



# The Planning Inspectorate

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Your Ref:  
IS/2835  
Our Ref:  
T/APP/T5720/A/98/290599/P8  
Date:

- 1 JUN 1998

Dear Sirs

**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6  
APPEAL BY RUSKIN HOMES LTD  
APPLICATION NO:- 97/P0806**

1. I have been appointed by the Secretary of State for the Environment, Transport and the Regions to determine the above mentioned appeal. This is against the decision of the London Borough of Merton Council to refuse planning permission for the demolition of all existing buildings and the erection of 6 new houses in an angled terrace (2 houses with attached garages) and a separate garage building for 4 cars, and 4 surface parking spaces, on land at 258 Coombe Lane, Raynes Park, London SW20. I have considered the written representations made by you and by the Council and also those made by the London Ecology Unit, a local councillor and interested persons. I have also considered those representations made directly by amenity bodies and interested persons to the Council which have been forwarded to me. I inspected the site on 30 April 1998.

2. The original application was for 7 houses in 2 separate blocks; the scheme was amended to 6 terraced houses in one angled block, with changes to the parking arrangements, prior to the Council's decision to refuse permission. My description of the development in (1) above takes account of these amendments.

3. From all I have seen and read in this case, I take the view that there are 4 main issues which I deal with in turn. First is the effect of the proposal on the character and appearance of the surrounding suburban locality, having particular regard to the allotments to the east and north of the site being within a defined area of Metropolitan Open Land and within the Copse Hill Conservation Area. The second main issue is the implication for highway safety of the access arrangements. The third main issue is the implication for nature conservation interests and the last is the effect on the living conditions of adjoining occupiers with particular reference to privacy, noise and disturbance.

4. The development plan is the adopted Merton Unitary Development Plan (UDP). Policies which I consider particularly relevant in this appeal are those concerned with

protecting areas of Metropolitan Open Land (MOL) and Conservation Areas (CAs) from development on adjacent land that could affect their visual amenity and setting, that concerned with the ecological value of rear gardens, and more general policies concerning 'good neighbourliness' in terms of preserving privacy, not creating undue noise and disturbance, and relating new developments to their surroundings in terms of matters such as density, scale and general character. I do not consider that the appeal scheme falls into the category of 'high buildings' as envisaged in policy EB21, and whilst I take account of highway safety as an issue, the policies quoted are in my view so general as to be of little relevance.

5. On the first main issue the allotments which constitute those parts of the MOL and CA to the east and north of the appeal site are well used and contain the type of activities and structures typical of such a use. Access is restricted to tenants of the plots. From public viewpoints in Cambridge Road on the southern boundary, and from within the allotments, views of the houses on the west side, including the appeal site, are softened by hedges and mature trees to a greater extent than views of the houses on the east side in Oakwood Road. The hedging around the appeal site, and the mature trees which rise above, would remain in the scheme before me, but the profile of buildings seen above and through the vegetation would be different.

6. The height of the buildings would be similar to that of houses in Coombe Lane and on my calculations the density in terms of dwellings per hectare would also be similar. The proportion of the site covered by buildings would be considerably greater than occurs at present but the siting of the proposed angled terrace of 6 houses would, I consider, tend to lessen this effect from many viewpoints, either across the MOL/CA from outside or from within. I am not therefore convinced that the scheme would have a significant effect on the visual amenity and setting of the MOL/CA contrary to the development plan, and I conclude on the first main issue that it would not harm the character or appearance of the surrounding suburban locality.

7. On the second main issue the existing access to the site would be widened for much of its length to 4.1m. This width allows cars to pass each other with care and is considered suitable for upto 20 houses. Vision along the access is good and to my mind this itself would preclude any significant occurrence of wider vehicles having to reverse back onto the public highway at the junction of Coombe Lane and Cambridge Road to let other vehicles emerge. In addition the size of the combined 'bellmouth' with the access to the bungalow No 260 should mean that if reversing is necessary, it can be done without intrusion into the highway carriageway.

