



Appeal Decision

Site visit made on 14 May 2018

by Zoe Raygen Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 June 2018

Appeal Ref: APP/T5720/W/17/3189000

Land at 99 & 101 Hamilton Road, South Wimbledon, London SW19 1JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Beliche Comercio Internacional Limitada against the Council of the London Borough of Merton.
 - The application Ref 17/P3242, is dated 24 August 2017.
 - The development proposed is erection of 8 duplex apartments in a terrace of two-storeys in height plus basement and roofspace and 1 two-storey mews house, together with associated landscaping, refuse storage, cycle storage and 1 on-street disabled parking space.
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Decision

1. The appeal is dismissed and planning permission is refused.

Main Issues

2. Although the appeal is against non-determination, the Council has given the reasons why planning permission would have been refused had the application still been within its remit to determine.
3. Based on the statement submitted by the Council, and my observations on site, the main issues are:
 - The effect of the proposal on the character and appearance of the area
 - Whether or not the proposal would provide acceptable living conditions for the occupiers of the proposed development with particular regard to outlook
 - The effect of the proposal on the living conditions of the occupiers of 97b Hamilton Road, 208-210 Merton High Street and 111 Hardy Road with particular regard to privacy, light and outlook
 - The effect of the proposal on highway safety with particular regard to parking
 - Whether or not the proposal would have acceptable flood prevention/mitigation measures
 - Whether the proposal adequately demonstrates that the appeal property is unsuitable or unviable for continued use as an employment site.

Reasons

Character and appearance

4. Hamilton Road is formed by a series of terraced houses, set back from the road on a uniform building line providing a regular rhythm to the built form on the street. Although there is some variety of design between the terraces there is generally a recurrent theme of relatively narrow frontages with a doorway and central bay window. They are enclosed at the front by a mixture of low brick walls and hedging, which together with planting in the gardens, and the presence of street trees gives a verdant quality to the road.
5. At the time of my site visit I saw that the appeal site is vacant with all buildings referred to in the Council's application report and consultation responses demolished. It is fenced from the road and therefore makes a neutral contribution to the character and appearance of the area.
6. The proposal is for the provision of eight apartments across the front of the site in the form of a two storey terrace plus a basement. In addition, a two storey house would be located at the rear of the site.
7. The proposed terrace would be of a similar height to the adjacent property and would be constructed from materials to match those on the existing buildings. Nevertheless, although the front terrace is set back from the road, the large bay structures set to the side would form most of the front elevation of the terrace, forming an incongruous dominant feature that would considerably erode the regular rhythm of the built form of the street.
8. In addition, much of the front space between the terrace and the road would be taken up by the lightwell for the basement, bin store and bicycle store. As a result there would be little room for meaningful planting to contribute to the leafy appearance of the street. Together with the enclosure of the front area with a brick wall this would lead to a considerable length of hard landscaped frontage at odds with the verdant quality of the street.
9. The house to the rear of the site would be of a modern design, which due to its location would have very limited visibility to public vantage points. Therefore, I see no reason to disagree with the Council's conclusion that its design is acceptable. The access to the house is formed by a narrow footway between the high walls of the southern boundary of the site and the flank elevation of the proposed end terrace. Although enclosed by gates at either end, the narrowness, length and enclosed nature of the access would not be particularly inviting or attractive to future occupiers. While not determinative in itself, the nature of the access reinforces my concerns regarding the overall design of the proposal, and its materially harmful impact on the character and appearance of the area.
10. I note the examples provided by the appellant of schemes completed in the local area. While these are of a modern design, I do not have full details of the circumstances that led to these proposals being accepted and so cannot be sure that they represent a direct parallel to the appeal proposal, particularly in respect of the character and appearance of the area in which they are located. In any case I have determined the appeal on its own merits.
11. For the reasons above, I conclude that the proposal would be harmful to the character and appearance of the area. It would therefore be contrary to Policy

DMD2 of the Sites and Policies Plan and Policies Map 2014 (SPPPM) and Policy CS14 of the Local Development Framework Core Planning Strategy 2011 (CS). Together these seek, amongst other things, to secure high quality design which relates positively to the rhythm and proportions of surrounding buildings and respects, reinforces and enhances the local character of the area.

