
Appeal Decision

Site visit made on 31 July 2025

by **P Burley BA (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 September 2025

Appeal Ref: APP/T5720/W/25/3367498

71 Leamington Avenue, Morden SM4 4DQ

- 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 Mrs Agnes Zmijewska (Revolutions Investment Ltd) against the decision of the Council of the London Borough of Merton.
 - The application Ref is 25/P0450.
 - The development proposed is the demolition of an outbuilding and erection of a new 3-bedroom 4-person family dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An objector to the appeal scheme has stated that the appeal site is owned by an individual but that the appeal application was made by a company and therefore that the ownership certificate that accompanied the application does not reflect the actual ownership of the site. They have said that this invalidates the planning application and undermines the validity of this appeal. However, the name of the owner of the appeal site was also given as the name of the applicant on the planning application form that was submitted to the Council. Therefore, I do not consider there to be a procedural impediment to the determination of this appeal.
3. Whilst the decision notice included a reason for refusal in relation to the potential impact of an air source heat pump, the Council confirmed in its Statement of Case (SoC) that it no longer objected to this aspect of the appeal scheme because of changes to permitted development rights.
4. At the appeal stage the appellant submitted amended plans to increase the size of two of the bedrooms in the proposed dwellinghouse and the Council has commented on them. I am satisfied that no party would be prejudiced by me taking the amended plans into account in my determination of this appeal and I am proceeding on that basis.

Main Issues

5. The main issues are:
 - the effect of the appeal scheme on the character and appearance of the area;
 - the effect of the appeal scheme on the living conditions of the existing occupiers of 69 Leamington Avenue with specific regard to outlook;

- whether the appeal scheme would provide acceptable living conditions for the future occupiers of the proposed dwellinghouse; and
- whether a carbon net zero development would be achieved.

Reasons

Character and Appearance

6. The appeal site is situated at the junction of Leamington Avenue with Ashridge Way. On the southern part of the site is an end of terrace dwellinghouse which has been altered and extended, including by way of an addition at the rear of the ground floor. There is a flat-roofed single-storey building at the northern end of the site, separated from the dwellinghouse by a garden. Because of its location at the end of a terrace, the appeal site is wider than its immediate neighbours.
7. The local area has a relatively homogenous character with mostly two-storey dwellinghouses with pitched roofs in pairs or small terraces, often set back from the street by front gardens, and with windows looking out onto the street. There are four bungalows to the north of the appeal site which are of a similar architectural style to the nearby two-storey dwellinghouses.
8. Back gardens also form part of the character of the area and the space that they create between the rows of dwellinghouses is readily apparent from the public realm close to where roads intersect. There are small, generally single-storey, outbuildings (for example garages) at the rear of many gardens.
9. In the ground floor of the appeal scheme, most of the windows would take the form of clerestory glazing. At the northern end of the building there would be a narrow, full-length window facing Ashridge Way. There would also be windows facing onto an approximately 15m² private outdoor area adjacent to the boundary of the appeal site with 69 Leamington Avenue.
10. At first floor level there would be one bedroom with north- and south-facing windows. Adjacent to this would be a roof terrace which would be surrounded by a parapet wall. There would be obscured glass screening on top of that wall in response to concerns about privacy and overlooking. As shown on the submitted plans, the highest point of the appeal scheme would be at approximately the same level as the eaves of the nearby two-storey dwellinghouses.
11. The appeal scheme would introduce a two-storey building into the characteristic gap between the host dwelling and dwellings to its rear. Unlike the principal elevations of existing dwellings in the local area, it would directly abut the street with no set-back, resulting in a visually-prominent addition to the streetscene that would disrupt the established pattern of development. Given that the proposed dwellinghouse would cover most of the land within its proposed curtilage and would have very little outdoor space at ground floor level, it would also appear to be a cramped form of development.
12. Whilst the proposed materials are not necessarily objectionable in themselves, the band of clerestory glazing, the glass privacy screening to the roof terrace and the flat roof would create a building with a strongly horizontal emphasis which would be at odds with the generally more traditional suburban character of the architecture of existing buildings in the local area and, given the general coherence of the existing environment, would be discordant.

13. Furthermore, although a roof terrace would not necessarily be unacceptable in principle in this area, the extent of the terrace in the appeal scheme and the extensive glass privacy screening would not integrate well into the streetscape and would result in an unacceptable visual impact.
14. Therefore, I consider that the appeal scheme would conflict with Policy D12.3 of the Merton Local Plan (2024) (MLP) which says that developments should take a design-led approach that responds positively to the site's context and character, and with Policies D3 and D4 of the London Plan (2021) (LP) which seek to optimise site capacity through a design-led approach and to secure good design.

