

**Merton Council**  
**Development and Planning**  
**Applications Committee**  
**15 February 2024**  
**Supplementary agenda**

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## **Planning Applications Committee**

**15th February 2024**

## **Supplementary Agenda**

## **Modifications Sheet.**

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### **ITEM 5 (1 LAMBOURNE AVENUE, WIMBLEDON PARK, LONDON, SW19 7DW)**

#### **Amended plans**

On 02/02/24 an amended proposed section was submitted (as requested by planning officers) to ensure at least 75 per cent of the Gross Internal Area of the proposed dwelling achieved an internal ceiling height of 2.5m in order to comply with the Space Standards set out in Policy D6 of the London Plan. This has not resulted in a change or increase in the overall external height of the proposed dwelling.

On 02/02/24 an amended proposed site plan was submitted (as requested by planning officers) to ensure the correct scale 1:200/1:400 was shown on this proposed plan.

#### **Consultation (Page 7)**

2 x further representations received:

- Deeply concerned about the demolition setting free hazardous material in particular asbestos. The owners of no 6 have now discovered that the kitchen flooring under the floorboards contain asbestos, with further investigations into the rest of the house underway.
- In order to make sure all necessary conditions are in place to protect our health and safety set free by the demolition of no1.
- Just writing to express our concerns as we understand there is a high risk of asbestos in this dilapidated building which has not had any renovations or work in about 40 years or more. We need assurances that I the building is being demolished the highest possible care is taken about the suspected asbestos

Planning officer's response: The safe removal of asbestos is not a planning or Building Control issue but is the responsibility of builders and waste carriers to ensure it is removed safely. This is known as a 'Duty of Care'. More information can be found here: <https://www.gov.uk/dispose-hazardous-waste/producers-and-holders>

## Conditions (Page 20)

Remove Condition 17.

### **Councillors questions from technical Briefing:**

**Q.** Is the hardstanding at the front for driveway to be permeable? (we need it to be and so we can condition it in any event).

**A.** With respect to hard standing we have recommended landscaping conditions seeking the final details at conditions 12 and 13.

We can also add the following informative:

*All hardstanding needs to be constructed from permeable materials. Advice regarding permeable and porous hardstandings can be found in the document 'Guidance on the Permeable Surfacing of Front Gardens' available at <http://www.communities.gov.uk/publications/planningandbuilding/pavingfrontgardens>*

**Q.** Is there a dedicated area for cycle parking and refuse storage? If not, then we can condition the details.

**A.** The architect has not specified a location for proposed bike storage but it is anticipated there is sufficient space for dedicated bike and bin storage at the front of the site or in the proposed garage area. As such we have recommended conditions 7 and 16.

**Q.** Are Air Source Heat Pumps proposed? If so, we need a condition which seeks the details and location of these.

**A.** The architect has stated in their Air Quality Statement that they intend to use an air source heat pump. They have not specified on proposed plans where this would be located, but it is anticipated that there is sufficient space at the front, rear or side of the house to facilitate this. As such we have recommended condition 21.

**Q:** Looking at the summary of objections, ref 5.2 refers to a design that technically no longer exists. Have improvements already been made based on representations?

**A:** The consultation was readministered and there were no further responses received. Representations, neighbour comments and feedback from planning officers have influenced the changes made to the scheme.

**Q:** If a tree is on private land, can it be cut down even with a TPO and if so, would a TPO need consent from the landowner?

**A:** Trees are protecting within conservation areas and if there is a TPO in place, TPO's can be issued to a householder without their consent. Small trees are not

protected but mature trees are. Officers have negotiated with the applicant for the mature trees not to be removed on this application. The applicant has brought the scheme further back to accommodate.

**Q:** Due to the size of the development, there is likely to be a large number of cars but there is only one garage and two parking spaces. If this development in a CPZ and where are the cars expected to be parked?

**A:** The application is essentially replacing one family dwelling with another. For parking there is a garage and spaces for two to three cars on the side. The PTAL is far away from public transport and part of the road is in a CPZ. As the London Plan is encouraging a move away from parking, officers believe that space for two to three cars is acceptable.

**Q:** What are the agreed times of construction?

**A:** As the scheme does not have a basement proposed, officers would look for regular hours and days of construction.

**Q:** In the pass there have been ongoing issues with the use of air source heat pumps. Are there any reassurance that lessons learnt have been incorporated in this application.

**A:** Officer will condition further details of where they are to be cited and inform members.

**Q:** Does the run off go down to the ground as per our request?

**A:** It is a permeable hard standing at the front, officers will check and inform members.

**Q:** As all bedrooms will have an ensuite, is it possible that this could become an HMO in the future without having to get permission?

