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DEVELOPMENT AND PLANNING APPLICATIONS COMMITTEE

14 MARCH 2024
(7.23 pm - 11.00 pm)

PRESENT Councillors Councillor Aidan Mundy (in the Chair), Councillor Matthew Willis, Councillor Michael Butcher, Councillor Edward Foley, Councillor Simon McGrath, Councillor Dan Johnston, Councillor Martin Whelton, Councillor Sheri-Ann Bhim, Councillor Billy Hayes, Councillor Thomas Barlow

ALSO PRESENT Jonathan Berry (Head of Development Management and Building Control), Tara Butler (Deputy Head of Future Merton), Eben Van Der Westhuizen (Planner), Jayde Watts (Democratic Services Officer)

PRESENT James Felton (Lawyer), Stephen Hill (Planner)
ONLINE

1 APOLOGIES FOR ABSENCE (Agenda Item 1)

No apologies for absence were received.

2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

There were no declarations of interest.

3 MINUTES OF THE PREVIOUS MEETING (Agenda Item 3)

RESOLVED: That the minutes of the meeting held on 15 February 2024 were agreed as an accurate record.

4 TOWN PLANNING APPLICATIONS (Agenda Item 4)

The Committee noted the amendments and modifications to the officer's report. The Chair advised that the agenda would be taken in the published agenda order.

Please note that members of the public, including the applicant or anyone speaking on their behalf, are expressing their own opinions and the Council does not take any responsibility for the accuracy of statements made by them.

5 FLAT 18, SOVEREIGN HOUSE, 1 DRAXMONT, WIMBLEDON, SW19 7PG (Agenda Item 5)

The Chair informed the committee that this item was deferred from the meeting on 15 February 2024 due to further assessment of the late representation on Heritage.

Further assessment took place and officers confirmed that the application could proceed with the previous recommendation for approval.

The Planning Officer presented the report.

The committee received representation from one objector who raised points including:

- Design and materials were impractical and failed to respect the architecture of the building.
- Flat 17 respected the character of the building and went unopposed.
- Not eco friendly, extensive use of south facing glass would require high energy air conditioning.
- Took away light and privacy. The slop gave flat 17 light and a view which this extension would take away.
- The updated light assessment looked wrong.
- The layout was impractical with inaccessible gaps between the extensions and the main building walls. Flat 15 below suffered 3 years of ingress through the gaps. Future repairs would be impossible like they use to be from Flat 17.
- The ingress put flat 18 in breach of their lease; they were asked to fix it before negotiations on new works but they sought permission anyway.
- Concerned about the load aspects and amenity of neighbours.
- They reserved their rights under the lease which allowed them to stop any acts detrimental to the aesthetics, character and structure of the building or property of others.
- Suggested a compromise for the current application to be refused, once the breach in the lease was fixed, they would then provide a revised proposal to residents which addressed concerns. They would then be likely to receive a receptive community response.

The committee received representation from Ward Cllr Hicks who raised points including:

- Flats 17 and 18 were fortunate with a terrace the size of a room. The proposed flank wall would be hard up against the white wall.
- The flat 17 extension had a big window facing onto the terrace to catch the light from over the wall and did not infringe on flat 18.
- Tonight's application was designed to sit hard up against the wall and was considerably taller. If built, flat 17 would not look out of their window to open space and sky. The light would be reduced, and they would lose the sense of openness and seclusion that they had currently.
- The applicant would retain all of their sun and sky whilst taking it away from their neighbour.
- The materials chosen were out of sync of the building.
- A symmetrical extension on the other side of the terrace would suit the building without damaging the amenity of the next door neighbour and was why the application should be rejected.