Living Conditions of the Existing Occupiers of 69 Leamington Avenue

15. In response to the Council's concerns that the appeal scheme would result in a loss of outlook, an unreasonable sense of enclosure, and that it would be overbearing when experienced from the garden of 69 Leamington Avenue, the appellant provided illustrations of the existing and proposed situations when seen from the rear of 69 Leamington Avenue.
16. Although these illustrate that the appeal scheme has been located at the furthest point from the existing dwellinghouses, that a sloping roof has been used to reduce its impact, and that it would not occupy a significant proportion of the sky or the view from 69 Leamington Avenue, the two-storey appeal scheme would represent a material change in outlook when compared with the existing situation. Because of its proximity and prominence, it would be an overly-dominant and overbearing feature which would adversely affect the outlook from 69 Leamington Avenue. It would also increase the sense of enclosure, particularly when considered in combination with the rear extension to 71 Leamington Avenue, as is apparent from the appellant's illustration. Therefore, the appeal scheme would conflict with MLP Policies D12.2, D12.3 and D12.4 which seek to achieve good design and development that is appropriate to its context.

Living Conditions of the Future Occupiers of the Proposed Dwellinghouse

17. The appellant has submitted revised plans which have altered the sizes of two bedrooms in the proposed dwellinghouse. On that basis the appeal scheme would comply with London Plan Policy D6 – which relates to minimum space standards – for a 3-bedroom 4-person unit (albeit it is the Council's view that the proposal would be a 3-bed 5-person unit). The appellant has also noted that minor changes could be made to the appeal scheme to improve access to bins and the cycle store, which is narrower than recommended in the London Cycle Design Standards, to address concerns raised by the Council in this regard. I note, however, that such changes are not illustrated on the drawings before me.
18. In any event I do not consider that such changes would fully overcome the reason for refusal relating to the standard of accommodation. Although the use of clerestory glazing and roof lights is intended to ensure that there would be adequate light and privacy within the dwellinghouse, there would not be a satisfactory outlook from large parts of the ground floor of the proposed dwellinghouse. Furthermore, the outlook from the east-facing door / window in the living area would be towards the boundary fence with 69 Leamington Avenue which the submitted plans indicate would be about 3m away. In addition, outlook from the roof terrace would be restricted by obscurely-glazed privacy screens which are intended to minimise overlooking from the terrace.

19. The appellant has explained that the appeal scheme is a contemporary, creative response to a challenging and constrained site and that there is a need to balance outlook, daylight / sunlight, and privacy. However, I do not consider that a successful balance has been achieved; the inadequate outlook is a symptom of the cramped nature of the appeal scheme and the unsuitability of the site for a scheme of this size. Therefore, the appeal scheme would conflict with MLP Policy D12.3 which seeks to achieve high-quality development, including in terms of outlook.

Biodiversity Net Gain

20. The reason for refusal in relation to biodiversity net gain (BNG) relates to the absence of a BNG statement to support the appellant's suggestion that the appeal scheme is exempt from BNG requirements. However, in its SoC the Council says that it accepts that the appeal scheme is exempt from BNG requirements. Therefore, the appeal scheme would not conflict with the Environment Act 2021, The Biodiversity Gain Requirements (Exemptions) Regulations 2024 or with MLP Policy O15.3 in this regard.
21. Nevertheless, in its SoC the Council has said that some form of biodiversity improvement is still warranted in the context of policy in the National Planning Policy Framework and the MLP. I agree with the appellant's submission that this could be addressed by way of a planning condition as is suggested in the Council's officer report.

Net Zero Carbon

22. MLP Policy CC2.2 says that all new build developments resulting in the creation of 1 or more dwellings are required to demonstrate compliance with the Mayor of London's net-zero carbon target. Where this cannot be achieved a payment *in lieu* can be made.
23. The appellant has submitted an agreement pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) and the Council has confirmed that this overcomes the reason for refusal relating to net zero carbon. Therefore, I consider that the appeal scheme would comply with MLP Policy CC2.2.

Other Matters

24. Cycle parking for 2 bicycles is shown to the south of the proposed dwelling. The London Cycling Design Standards set out that residential cycle parking should be covered and well-located (close to the entrance of the property and avoiding obstacles such as narrow doorways of less than 1.2m wide). The access gate is approximately 0.75m wide and leads to an uncovered bicycle parking area. Given that the proposal provides no car parking, cycle parking would be a key form of transport and this below-standard accessway and storage arrangement would not encourage the use of sustainable travel modes. Therefore, I consider that it would fail to meet the requirements of Policy T5 of the London Plan which seeks fit-for-purpose, secure and well-located cycle parking.

Planning Balance

25. Whilst the Council has a 5-year supply of housing land it has noted that small sites play a vital role in housing delivery. The London Plan also states that planning decisions should significantly increase the contribution of small sites to meeting London's housing needs.
26. I attach significant positive weight to the delivery of a new home on the appeal site and a small amount of positive weight to the potential for a biodiversity enhancement to be achieved by way of a planning condition. However, I consider that the appeal scheme would be harmful to the character and appearance of the area and to the living conditions of the existing occupiers of 69 Leamington Avenue, and that it would not provide acceptable living conditions for the future occupiers of the proposed dwellinghouse. Taken together, these issues outweigh the positive weight that I have identified.
27. Thus, I consider that the appeal scheme conflicts with the development plan when taken as a whole and that there are no other material considerations that suggest that an alternative conclusion should be reached.

Conclusion

28. For the reasons given above the appeal should be dismissed.

P Burley

INSPECTOR