Living conditions

12. No 97 Hamilton Road is the adjacent residential property to the north of the appeal site which is subdivided into two flats. The garden space for No 97B directly abuts the appeal site. Currently the garden is enclosed by a brick wall with some shrubbery above. The Council advises that previously the industrial units enclosed part of the garden, which were single storey in height. No 111 Hardy Road is a two storey house, with a garden adjoining the western boundary of the appeal site. It is currently enclosed by a two storey building to the south, and previously by the single storey industrial buildings on the site.
13. The proposed two storey house (unit 9) would be sited directly adjacent to the boundary with both the garden of No 97b and No 111 introducing a structure that would, according to the Council be higher than the previous buildings on the site. Consequently, the high, large mass of wall would be close enough to the boundary to have a significant enclosing effect on the garden space of 97b and the garden and rear elevation of No 111. In the case of No 111 this would further exacerbate the sense of enclosure already experienced in the garden by the existing structure on the southern boundary.
14. Furthermore, given its location on the southern boundary of the garden of No 97b it is likely that there would be some materially harmful shadowing of the garden space. I note that the appellants Daylight and Sunlight Assessment (DSA) states that the existing residential properties located towards north and west of the proposed site, which are accessed through Hamilton Road, have amenity spaces to the front of the houses and hence these are assessed for overshadowing. My attention is not drawn to any assessment of the impact on the rear gardens of the properties on Hamilton Road. In addition, the overshadowing assessment within Appendix A of the DSA does not appear to include an assessment of the impacts of the proposed house.
15. The appellant states that under planning permission 15/P3573 consent already exists for a house in the location of unit 9 as proposed in the appeal before me now. However, I have seen no details of the house with planning permission and therefore cannot be sure that it would be of a similar height or extent to that proposed now.
16. I note the comments of the appellant regarding the lack of impact of the proposal on the rear elevation of No 97. However, the Council has not stated that such an impact would have formed part of its reason for refusal.
17. Moreover, the proximity of the terrace area of proposed flat five would lead to the potential for future occupiers to have direct views into the private garden space of No 97b. While the terrace area may not be used all year round, its use in summer months, is likely to correspond with the time when the occupiers of No 97b are most likely to use their garden space, hence there would be a materially harmful loss of privacy for the existing occupiers of No 97b.

18. Nos 208-210 Merton High Street are part of a terrace of properties with rear elevations facing the appeal site. At first floor the properties are used for residential purposes which have windows close to the boundary of the appeal site. The Council advises that the windows previously had an outlook towards the side elevation of Rose Cottage a two storey pitched roof building. I note from the appellant's DSA and Building Survey that Rose Cottage was a relatively modest building with a shallow pitched roof. The proposed end terraced flank wall would be likely to be larger and higher than Rose Cottage. Its proximity to the flats at Nos 209-210 would lead to a dominant feature creating a materially harmful enclosing and overbearing effect.
19. The western flank wall of the two storey house would occupy the width of the garden of proposed flat two, although set back a little way from the boundary. While it would be close to the garden and rear elevation of flats two and five, the future occupiers of the flats would have open views in all other directions. Therefore, the house would not be unduly overbearing or enclosing.
20. While the quality of the light reaching the bedrooms in the basement may be restricted by the orientation of the lightwells and the provision of a walkway I have seen nothing to suggest that this would result in an unacceptable standard of accommodation. Furthermore, although not ideal to have bathrooms with no windows, other methods of ventilation would be available for these non-habitable rooms.
21. Rooflights would though be the sole source of light, outlook and ventilation to the second floor bedrooms. While these may provide a source of light and ventilation, outlook would be limited and of poor quality to the detriment of the living conditions of the future occupiers of the flats. I note from the marketing information submitted by the appellant for other local developments that none of the upper floor bedrooms have rooflights as their sole means of outlook.
22. Whilst I have found the development to be acceptable in some respects, for the reasons above I conclude that it would not provide acceptable living conditions for the future occupiers, and that the proposal would be harmful to the living conditions of the occupiers of 111 Hardy Road, 97b Hamilton Road and 208-210 Merton High Street with particular regard to outlook and light. It would therefore be contrary to Policy CS14 of the Core Strategy and Policy DMD2 of the SPPPM. These require that development is of high quality design that gives good quality living conditions.