The committee received representation from Ward Cllr Holden who raised points including:

- Shared concerns raised by residents.
- The application should be refused on design grounds. Design was subjective and although the report suggested that the application brought balance and was acceptable, he argued that this was only an opinion and requested that they considered their comments instead.
- The proposed extension was harmful to the design and outlook of the building and did not bring balance, did not offer an interesting outlook, location was in a prominent position and could be viewed by residents.
- It was harmful to the listed building at 100-102 Wimbledon Hill Road.
- Was not in keeping with the style of the block of flats.
- This property should be locally listed as an example of the style of flats built at the time.
- The property was predominantly brick built with an offset top floor.
- Flat 17 had a remarkably nice design enhancement built on the previous conservatory and used bricks to match the age and appearance of the rest of the building. This work was an enhancement to the building.
- This application used heavy glazing and a protruding roof. The bulk and massing were out of kilter and made Sovereign House worse off.
- The sympathetic approach would have been to mirror flat 17 and been symmetrical, used brick and minimal glazing. This would have made the building look better and not result in building control matter issues and other design layout issues.

The committee received representation from the agent James Latter and the applicant Sue Thompson who raised points including:

- Wanted to create an energy efficient home, enhance the block and improve privacy between flat 17 and 18.
- They wanted to modernise the interior and make the outside space usable all year round.
- Saddened to see objections from residents but realised most were not planning related and were about construction post planning.
- Understood and sympathised that it could be annoying for residents to have another proposal for building works a couple of years after flat 17. They would do everything they could to keep the build time to a minimum and reduce disturbance where possible.
- The high architectural design enhancements as identified by the planning officer, would benefit everyone by increasing the block value and value of each flat. Heating bills and sound for the flats below would be significantly reduced.
- Keen to work with directors to minimise disruption and wanted to discuss plans before applying for planning permission. Since June 2023, they made many formal requests which were refused on every occasion.
- Met with flat 17 to discuss plans, produced daylight studies and altered proposals to take his views into account.
- They proved that there was no planning issue with daylight and sunlight.

- They were concerned with the little privacy on their balcony.
- There was a small leak into flat 15 in February 2021 and another in March 2023. No further leaks were reported, they were not in breach of their lease.
- Approval of the plans would create an energy efficient home, enhance the block and improve the privacy between flat 17 and 18.
- They were not building against the flank wall and moved the extension back on the request of flat 17.
- Since the deferral based on comments from the Conservation Officer, they looked at improving the symmetry to the street elevation by removing the recessed brick panel alongside other amendments.
- The material finish to the roof canopy was also lightened in colour to further reduce contrast to the existing material palette of the existing property.
- Further adjustments were made to reduce impact to the adjoining property, including pulling away from the neighbouring terrace and the removal of ensuite facilities.
- Daylight and sunlight studies concluded minimal impact on the immediate neighbouring terrace.
- Although not a planning consideration, a structural assessment was completed and concluded that the lightweight construction methods could be accommodated by the existing fabric.

In response to questions raised by the committee, Planning Officers advised:

- There was a set back from the flank wall.
- There was an existing wall which divided the two terraces and the proposal was set back from it. There was also the indent to reduce the impact further. It would be difficult to see the vast majority of the extension, it would be visible from some extent above the dividing wall but this would be minimal.
- Daylight and sunlight were formally assessed and confirmed that under BRE standards, there was minimal reduction in light.
- A number of objections raised were not planning issues. Matters of private interest between occupiers such as arrangement by deeds between the leaseholder and freeholder, nuisance and structure of the building were not material considerations. In the case of non-civil matters, it was important for members to not replace the role of building regulations and building control departments. Building control issues were for the next stage if planning permission was granted.
- The wall already existed and sloped away from the building, at which point the extension would be more visible. The extension was set away from the wall to be less visible and why it indents. The wall did slope down and the design responded to this.
- As a matter of planning law, members were required to assess the proposal before them as opposed to a preferred scheme. There was a danger to consider possible negotiations between parties and this was not advisable.
- High quality materials were to be used which provided an interesting contrast to the building.

- There were concerns in regard to plumbing and these matters would be controlled by building regulation. However, the bathroom which caused the issue has been removed.
- Solar panels were proposed and formed part of the scheme so the applicant would be required to implement them. There were no policy grounds to condition solar panels or further energy enhancements for an extension.
- There was no evidence to suggest solar gain resulting from the choice of materials and they would not consider this to be a reason for refusal.

The Chair invited the applicant to respond to clarify details raised within questions from the committee.