**A:** They would have permitted development rights to use this as an HMO as the occupancy will be up to six. Officers would not usually remove permitted development rights unless there were exceptional circumstances. It is worth noting that a similar property nearby did not have permitted development rights removed. There would have to be a specific condition which was based on planning reasons for example, issues with parking, refuse, cycle etc. Such reasons would need to be very specific.

**Q:** Would it be possible to add a condition at this stage that set out certain requirements if the property was to ever become an HMO?

**A:** No, they could not add a condition based on potential future use.

## **ITEM 6 (SOVEREIGN HOUSE, 1 DRAXMONT, WIMBLEDON, SW19 7PG)**

**Consultation (Page 46)**

Modification to representations. 12.02.2024

Additional representation received from Flat 17 Sovereign House:-

- Primary affected window serves a living room not a bedroom
- Proposal more extensive than extensions at Flat 17
- The wall between the flats tapers downwards towards the edge of the building

### **Additional supporting information**

Modification to Daylight and sunlight evidence 14.02.2024.

The Applicant has submitted a letter from the Daylight and Sunlight consultants, Foot Anstey, dated 13 February 2024 which clarifies and expands on the impact to the neighbouring unit. In summary;-

17 Sovereign House will experience some very small reductions in daylight and sunlight as a result of the proposed development but reductions will be well within the BRE's guideline values. The reductions are considered marginal by officers and well within the bounds of acceptability.

### **Councillors questions from technical Briefing:**

**Q:** Have officers reviewed and considered the potential light penetration to the overall local area?

**A:** The development is of a contemporary design with lots of glass but is set back with minimal impact.

**Q:** Are there any changes that could be made to improve the ecology benefit?

**A:** Will review further and let members know.

**Q:** Is this application coming to committee due to the number of complaints?

**A:** It is coming to committee due to the number of objections raised.

## **ITEM 7 (153 LINKS ROAD, TOOTING, SW17 9EW)**

### **Approved Drawings Condition**

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Approved drawing condition updated as follows (note new drawing LIN TA XX XX DR A 520001 P07 which demonstrates the internal refuse arrangements which comprises

3no. bins included in the kitchen (80L shown - Height: 965 mm Width: 460 mm Depth: 355 mm).

### Updated condition 2

Site location plan and drawings LIN TA XX XX DR A 520001 P07, LIN-TA-XX-XX-DR-A-301002 P01 & LIN-TA-XX-XX-DR-A-520999 P11 and Document BDS Cycle Shelter - 6/8 Space Cycle Shelter & Bike Stands (Mini)



### **Refusal Reasons – 22/P1990**

#### Page 73

Members of the planning committee refused application 22/P1990 on 16<sup>th</sup> March 2023 for the following reason:

The proposed House in Multiple Occupation by reason of design, layout and quantum of occupancy is considered to represent a poorly designed overdevelopment of the site resulting in unacceptable impacts in terms of poor quality living conditions & amenity for future occupiers and waste management arrangements contrary to London Plan 2021 Policy H9, Merton Sites and Policies Plan 2014 policy DM D2 and Merton Core Strategy 2011 policy CS17.

The refusal relates solely to the following matters:

- Poor quality living conditions
- Amenity for future occupiers
- Waste management arrangements

The refused decision was appealed, with the planning inspector making their decision on the 15<sup>th</sup> October 2023 (only dismissed on the fact that a completed legal agreement was not provided as part of the appeal process).

Each of the Council reasons for refusal as set out above were considered and deemed to be acceptable by the inspector. As set out in paragraph 7.1 (pages 76 – 79) officers have sited the inspectors' conclusion and officers' have provided a response in relation to each point raised (addressing the reasons for refusal).

As set out in the inspector's decision (extract below), the inspector was aware of the Article 4 Direction at the time of the appeal:

#### Preliminary Matters

2. Since the planning application the subject of this appeal was refused, a planning application for a 6 resident HMO has been granted (Ref 23/P0237). This was necessary as the area is covered by an Article 4 direction removing permitted development rights for the conversion of homes (Use Class C3) to small Houses in Multiple Occupation (Use Class C4).

Officer comment – Since the appeal decision, there has been no material change in planning policy or the context of the site for officers to take a different conclusion to that expressed by the planning inspector, which is now a very strong material planning consideration.

#### **Updated Data on HMO's**

##### Page 81

##### Housing Stock Condition and Stressors Report September 2022

Updated information relating to HMO stock in Merton. Following on from the Housing Strategy Appendix 2007 for Merton.

Extract from report Housing Stock Condition and Stressors Report September 2022

“The Private Rented Sector: Housing Stock Condition and Stressors Report September 2022 was undertaken to review housing stock in the borough and assess housing stressors related to key tenures, particularly the private rented sector.

