



Appeal Decision

Site visit made on 4 July 2012

by Gary Deane BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 July 2012

Appeal Ref: APP/T5720/A/12/2174109

3-5 Dorien Road, London SW20 8EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Hatch Homes Limited against the decision of the Council of the London Borough of Merton.
 - The application Ref 11/P2220, dated 9 August 2011, was refused by notice dated 23 December 2011.
 - The development proposed is demolition of the existing business/light industrial building and the erection of a building comprising 9 apartments.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The appellant has submitted a Planning Obligation in the form of a Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990, as amended. The UU, dated 21 June 2012, includes a payment towards off-site affordable housing provision. The UU is complete and has been placed before the Council as an appeal document. It seeks to address the Council's third reason for refusal. Following a recent review of the demand and supply of school places, the Council no longer seeks a financial contribution towards education facilities in this case. The absence of a commitment by the appellant to make this payment forms part of the Council's fourth reason for refusal.
3. The appellant has submitted an additional drawing, Ref 0214-PL-102-B, which denotes the correct floor areas of the proposed second floor apartments. As this drawing corrects a discrepancy, and shows no other changes to the appeal scheme, I am satisfied that no injustice would be caused if I were to consider it in my assessment of the proposal.

Main issues

4. The main issues are the effect of the proposed development, firstly, on the character and appearance of the local area; secondly, on the living conditions of its future occupiers with regard to private amenity space and internal living accommodation, and on the occupiers of nearby residential properties with reference to outlook and visual impact; and thirdly, on highway safety primarily for users of Dorien Road.
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Reasons

Character and Appearance

5. The site lies in an area of mixed character with rows of predominantly 2-storey residential terraces along roads leading off the south side of Kingston Road, including Dorien Road. The simple design and consistent built form of these terraces gives the local area a broad uniformity and a rhythm to existing development, which positively contributes to its character and appearance. To the north, is a mix of commercial and residential properties that front Kingston Road. The proposal is a 3-storey building, comprising 9 self-contained flats, which would replace the derelict section of a commercial building that partly occupies the site.
6. The proposal has been carefully designed to reflect the general height and building line of adjacent properties, with elements such as the mansard roof taking a cue from a nearby building. Given the site's location between the rear of properties that front Kingston Road, the retained part of the commercial building on the site, and the residential terraces of Dorien Road, the proposal also takes the opportunity to add some variety in built form to the local street scene. Furthermore, the projecting front gables would visually 'break up' the scale and mass of the new building.
7. Nevertheless, the appeal scheme would be considerable in depth and include in its front elevation, four dormer roof extensions, windows of several different sizes and positions, a glazed roof entrance feature, and in both projecting gables, full-length windows at all three levels, with glazed balustrades above the ground floor. From what I saw, these features were generally unfamiliar characteristics of nearby buildings. In addition, the proposed gables with their pattern of fenestration would be strident features in the local street scene. Furthermore, while the outer sections of the proposed front elevation take into account the contrasting scale and mass of the existing built form on either side of the site, I agree with the Council that they would appear out of balance and proportion with the central part of the new building's façade.
8. For these reasons, the proposal would be uneasy on the eye and obtrusive in the local street scene. It would markedly contrast with the general rhythm and broad consistency established by the regular built form, roof profile and simple pattern of fenestration particularly in the Dorien Road residential terraces. In reaching this conclusion, I acknowledge that the proposal would replace part of the existing derelict building and the adjacent hard surfaced area, both of which contribute little positively to the appearance of the locality. However, this is insufficient justification to allow a development that, in my opinion, would be an unwelcome addition.
9. The National Planning Policy Framework (the Framework) encourages developers to reuse employment land and to optimise the potential of sites for development. However, it also advises that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area. As that would be the case with the proposal before me, the balance of national guidance does not support the appeal scheme.

10. Against that background, I conclude that the proposed development would not be in keeping with the character and appearance of the local area, in conflict with Policies BE.16 and BE.22 of the London Borough of Merton Unitary Development Plan (UDP), Policies 3.5 and 7.6 of the London Plan (LP), and Policy CS 14 of the Council's Local Development Framework Core Planning Strategy (CPS). These policies broadly seek to ensure that new development achieves a high standard of design, reinforces local distinctiveness, and respects the character of the local area.