The applicant informed the committee of the following:

- Several attempts were made to approach the board but this was initially denied as they were not yet the legal owner. There was then a leak in the terrace and they were told they were in breach of their lease. They have done all that they could to engage and wanted to discuss the application before submission. They also engaged with their next door neighbour and was surprised by their objection. The plans were modified but they could not change the extension to the master bedroom as they would otherwise have to go through the master bedroom to access the patio.
- The thermal performance of the property was covered off by building regulation. They discussed incorporating blinds to control solar gains and the intention was to have solar controlled glazing films. They planned to upgrade the thermal material fabric of new additions and include passive and mechanical ventilation systems to mitigate solar gains.
- They would not use air conditioning.
- Brick etching was their intention.
- Repairs to the terrace were carried out to the areas of concern, with building control approval. The area was currently watertight.

The Chair moved to the vote on the Officers' recommendation with the following additional informatives: Votes For – 9, Against – 0, Abstentions – 1.

INFORMATIVES:

- Sound levels were at an appropriate level.
- Confirmation that there were no leaks.
- Brick etching as intended would proceed.

RESOLVED: That the Committee GRANTED Planning permission subject to conditions.

6 LOCAL PLAN (Agenda Item 6)

Tara Butler presented the report.

The committee received representation from Ward Cllr Neaverson who raised points including:

- At 19 storeys tall Britannia Point dwarfed over the rest of Colliers Wood, Visible as far as Streatham and Sutton, its scale was out of keeping with the local character.
- Considering the needs for homes in London, constructing them on this site was common sense. What was not common sense was building something even taller than the current tower. The original Local Plan agreed with this, but the Planning Inspector now wished to see the height limit removed. Ward Councillors and over 650 residents who signed a petition fundamentally disagreed.
- There should be no building taller in Colliers Wood than the current tower.
- Defining a places character seemed nebulous but was something many believe was precious.
- People wanted to feel part of their community.
- Resident should have reasonable requests listened to, especially when it created a structure that would tower over the community for decades.
- They did not say to building nothing but building something taller than the existing tower would further undermine what makes Colliers Wood special. It would rob homes and the local primary school of sunlight and worsen the wind impact felt around the tower.
- A resident was recently blown down by the winds outside of the tower. No one should feel scared walking around the town centre.
- Decisions at the site mattered, they needed to get things right and encourage developments that enhanced and respected the character and environment of the community.
- An explicit limit on the height of new buildings was an obvious and unambiguous way to support this.

The committee received representation from Ward Cllr Cooper-Marbiah who raised points including:

- Strongly believed it was wrong to close the height restrictions on future buildings.
- Collier Wood was a fantastic place to live, work and learn. There was nowhere quite like Colliers Wood in London.
- Streets were steeped in history, had charming low-rise blocks and housing with its own local heritage which led to a village like centre, giving Colliers Wood a unique community feel loved by residents and visitors.
- The Planning Inspectors proposal to remove the 19 storey clause would rob Colliers Wood of its identity and heritage.
- A further Britannia Point would further worsen the dangerous wind impact felt around the tower by pedestrians and cyclist and would cast shadows on homes, businesses, cafes and shops. This would affect day to day lives and the economy.
- Sustainability and climate change must also be a focus of the committee.

- The close proximity of the Wandle River which, in a floodplain, was also of concern due to the potential impact on neighbouring properties.
- Britannia Point was of out character with the low-rise nature of the neighbourhood. No one would approve such a structure today so why would they allow another 26 storey twin building right next to it.
- It was not just Ward Councillors who felt this way, the local MP and almost 700 residents all vehemently opposed the removal of the clause.
- They were not against increased housing developments but believed the local plan needed to have the right protections in place to ensure responsible developers and a fair, balanced and responsible development plan across the borough.
- Removing the clause that Britannia Point was the pinnacle would encourage wrong developments and developers.