The report found that Private Rented Sector accommodation is an increasingly large form of accommodation and Merton's PRS has grown considerably in recent years, from 24.8% (2011) to 34% (2022). There are a total of 85,767 residential dwellings in Merton, 34% (29,181) of which are PRS, 53% owner occupied (45,331) and 13% social rented (11,255).

In Graveney Ward 40.9% of properties are in this sector but this is not necessarily an indication of deprivation as Village Ward has 43.1% whilst Hillside Ward has the highest percentage with 46.9% compared to a borough average of 34%.



The report found that, statistically, as a ward Graveney suffered from a number of negative housing trends;

- i) PRS properties with serious hazards are distributed across the borough. Graveney (468), Raynes Park (451) and Hillside (435) have the highest number of properties with at least one Category 1 hazard.
- ii) The total number of predicted HMOs (s254) across 20 wards is 1,774 properties and Graveney has the highest concentration of HMOs (235).
- iii) Graveney has the highest number of tenant complaints regarding the quality of accommodation
- iv) HMO accommodation has more than twice the number of Anti-Social Behaviour incident reports than all the other residential types combined and Graveney (272) has the highest levels and Lower Morden (71) has the lowest numbers of PRS ASB incidents. However the numbers may be high because of the total number of properties as in terms of percentage per 100 units HMO ASB incidence rates range between 84 per 100 (Village) and 12 per 100 (West Barnes)".

However, members are advised that whilst statistics can reinforce preconceptions each application must be considered on its own merits and each site has its own particular circumstances. This proposal site has been finished to a very high standard (as witnessed during the case officers site visit) and is a good example of HMO accommodation which provides a valuable source of housing for many people.

### **Proximity of other HMO's**

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Point iv

This HMO would be the 7<sup>th</sup> (as of Oct 23 when most up to date list compiled) and not the 6<sup>th</sup> HMO on Links Road. A plan showing the four HMOs in the immediate vicinity of the application site is provided below.



Map above shows application site (highlighted with black square) and 4 registered HMO properties close to the site (highlighted with red dot)

### **Houses in Multiple Occupation Planning Guidance Supplementary Planning Document 2023**

Merton is in the process of providing a design guide on HMO accommodation. The SDP is still at consultation stage and is not a formally adopted document, however the following extracts are considered to be useful for members information.

“The purpose of the SPD is to set out planning guidance which applies across the whole borough of Merton which guides both planning applications for HMOs and new HMOs that do not require planning permission.

The document is intended to ensure that landowners, decision makers, agents, residents and other interested parties can gain further detail on how Merton’s Local Plan policies apply to new HMOs across the whole borough. The guidance helps explain what is likely to be permitted, following submission of a planning application, and also to provide guidance for applications that do not require planning permission. It does not introduce new planning policies.

#### **The Sandwich Test (paragraph 6.3 – 6.4)**

The Sandwich Test 6.3 Where C3 residential properties are sandwiched between two HMOs, issues commonly associated with HMOs regarding disturbance and impact on amenity can be intensified. This test ensures there is a balance of dwellings and prevents the potential for negative impacts upon

existing dwellings. Planning permission would not be granted where the introduction of a new HMO would result in an existing residential property (C3) being sandwiched by any adjoining HMOs on both sides. 6.4 The diagrams below indicate how this principle would be applied



In the example above the proposed HMO (at number 22) would result in a neighbouring non-HMO property (number 20) being sandwiched between two HMOs. This would not be acceptable.



In the example above the proposed HMO (at number 18) would not result in a non-HMO property being directly sandwiched between two HMOs. This would be acceptable in principle.



In the example above the proposed HMO would result in a row of three HMOs. This would not be acceptable.



In the example above, whilst the proposed HMO (at number 28) would result in a row of three consecutive HMOs, the property is sandwiched between two existing HMOs. It is considered that allowing this property to convert to a HMO would solve an existing problem of a single home being sandwiched between two HMOs. [This would be acceptable in principle.](#)