8. However part of the 'bellmouth' is within the ownership of No 260, and the occupier says she would erect a fence along the ownership boundary to indicate the true size of the available access. Restriction of rights of access and visibility splays by such an action would in my view have a serious effect on highway safety given the more frequent use of the access by six houses as opposed to one, and the even greater likelihood of vehicles meeting each other in the vicinity of the 'bellmouth'. I have noted what has been said about prescriptive rights but I am not convinced that the situation is so settled as to present no prospect of interruption of what I consider needs to be a totally unimpeded access. Suggested model conditions 17 and 18 from Circular 11/95, and the Council's suggested condition 14 on submission of visibility splays for approval, are in my opinion inappropriate to secure access

and visibility over another person's land, and there seems no prospect of an agreement to secure this. In this state of uncertainty I do not believe it would be in the interests of highway safety to allow the scheme to proceed.

9. Turning to the third main issue the site is not within or adjoining any defined site of nature conservation interest. Although the development plan recognises the potential importance of back garden areas and of Metropolitan Open Land, Planning Policy Guidance Note 9 on Nature Conservation, para 18, indicates that local planning authorities, in defining local sites, should take care to avoid unnecessary constraints on development. The site contains evidence of being used as part of the foraging range of badgers, a protected species. The nearest known sett is about 500m away, in the grounds of Atkinson Morley's Hospital beyond the northern boundary of the allotments. The evidence for badgers was not apparent on the first inspection of the London Ecology Unit in August 1997 and I gained the impression that there had not been a badger presence in the period immediately preceding my visit. Whilst construction of the development would disturb this part of a badger foraging area and the completed development would provide a smaller area of badger friendly surfaces, I am not convinced that badger visits are so frequent or that the site is so important in an extensive foraging area that the scheme would harm badgers, either directly or indirectly. I conclude on the third main issue that although there would be some changes as a result of the development, they would not be such as to harm nature conservation interests.

10. I turn now to the last main issue, which in my view relates mainly to the domestic enjoyment of the bungalow No. 260 by its occupiers. There would be increased levels of activity and changed outlooks as far as the occupiers of houses directly backing the site are concerned, but not in my opinion to a harmful degree. The Council's standards regarding visual intrusion, loss of light and overlooking would be met.

11. In the case of No 260, its front door faces eastwards towards the site access, as do two adjoining picture windows, one of which is only five feet (1.5m) from the boundary. The boundary at this point is a low chain link fence, providing an open aspect around the front door and also allowing views of the planted verge of the present 2.8m wide access to the appeal property. No 260 has a very small triangular shaped back garden, separated from the access by a 1.6m high close boarded fence. It seems to me that the present arrangement, with traffic from only one dwelling passing close to No 260, represents an acceptable compromise between security, privacy, outlook and vehicle noise disturbance.

12. In my opinion the development of six dwellings in place of one would result in a substantial increase in vehicle movements and associated noise and disturbance close to the relatively quiet and secluded east elevation of No 260, even if the access were not required to be widened to provide a tarmac surface right up to the common boundary. I appreciate that the site owners could at any time replace the chain link fencing by 2m close boarding, that no-one has a right to a view, and that there could be a security advantage to occupiers of No 260. However I do not consider that these factors and the limited degree of sound protection that might be afforded by any form of boundary treatment would in any significant way compensate for the increased noise and disturbance which would be suffered by occupiers of No 260.

13. I conclude on the last issue that although the privacy could be preserved, the increased noise and disturbance from passing vehicles would harm the living conditions of the adjoining

occupier of No 260. In my view this harm to an interest of acknowledged importance is sufficient to warrant rejecting the scheme despite my conclusions on the first and third issues. My findings on the highway safety issue strengthen my conclusion about the unacceptability of the development.

14. I have taken account of all other matters put to me including other appeal decisions, the original recommendation to the Council and local concern about traffic problems at the Coombe Lane/Cambridge Road junction in peak hours but none in my opinion carries sufficient weight to alter my conclusions on the main issues.

15. For the above reasons and in exercise of the powers transferred to me, I hereby dismiss this appeal.

Yours faithfully

*M. J Thomson*

M J THOMSON BA (Hons) DipTP  
Inspector