The committee received representation from Ward Cllr Hicks who raised points including:

- Cheered by discussions on appropriate heights but was troubled by heights carrying great weight.
- A charm of Wimbledon was how close to the centre you could find residential streets. The edge of the 24m zone edged onto a garden on a pretty road. Some of such roads were either allocated for 40m buildings or were within the 24m zone.
- Despite the conservation area which was full of listed buildings, restaurants and flats it was within the 24m tall building line and just beside the 40m line.
- The map within the report appeared to contain a conflict as it had a red circle delineating 49m, the amber circle delineating 40m and the black line which had 24m. The 40m circle extended to Tabor Grove which was a quiet residential street. If this could be addressed, it should be.
- It was important to resist anything that would make it harder to say 'no'. There was a push for height in the centre of Wimbledon.
- Tall buildings going onto the residential streets of Hillside should be an amendment we resist.
- Why are we losing the local in local amenity. The word 'local' had been taken out or edited and mere amenity was a more flexible concept which may not be helpful.

The Chair invited Ward Councillor Neaverson to respond to clarify details raised within questions from the committee.

The Ward Councillor informed the committee of the following:

- At one site, what they were potentially looking was far above what they should be considering anywhere in the area. No height limit allowed for all manners of developments.
- It was vital for limits which would help local residents understand what was possible and gave clear guidance to developers.
- Issues from the current site were well documented but this was about not allowing a site to massively tower over what was there currently.

In response to questions raised by the committee, Officers advised:

- Consultants were currently working on drafting the walking, cycling and curb side strategy. It is the intention that this will be ready in time.
- Changes to the Biodiversity and Access to Nature Policy were as follows:
 - Section D: Introduction of the 10% statutory requirement for major and smaller sites. The 10m buffer came from environment agency legislation and would be applied where feasible.
 - Section F: Address the deficiency of access to nature and included all major developments.
- Policy 15.10 tried to strike a balance between the fact that there were often plants or it could be lift shafts, boilers, heat pumps and a variety of different things. It would often be found with commercial properties with extractor fans which could be aggravating for residents when not sited well, hence the reference to impact to living conditions and amenity.
- Paragraph 15.3.19 referred to a number of protected species and particularly emphasised swift bricks. Two types of guidance on swift bricks were referenced and they already received a response to the consultation from Wimbledon Swifts who advised for one of the references to be updated to a particular British standard, which was appropriate to do, and to change the link to the Swift Conservation Group to another organisation which met British standards. The response from the Wimbledon Swifts would be circulated to members and published online.
- In April 2023, the Inspectors shared their views on particular sites. During this time there were many changes to national policy and the government introduced requirements for a National Design Guide and National Model Design Codes. The Inspectors also included the requirement that for sites that are suitable for tall buildings, either the Council or the applicant should prepare a design guide or a design code. It was added quite late, but this was because it came into national policy quite late. Reference the proposed new paragraph below 12.1.5 provided wording.
- Decisions should be made based on the adopted policy at the time of determination and this policy is not yet adopted. As a plan goes through the examination stage and gathers material weight it becomes a material consideration, however, advice from legal on unresolved issues is to give limited weight to such issues. Building height could be considered as a material consideration for a planning decision but you may consider it to have limited weight until the plan is adopted. Moderate or significant weight would not usually be given until the inspectors report has been published.
- Government introduced a proposal to ensure Local Plans took 30 months from start to finish.
- Members had discretion to make decisions contrary to policy if material considerations indicated otherwise. The GLA advised that instead of stating a 'maximum' height, it should be 'appropriate' height to give members discretion.
- GLA letters were online, but officers could send links to copies as requested.
- Any discussion around building heights in London was tied inextricably to housing delivery. The lower the housing land supply the greater the risk of

going to appeal on height. The two factors needed balancing against each other. To limit height on a taller building site, there would need to be a good level of housing delivery elsewhere across the borough.