Highway safety

23. No on-site parking spaces are provided as part of the proposal and the appellant proposes that the development be car free. The appeal site is located within an area with a Public Transport Accessibility Level (PTAL) of 5, which means that it is classed as having a very good level of accessibility. I saw this to be the case at my site visit with the appeal site being within walking distance of bus stops and the tube station. Furthermore, there is a wide range of services and facilities available on Merton High Street. As a result, the combination of good public transport links, and the presence of local services means I am satisfied that the appeal site is located within a highly accessible location where the need for a car would not be essential.
24. Car parking on Hamilton Road is available for the majority of the length of the road for permit holders only. In front of the appeal site parking is restricted

though the presence of double and single yellow lines. At the time of my site visit in the late afternoon there was very limited spaces available for parking on Hamilton Road. I appreciate that this is only a snap shot in time, but the considerable response I have received from local residents seems to confirm that the availability of parking is restricted at most times along the road.

25. Therefore, I see no reason to disagree with the Council's approach that the future occupiers of the development should not have access to car parking permits. However, this is a matter that would need to be controlled by a legal agreement. I am not in receipt of a signed and dated Unilateral Undertaking from the appellant. Therefore, in the absence of such an agreement there is nothing to stop future occupiers of the proposal attempting to park on Hamilton Road. From the evidence before me, and my observations on site, this would result in an increase in parking stress and consequent illegal or unsafe parking, which would be prejudicial to highway safety in the area.
26. The appellant requests that one disabled car parking space be provided on the road outside the appeal site together with a permit for the occupier of the adaptable wheelchair unit at the rear of the site. However, given the existing parking restrictions in place in this area, this would be dealt with by different legislation, and is not within the remit of this appeal.
27. For the reasons above, I conclude that the proposal would be harmful to highway safety. It would therefore be contrary to Policy CS20 of the Core Strategy which requires that development does not adversely affect safety, the convenience of local residents, on-street parking and traffic management.

Flood prevention/mitigation

28. Paragraph 8.15 of the SPPPM as part of the justification for Policy DMF1 of the plan states that in accordance with Policy DMD2 of the SPPPM, the council will only permit basement and underground development that does not result in increased flood risk. In determining proposals for basement and other underground development, the council will require an assessment of the scheme's impact on drainage, flooding conditions (from all sources), and groundwater conditions. Policy DMD2 also requires proposals for basements to include a sustainable urban drainage scheme.
29. Although the appellant has submitted a Construction Method Statement, my attention has not been drawn to any meaningful assessment of drainage or groundwater conditions. Given the limited size of the appeal site, it would be inappropriate to seek to address this issue through the imposition of a condition as the extent of the built form would leave little opportunity to incorporate any required mitigation. I am therefore unable to conclude that the proposal has suitable flooding prevention or mitigation measures in place and therefore it would be in conflict with Policies DMF1 and DMD2 of the SPPPM.

Employment

30. At the time of my site visit all of the buildings on the appeal site had been removed. Given my findings on the other main issues I have not therefore pursued this matter further.

Conclusion

31. In considering the potential benefits of the proposal, I note that the dwellings are in a relatively accessible location and would contribute to meeting the Council's housing targets as required by the local and national policy.
32. In terms of the economy, new development would create employment, and support growth during the construction period albeit for a limited time. It is a reasonable assumption, given the accessible nature of the appeal site that the increase in population, and resulting boost in the spending power of the local economy, would also help support services in the surrounding area. Furthermore the scheme would be located on previously developed land which the National Planning Policy Framework seeks to encourage. I therefore attach modest weight to these social and economic benefits.
33. I have found that the proposed development would not provide acceptable living conditions for future occupiers and would be harmful to the living conditions of existing residents. Furthermore, the proposal would be harmful to the character and appearance of the area and highway safety. Moreover, I cannot be sure that appropriate flooding prevention or mitigation measures would be in place. These impacts are contrary to Policies CS14 and CS20 of the CS and Policies DMD2 and DMF1 of the SPPPM and therefore the proposal would not be in accordance with the development plan and the considerable resultant harm would not be outweighed by other material considerations.
34. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Zoe Raygen

INSPECTOR