



Appeal Decision

Site visit made on 22 February 2013

by **Ray Wright** BA(Hons) DipTP MRTPI

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

Decision date: 20 March 2013

Appeal Ref: APP/T5720/A/12/2188324

Land Adjacent to 27 Cannon Hill Lane, Merton Park, London SW20 9JY

- 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 Mr Clark against the decision of the Council of the London Borough of Merton.
 - The application Ref 12/P1430, dated 15 May 2012, was refused by notice dated 28 September 2012.
 - The development proposed is 'construction of a 2-storey semi-detached dwelling (4-bed).'
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Application for Costs

1. An application for costs was made by Mr Clark against the Council of the London Borough of Merton. This application is the subject of a separate decision.

Decision

2. The appeal is allowed and planning permission is granted for the construction of a two storey semi-detached dwelling on land adjacent to 27 Cannon Hill Lane, Merton Park, London SW20 9JY in accordance with the terms of the application, Ref 12/P1430, dated 15 May 2012, subject to the conditions set out in Schedule A.

Procedural Matter

3. At the site visit it was confirmed that the 'site layout' plan considered by the Council was not 7591/P/01J but 7591/P/01K which provides additional information regarding the arrangement and surface materials of external areas. I have taken this later drawing into account in my decision.

Main Issues

4. The main issues in this case are the effect on the character and appearance of the area and the effect on the living conditions of future occupiers, having particular regard to the layout of proposed garden/amenity space.
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Reasons

5. The appeal site is occupied by an end of terrace dwelling at the junction of Cannon Hill Lane and Springfield Avenue, within a triangular shaped plot. To the side of the house is a garden area enclosed by fencing.
6. The appeal proposal is for the erection of a further two storey, four bedroom house on the existing side garden continuing the existing terrace.

Character and Appearance

7. The National Planning Policy Framework (Framework) indicates there should be a presumption in favour of sustainable development, but confirms good design is a key aspect of sustainable development and that development of poor design, which fails to take the opportunities available for improving the character and quality of an area, should be refused.
8. Policies BE.16 and BE.22 of the London Borough of Merton Unitary Development Plan (UDP) expect new development to respond to locally distinctive patterns, with a high standard of design complementing the character of the area and respecting various elements of surrounding buildings. Policy CS 14 of the London Borough of Merton LDF Core Planning Strategy (CS), amongst other matters, aims to avoid any 'adverse impact on the suburban characteristics of the streetscape.'
9. The design and form of the proposed house would follow, quite closely, elements exhibited by the existing dwelling on the site. To its frontage, it would have a matching two storey bay feature with similar fenestration. To the flank elevation, a decorative oriel window would replicate that on the existing property and a brick finish to the ground floor with render to the first floor would again follow the pattern of the existing house.
10. The ridge and eaves line of the existing terrace would be followed and a hip end to the roof retained. The proposed house would be the same width as the existing dwelling and follow the same front building line. While it would have a ground floor, single storey addition, this would not represent an uncommon feature in the area. Due to the shape of the plot the rear of the flank wall would run parallel to the angled boundary, but this, to my mind, would not be a jarring or discordant feature. Overall the design, scale, bulk, and massing of the dwelling would be similar to the adjoining property and satisfactorily relate to the adjoining terrace.
11. The proposed house would further enclose the corner of this road and, to some extent, reduce openness of this corner site. However, a gap of around a metre, between the back edge of pavement and the flank wall, would be retained. This spacing would not be uncharacteristic in the area where I noted some properties appear to directly abut adjoining boundaries.
12. I have noted the other sites, cited by the appellant, which illustrate that other similar infill developments have taken place in the vicinity. While these provide some limited support for the current appeal case, I have considered this proposal solely on its individual merits.
13. Overall, the proposed dwelling would appropriately relate to the adjoining terrace and its suburban setting. It would, consequently, not harm the

character or appearance of the area. I therefore find no conflict with the Framework, Policies BE.16 or BE.22 of the UDP or Policy CS 14 of the CS.

Living Conditions

14. The Council accepts that the proposed garden would meet their required minimum standard, in terms of its overall size as required by the UDP, but take issue with its shape and, consequently, whether it would represent a readily useable space for future occupiers. However, while the shape of garden would not be regular, with some restricted areas, overall it would still enable use for general relaxation and provision of garden paraphernalia such as a washing line, potential garden outbuildings, barbeque area, etc.
15. I conclude, the garden area as proposed would be appropriate and suitable for this dwelling. Therefore there is no conflict with Policy CS 14 of the CS which amongst other matters requires development to provide associated functional spaces.