## Minimum Space Standards

Table 1 - Internal Room Size Standards

Room Type	Number of Occupants	Size
Single Room Lettings Where Cooking and Washing Facilities Are Situated in the Room	1 Person	13m <sup>2</sup> or more
	2 Persons	20.5m <sup>2</sup> or more
Single Room Lettings with Shared Kitchen	1 Person	10.22m <sup>2</sup> or more
	2 Person	15m <sup>2</sup> or more
Single Room Lettings with Shared Kitchen and a Shared Living/ Dining Room	Kitchen	3m <sup>2</sup> per person
	1 Person	7.5m <sup>2</sup> or more
	2 Person	10.22m <sup>2</sup> or more
Two Room Lettings Comprising Combined Living/ Bedroom and Separate Kitchen (not Shared)	1 Person	16.22m <sup>2</sup> or more for living/ bedroom 4.5m <sup>2</sup> or more for kitchen
	2 Persons	15m <sup>2</sup> or more for living/ bedroom 7m <sup>2</sup> or more kitchen
Greater Than Two Room Lettings (not Shared)	Each Bedroom	7.5m <sup>2</sup> or more (1 person) 16.22m <sup>2</sup> or more (2 persons)
	Each Kitchen	4.5m <sup>2</sup> or more (1 person)
	Each Additional Room	7.5m <sup>2</sup> or more (1 person)

\* The requirements for a 1-person room to achieve 7.5m<sup>2</sup> is in accordance with London Plan policy 02 (2020). This standard is higher than that outlined in the Merton Licensing standards document. All standards should be viewed as a minimum and applicants should look to exceed them.

### Proposed Internal Standards

Room	Square meter	Complies with SPD
Bedroom 1	12.1sqm	Yes
Bedroom 2	11.9sqm	Yes
Bedroom 3	10.5sqm	Yes
Bedroom 4	9.1sqm	Yes
Bedroom 5	9.1sqm	Yes
Bedroom 6	11.4sqm	Yes
Bedroom 7	9.3sqm	Yes
Kitchen/dinner	21sqm	Yes
Living Room	12sqm	Yes

Officer comment – as set out above, the proposed 7 bedroom, 7 person HMO would not result in a sandwich affect, officers do not consider that there is an over concentration of HMO's in the area and the HMO offers a good standard of accommodation with all rooms exceeding minimum space standards.

### **Councillors questions from technical Briefing:**

**Q:** On page 81 it mentioned that smaller HMO's do not need to be registered. The information provided was from 2007, is this the most up to date information that we have?

**A:** HMO's in this ward need to be registered now. Updated information from 2022 about HMO's in the Borough provided above.

**Q:** As time has moved on since the last application, is it possible to include new conditions or to refuse the application based on different reasons?

**A:** An inspector would look at the application in its entirety and would only test the evidence in respect of reasons for refusal. If a new reason for refusal was given, it would have to be supported by new evidence.

As set out above, there has been no material change in planning policy or the context of the site for officers to take a different conclusion to that expressed by the planning inspector, which is now a very strong material planning consideration

**Q:** What weight does the current article 4 carry?

**A:** The Article 4 does not prevent HMO's, it simply allows the Council to consider the appropriateness of all HMO accommodation via a planning application. Officers consider that the proposed 7 bedroom, 7 person HMO would not result in a sandwich affect, officers do not consider that there is an over concentration of HMO's in the area and the HMO offers a good standard of accommodation with all rooms exceeding minimum space standards

**Q:** When the six bedroom application was previously approved, was this permit free or does this just apply to the new application?

**A:** The 6 person HMO was not subject of a permit free requirement. At the time of the application, it would have been considered unreasonable (and potential compensation claim for costs) to impose that restriction given that prior to the Article 4, that would not have been a requirement.

**Q:** Is there a threshold when considering potential over concentration of HMO's, including any that are illegal?

**A:** There is no threshold (other than sandwich affect) to measure this by, however as set out above, this would be the 7<sup>th</sup> HMO in Links Road (so the majority of properties would remain as flats or single houses), only 4 other HMO's within close proximity of the site and the proposal would not result in a sandwich affect. The situation locally, is not materially different to the time of the appeal decision in officers' opinion.

**Q:** Would Councillor feedback on HMO's, including illegal HMO's, be used as prove of overconcentration considering their knowledge of local areas?

**A:** All feedback from Councillors would be welcomed and can be investigated by the Councils planning enforcement team if there are breaches of planning controls. Note – all HMO's in this ward need to have a licence (outside the planning process).

**Q:** Was the signed undertaking referenced due to parking?

**A:** Yes, the legal agreement would have mitigated impact from the development on parking in the area. The applicant has provided a signed and completed legal agreement with the application to cover this point.

**Q:** When referencing waste in the report, internal storage was not mentioned. Can we get clarification on the arrangements?

**A:** Generally, waste relates to external waste provision, however the plan has been updated to show internal waste facilities.

**Q:** Are we assured that the sandwich test has been passed?

**A:** Yes, see above. Case officer also visited the site recently to see if there was any evidence that the neighbouring property might be an HMO (no evidence seen).

## **ITEM - 8 PLANNING APPEAL DECISIONS**

No mods

## **ITEM 9 - PLANNING ENFORCEMENT**

No mods