- D12.2 paragraph S did not go into specific detail such as EV, but it was mentioned extensively in the Transport chapter. This section emphasised the location, scale, setting and layout of the site.
- D12.2 point B was moved as opposed to taken out of the plan.
- If members were able to apply conditions in relation to car and bike club credits, the new policy would not change this. At present the plan referred to car club but members could propose to include e bike hire. Although members would have a new Local Plan which carried great weight, the principle of decision making would still be that applications needed to be determined in accordance with the Local Plan and other material considerations. Inspectors tend to not be keen on policies that were too prescriptive and set a requirement which attempted to cover all applications in all circumstances. The emerging Transport Strategy would be best placed to explore this further.
- Most parking apps advised where to park hired electric bikes, with a reduction in fees when parked in the correct place. Anyone using an app, such as Human Forest, had a financial incentive to park in an appropriate place. It was uncertain if the Local Plan would have an effect in the Council's ability to roll out more bikes.
- In relation to paragraphs 16.4.6 onwards, the current London Plan required all parking spaces to have passive EV parking provisions. The current standard was for 20% and applied to disabled spaces, on the grounds that not every person with a disability had an electric vehicle. As there was a 100% passive provision, it was much easier to put in the technology when necessary.
- T16.4, paragraph D will be checked with Transport colleagues for clarification.
- The Local Plan as submitted originally referred in its policies to future supplementary guidance, but the Inspectors were clear that was that it would be unfair on residents and applicants for Merton's Local planning policies to refer to future guidance that they had not seen and had not been published yet. Officers would be supportive of the idea to have a more prescriptive formula which said that the closer we got to 2035, a greater proportion would be needed to cater to EV charging however, this would be a new policy which inspectors would want to examine thoroughly. Officers would need to prepare evidence and it was likely that the inspectors would reopen the hearings.
- Proposed deletion of paragraph 16.4.5 will be investigated further and clarification provided to members.
- Paragraph 16.4.2 refers to an adopted policy from the current London Plan. Members could still consider material considerations for particular schemes if members felt there was a reason to deviate from the Local Plan.
- The London Plan makes a point that if a development ranged across multiple PTALs, the highest one should be the point of reference. When making a decision for particular applications, it may be that entry to a site was within PTAL 3 and members considered that a material consideration when making a decision.

- T16.4 paragraph B required certain developments to be permit free and did allow for onsite parking. Three aspects to vehicles and parking were pollution, road safety and traffic congestion. Merton had a fixed amount of road space and although EV vehicles addressed pollution, it did not necessarily address road safety and congestion. Most of the issues raised to officers was with regards to road congestion which was what this policy was trying to address for existing residents.
- Part 1.2.43 and subsequent policies direct landowners and developers towards focussing tall buildings in the areas identified in the plan. It was still within their gift to submit an application, but the policy would give great weight in making a relevant decision.
- The plan was updated at part 3.1.18 to clarify that only CW2 should be considered for appropriate tall buildings. The phrase officers wanted to retain but was deleted, was shown in the report.
- Officers felt that the removal of the pinnacle made things more ambiguous. The Planning Inspector's correspondence is clear that the basis for reviewing building heights is based on the need for housing delivery.
- Jon Berry informed members that the Gasworks application was complex. They were getting closer to the applicant submitting new plans and information. If and when that happened, officers would go out for public consultation. Due to the nature of the application, they would go out for the full 21 day consultation statutory period. They also strongly encouraged the applicants to carry out their own consultation with the public.
- In the existing adopted Local Plan, there is no reference to appropriate building heights or otherwise. This was introduced in the new Local Plan to bring it in line with the London Plan.
- With reference to M16, based on evidence and a character study, the proposal is for the site to have a maximum of 10 storeys, which was originally 9 storeys but the Planning Inspector said the council needed to deliver homes. All the allocations were separate from any planning application, which would provide more detail.
- If officers felt that any of the proposed changes made by members would put the plans delivery timetable at risk, they would advise members as such.
- Jon Berry informed members that he was apprehensive about the proposal made for EV permits being allowed in a CPZ where available, as they had not put the evidence to the inspector as to where they may be, and it may be too prescriptive. The preference would be for this to be included in one of the material considerations rather than the Local Plan.
- Section E of the Morden Policy, as detailed in the map within the report, the Wider Morden Town Centre area highlighted in yellow was now gone and no longer part of the plan. A lot of the references in section E related to the previous inclusion of the Wider Morden Town Centre area.
- Design guide had a slightly different function to design code. The design code typically would have detail on materials but in the National Model Design code, it specified that you could include height. In this instance it will likely be a design guide for the Morden Regeneration Zone.
- The Civic Centre being a pinnacle building was brought up in previous consultation responses. It was never part of the plan, but some