Other Matters

16. The Council indicate that they require a planning obligation to secure a contribution towards affordable housing and education provision. However, the lack of an obligation does not form a reason for refusal of the appeal scheme. I note, that where new housing developments are proposed, Policy CS 8 of the CS indicates contributions for affordable housing will be sought, and Policy C.13 of the UDP similarly requires contributions for education provision. Further guidance is also given in the 'Planning Obligations' Supplementary Planning Document (SPD). Both the contributions required appear to be calculated using standard formulae. However, I have not been provided with any detailed, up-to-date evidence to indicate any existing shortfalls of provision or a clear indication of where the contributions would be spent. Accordingly, I cannot, in this case, be certain that the contributions sought would meet the strict tests of Paragraph 204 of the Framework or Regulation 122 of the Community Infrastructure Levy Regulations 2010. In these circumstances the lack of an obligation does not weigh against the proposal.

Conclusion

17. For the reasons given above, I conclude that the appeal should be allowed.

Conditions

18. I have considered the proposed conditions put forward by the Council, should the appeal succeed, against the advice in Circular 11/95 and for clarity. The standard commencement condition is required, as is a condition referring to the relevant plans, for the avoidance of doubt and in the interests of proper planning.
19. To fully integrate this new development with the existing terrace it is important that suitable external finishes are used, therefore a condition requiring proposed materials to be submitted and agreed is required. While the existing site has a close board fence boundary, this boundary treatment will require some amendment with the new dwelling and therefore a condition relating to this is necessary.

20. The Council have put forward a condition which would preclude extensions or enlargement to the house as 'permitted development.' In this particular case, I consider a condition limiting such changes is required to ensure the integrity of the design put forward is not compromised. The Council suggest a condition limiting windows or other openings in the 'south facing flank wall.' However, the side flank wall of the house would be north facing. In any event, due to the corner location and spacing here, I do not consider such a restriction is necessary to protect the privacy of nearby occupiers.
21. Although the general location of bin storage is shown on the submitted layout plan, a condition relating to exact details of waste provision and associated enclosure is reasonable and necessary. To protect the privacy of the occupiers of the existing property, a condition limiting the use of the roof of the proposed single storey rear extension is reasonable. To avoid undue disturbance to neighbouring occupiers a condition limiting construction times should be imposed. The hard standing proposed is detailed on the approved plans, and therefore only a condition relating to the retention of the parking area needs to be imposed. Conditions relating to reinstatement of the redundant crossover and provision of cycle parking are reasonable to ensure a satisfactory completion of the development and encourage use other than by the car.
22. The house appears to be designed with a layout to meet the requirements of Lifetime Homes, therefore a condition to re-state this is unnecessary. The Council's proposed conditions, in respect of the Code for Sustainable Homes, refer to both level 4 and level 3. In the circumstances I consider a requirement for level 3 is appropriate and reasonable.

Ray Wright

INSPECTOR

Schedule A : Conditions :

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 7951/P/01K, 7951/P/02J, 7951/P/03J, 7951/P/04J, 7591/P/07J, and 7951/P/08J.
- 3) No development shall take place until details of the materials to be used in construction of the external surfaces of the development hereby permitted have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the position, design, and materials of boundary treatment to be erected. The boundary treatment shall be completed before the dwelling is occupied. Development shall be carried out in accordance with the approved details.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no extensions, additions or enlargements of the house, as hereby permitted, shall be made or erected.

- 6) A scheme for the provision and siting of waste receptacles and their enclosure shall be submitted to, and agreed in writing by, the local planning authority. The scheme, as agreed, shall be carried out before the house, hereby approved, is occupied and retained thereafter.
- 7) The roof area of the rear extension of the house, hereby permitted, shall not be used as a balcony, roof garden or similar amenity area without the prior written approval from the local planning authority.
- 8) Demolition or construction works shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays nor at any time on Sundays or Bank Holidays.
- 9) The vehicle access and parking area, shown on the approved plan 7951/P/01K, shall be completed prior to the first occupation of the dwelling and retained solely for access and parking purposes thereafter.
- 10) The house, hereby permitted, shall not be occupied until the existing redundant crossover has been removed by raising the kerb and reinstating the footway in accordance with the requirements of the highway authority.
- 11) No development shall commence until details of secure cycle parking facilities for the occupants of, and visitors to, the development have been submitted to, and approved in writing by, the local planning authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the dwelling and thereafter permanently retained.
- 12) The dwelling shall achieve Level 3 of the Code for Sustainable Homes. The dwelling shall not be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

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