, it is unclear how these would be utilised. Notwithstanding this, the statement also explains that the development is not likely to have a significant effect on local air quality. This wording and the statement overall does not sufficiently demonstrate or conclude that the development would be air quality neutral.
19. Given this degree of uncertainty, I do not consider the matter can reasonably be dealt with by planning condition. On the basis of the evidence submitted, the development would be contrary to Policy SI 1 of the London Plan (2021).

Outbuilding

20. The description of development was amended during the application process to include a rear outbuilding. The outbuilding is annotated on the plans as a garage. I observed on site that a rear outbuilding had been erected. There appeared to be no ability for a vehicle to utilise the building. If it is to be used as a garage no information has been submitted as to how vehicles would enter / exit the building and whether access onto the highway from the service road at the rear is appropriate.
21. The outbuilding also differed in appearance to that photographed and described within the officer report. Therefore, because of this and the absence of any plans, I cannot be certain that the structure on site is that which is being referred to as part of this appeal. Had this been the only reason for refusal, I would have sought further clarification from the parties. As I intend to dismiss the appeal for other reasons, I have not pursued this matter further.
22. Whilst the appellant may contend that the outbuilding is permitted development, it is not within my remit of a section 78 planning appeal to assess whether the scheme would be permitted development. Even it were within my remit, in the absence of any information such as dimensions it would not even be possible to confirm this.
23. The Council also have concerns that the outbuilding would result in the creation of a separate planning unit. However, a separate planning unit is not what has been proposed, the description of development clearly states it is an outbuilding. Enforcement action could be taken if this was not the case and planning permission would be required if a separate planning unit was being proposed. Notwithstanding this, in the absence of any plans or elevation drawings and uncertainty as to the design of the outbuilding, I am unable to assess the impact of the outbuilding on the character and appearance of the area and host property, the living conditions of neighbouring occupiers and any impact on the highway.

24. Consequently, I cannot be satisfied that the outbuilding would not have an adverse effect on the character and appearance of the area and host property, the living conditions of neighbouring occupiers and on the highway. As such, the proposal would be contrary to Policies D12.1 and D12.2 of the MLP. These read together, seek development to meet high standards of design and layout and to respect and positively respond to their context. It would also conflict with Policy D4 of the LP in so far as it seeks good design and Policy D3 of the LP which seeks development that respects and enhances the local character. The proposal would also conflict with Policy T16.3 of the MLP which requires proposals to demonstrate adequate provision for safe and suitable access to the site and Policy T16.4 of the MLP which requires proposals to demonstrate that they do not compromise pedestrian amenity or highway safety.

Refuse storage

25. The proposed plans show refuse storage for the two flats adjacent to the side access. The bins for the ground floor flat would be difficult to access due to the close proximity to the side elevation of the property. The bins would also create an obstruction for future occupiers when accessing the alleyway. However, from the plans and my site observations I am satisfied there would be sufficient space elsewhere at the front of the property to locate the bins in an appropriate position such that they would not impact on the free flow of pedestrian or vehicular traffic. This could be secured through a condition.
26. I therefore conclude that the proposed development would be acceptable in relation to waste storage and as such, the scheme would not conflict with Policy D12.2 of the MLP. This seeks development that has a high quality layout and ensures development contributes to a safe, attractive and uncluttered public realm. It would also accord with both Policy D12.3 of the MLP which, amongst other matters, seeks appropriate design, storage and management of waste and recycling facilities and Policy W14.4 of the MLP which has similar aims. It would also accord with Policies SI7 of the London Plan (2021) which seek adequate and accessible refuse storage space and collection systems.
27. Policy SI8 of the LP has been cited on the decision notice in relation to this issue. However, as this predominantly relates to waste management sites, I find this policy to be of little relevant to my considerations on this main issue.

Biodiversity

28. The fourth reason for refusal is centred around the Council's concern that the development has not demonstrated a net gain in biodiversity by way of incorporating ecologically friendly measures for example bird boxes, provision of suitable landscaping and green roofs if practicable. However, the submitted plans detail a sedum green roof of approximately 25 square metres. Moreover, considering the small scale of the development, I am satisfied that if I had been minded to allow the appeal, proportionate and appropriate measures to encourage biodiversity such as the provision of bird boxes and appropriate landscaping could be addressed by condition.
29. I conclude that, the proposal would make acceptable provision in relation to biodiversity net gain enhancements, subject to conditions. Consequently, there would be no conflict with Policy G6 of the London Plan (2021) which requires proposals to manage impacts on biodiversity and aim to secure biodiversity net

gain. It would also accord with Policy O15.3 of the MLP which amongst other matters, seeks biodiversity net gain by incorporating features such as green roofs, soft landscaping and bird and bat boxes.

Character and appearance – front boundary treatment

30. The Council are concerned that in the absence of details of front boundary treatment, the scheme could increase visual permeability into a predominantly hard surfaced forecourt which would be of detriment to the visual amenity of the street scene.
31. The frontage of properties on Beech Grove is predominantly hard standing for vehicle parking, with no boundary treatment. At the few properties where front boundaries were present these were typically low level brick walls.
32. I observed on my site visit that the existing boundary treatment consisted of a low level boundary wall. Whilst the submitted plans do not provide details of the front boundary treatment, the appellant states that the existing boundary and front garden is not being altered. Considering no front off-street parking is being provided I have no reason to think this would not be the case. In any case a landscaping condition could be imposed to ensure an appropriate level of soft landscaping to the front garden and for details of the front boundary treatment. Whilst the Council may be concerned about the visibility of the cycle and refuse storage if the boundary was to be removed, given the boundaries low height, it would provide little in the way of screening the cycle storage and refuse bins in any case. Moreover, even if the front boundary treatment were to be removed, considering the absence of front boundaries on Beech Grove, it would not appear incongruous in the street scene nor would it have an adverse impact on the character and appearance of the street scene.
33. For the above reasons, the proposed development would not have an adverse effect on the character and appearance of the area with regards to the front boundary treatment. There would therefore be no conflict with Policies D12.1 and D12.2 of the MLP. These read together, seek development to meet high standards of design and layout and to respect and positively respond to their context.

Planning Balance and Conclusion

34. The development would promote sustainable methods of transportation through the provision of cycle storage facilities. Subject to conditions it would deliver biodiversity enhancements. I have also found no conflict with the development plan with regards to the front boundary treatment and refuse storage.
35. However, the proposal would provide a poor internal layout to the detriment of future occupiers and poor access to external private amenity space. There is also insufficient evidence to conclude that the air quality neutral standard would be achieved and insufficient information to determine whether the development would have an acceptable effect on parking provision. There is also insufficient information to assess the outbuilding with regards to character and appearance, highway safety and living conditions of neighbouring occupiers. As a consequence, I have found the proposed development to be in conflict with the Development Plan.

36. In conclusion, the proposal conflicts with the Development Plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

T Bennett

INSPECTOR