Living Conditions

11. The private amenity space (PAS) to serve occupiers of the appeal scheme would be mainly located at the rear of the new building. It would be modest in size and largely enclosed by tall walls. As a result, the outlook from within this space would be limited. Due to its position relative to the new building and those nearby, natural light penetration to the proposed PAS would be poor. In combination, these characteristics would significantly diminish the value of the proposed PAS to users as attractive and useable external space. That is primarily because the PAS would be uninviting even though its location would offer some privacy away from the street. Whether or not the amount of proposed PAS achieves the Council's minimum standards or those set out in strategic policy guidance, its overall quality and attractiveness would not achieve a satisfactory standard for future occupiers.
12. Some of the proposed apartments would be small, but all would meet the LP's minimum internal space standards. Although some new apartments would be single aspect, none of these units would be north facing and their open plan arrangement would provide some flexibility in the use of the internal living space. In this respect, the proposal would provide satisfactory living conditions for its future occupiers.
13. With regard to nearby properties, the proposal would introduce a substantial built form that would be much larger, higher and bulkier than the existing building on site. In particular, there would be a tall blank 3-storey wall close to the rear of 544 and 546 Kingston Road. The separation distance between this wall and the habitable room windows of No 544 would be modest and fall short the Council's minimum standard contained in its Supplementary Planning Guidance Note, *New Residential Development* (SPG). Given its scale, height and close position, this part of the appeal scheme would visually dominate the outlook from the rear of No 544 and be overbearing to its occupiers. The loss of sunlight to these south-facing windows due to the effect of overshadowing from the new built form would exacerbate this visual impact.
14. The upper part of the proposed building would also be evident when viewed from the rear of properties that front Edna Road, beyond the rear of the site. The separation distance between the new rear elevation and the boundary of these properties would also fall short of the Council's SPG standards. However, the upper section of the new building, with its mansard roof, would slope away from these properties and there would be a reasonable gap between the rear elevations of the existing and proposed development. On balance, the effect of the proposal would not be so great as to significantly harm the outlook from or noticeably reduce the light reaching to these properties.

15. Nevertheless, I conclude that the proposed development would fail to provide satisfactory living conditions for its future occupiers and would materially harm the occupiers of No 544, in conflict with UDP Policies HS.1, BE.15 and BE.22, LP Policy 3.5, and CPS Policy 14. An underlying aim of these policies is to safeguard residential amenity.

Highway Safety

16. I do not doubt the concerns expressed by the Council and third parties about the problems that could arise from increased demand for on-street vehicle parking in the vicinity of the site. However, there is little detailed evidence before me to support the assertion that the proposal would unduly add to these problems. From what I saw, Dorien Road and nearby streets were well used for vehicle parking, and I note that the site lies just outside a controlled parking zone, and therefore may be subject to overspill parking. Nevertheless, there is no compelling evidence to indicate consistently high levels of on street parking close to the site nor did I see any examples of motorists parking inconsiderately, illegally or obstructively and thereby causing a safety hazard to other road users or hindering the efficient use of the highway.
17. Although no off street vehicle parking is proposed, the site is highly accessible by public transport and so not all future occupiers of the appeal scheme would necessarily be car users. While the proposal may result in the loss of parking space on site that would otherwise serve the commercial premises, there is nothing to indicate that there is insufficient capacity on nearby roads to meet the demand for parking generated by the use of the retained building. Servicing and deliveries to the commercial premises would take place from Dorien Road and the arrangements for refuse storage and service deliveries to the appeal scheme could be subject to a condition.
18. In summary, the proposal would not cause material harm to highway safety, hinder the efficient use of nearby roads, unduly obstruct traffic along Dorien Road, nor unacceptably add to local parking problems. I therefore find that the proposal would not conflict with CPS Policy CS 20, which aims, amongst other things, to protect highway safety. My findings on this matter do not outweigh the harm that I have identified in relation to the first and second main issues.

Planning obligation

19. The Council seeks financial contributions towards open space and sustainable transport improvements, based on the its Supplementary Planning Document, *Planning Obligations*, (SPD) which supports UDP Policies L.8 and L.9, and CPS Policies CS 8 and CS 14. The requirement to make these payments has been challenged and no planning obligation dealing with these particular matters has been submitted. No contribution is now sought towards education.
20. With regard to open space, a contribution is sought to reflect the extra demand placed on local facilities as a result of the proposal with reference made to the renovation of a sports pavilion and improvements to sports pitch drainage at the Joseph Hood Recreation Ground. However, there is no detail of exactly how the proposal would bring about the need to improve these facilities or any indication whether the site falls within an area of open space deficiency, to which UDP Policy L.8 refers.

21. The Council also seeks a contribution towards sustainable transport measures, reflecting guidance in the SPD. However, there is no detailed evidence to demonstrate the specific impact of the proposal on existing transport infrastructure nor has the Council identified any deficiencies close to the site. Moreover, there is no reference to proposals for related improvements to which the contribution would be directed. As I have not been provided with sufficient information to enable me to establish whether these contributions would meet the three statutory tests set out in Regulation 122 of the *Community Infrastructure Levy Regulations 2010*, (R122) I am unable to take them into account.
22. With regard to the submitted UU, this is complete and includes a payment towards off-site affordable housing provision. The obligation appears to be acceptable to the Council, which has provided the necessary justification for me to be satisfied that the obligation meets the statutory tests of R122. I therefore find no conflict with CPS Policy CS 8, which seeks to ensure that an element of affordable housing is provided in residential schemes taking into account local circumstances. That this obligation resolves the Council's third reason for refusal does not outweigh the harm that I have identified.

Other matters

23. Interested parties raise several additional objections to the proposal including the relationship with the remaining commercial building, privacy, security, density of development, noise, and light reaching the rear outdoor space of adjacent properties, and potential disturbance during construction. These matters are important and I have considered all of the evidence before me. However, given my findings in relation to the first and second main issues, these are not matters on which my decision has turned.

Conclusion

24. I have had regard to all other matters raised, including the intention to use energy efficient materials and sustainable methods of construction. However, these are insufficient to outweigh the harm that I have identified. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR

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