- representations raised that they would prefer the Civic Centre to be the pinnacle building. The balance was that Morden, with 2000 homes, was the key to revitalising the town centre, delivering homes and supporting services. The designs, height and strategic development framework were developed over a number of years but did not put the Civic Centre as the pinnacle.
- N7.1 was a new policy which created a local centre at South Wimbledon as a result of public consultation. For a small neighbourhood there was a lot of development and regeneration taking place.
 - Wider Wimbledon received many responses. The town centre had detailed planning guidance called The Future Wimbledon SPD was adopted and helped to reassure the Inspectors issues around design, character and building height. This had been thoroughly considered at a detailed level and consulted on with residents prior to the Local Plan.
 - In relation to the Strategic Heights Diagram for Wimbledon Town Centre, officers adopted the guidance from the adopted Future Wimbledon guidance. The Inspectors said officers could not be that prescriptive in the Local Plan. The map was indicative and said 'circa 24m could be appropriate subject to all other policy requirements'. It was difficult to illustrate an area without reverting to the previous building by building approach. It did not mean that all buildings within the dotted lines would be acceptable at 40m or 24m.
 - Page 290 section H, officers wanted to reference the guidance, but the Inspectors made it clear that there could not be a policy which referred to guidance as Councils could change guidance without any recourse to Secretary of State.
 - Wimbledon has been resilient in terms of office development. Officers were aware that no one knew how lives would change from 2019 to 2024 in terms of working arrangements. Officers remained committed in continuing to review this.
 - Officers planned to bring in a proofreader with planning expertise.
 - A key part of the Tall Building policy was to avoid abrupt transitions. There was reference in the Tall Buildings policy that, when looking at design, it must step down when moving towards existing residential neighbourhoods.
 - Our policy had to be in line with national policy.
 - Additional funds from the 20% financial contribution would need to be spent on additional affordable housing as per S106. Previously Merton used the funds to increase the affordable housing contribution from larger sites.
 - Based on experience, the viability assessment policy had to be as straight forward as possible. Officers were working on proposals with development management colleagues to make it easy to implement. This would not require every development to complete a viability study, as that would be unfair. Officers will come back to members and colleagues with training and advise should they be able to adopt the more straight forward policy.
 - Design codes were new so not many Councils had them yet. Those who did tended to get consultants. The big emphasis was community consultation to ensure buy-in from local residents. A range of people would contribute to the design codes, then officers would pull it together and advise Councillors.
 - The National Model Design Code and the National Design Guides inform Council how to approach design codes.

- Officers agreed to review the list of wards in the east of the borough that were within a 'pocket of deprivation', within the paragraph on page 361, with the view of including Figge's Marsh Ward.
- Policy O15.5 required the provision for green infrastructure. Urban greening and green infrastructure were defined in the glossary and in both definitions, green roofs were included. Paragraph 15.5.7 within the policy listed the required information and mentioned maintenance.
- 12.2b was required to be deleted as the Inspectors identified it as an unnecessary repetition of policy T16.1.C.

The committee agreed to the following:

Proposed and Seconded: Votes for – 10, votes against – 0, not voting – 0
Policy T16.4, paragraph F part-f amended to include bike hire scheme clubs to also benefit in the same way as car clubs.

Proposed and Seconded: Votes for – 8, Votes against – 2, Not Voting – 0
Section Policy T16.4, paragraph part-b to be updated with the following exceptions:
a) there was space in the CPZ and
b) for EV vehicles.

Proposed and Seconded: Votes for – 10, Votes against – 0, Not voting – 0
Section 3.1.18 be returned to the original statement of 'Britannia Point should remain the pinnacle building in the town centre in terms of height. This can then form the basis for a coherent group of buildings that relate well to each other in terms of scale, massing, form and architecture'.

Proposed and Seconded: Votes for – 10, Votes against – 0, Not voting – 0
Cabinet to review the process on how design guides are developed and for proposals to be brought back to DPAC at the next available opportunity.

7 PLANNING APPEAL DECISIONS (Agenda Item 7)

The report was noted.

8 PLANNING ENFORCEMENT - SUMMARY OF CURRENT CASES (Agenda Item 8)

The report was noted.

9 GLOSSARY OF TERMS (Agenda Item 9)

10 CHAIRS PROCEDURE GUIDE (Agenda Item 10)

11 MODIFICATION SHEET (Agenda Item 11)