

# Agenda Item 3

All minutes are draft until agreed at the next meeting of the committee/panel. To find out the date of the next meeting please check the calendar of events at your local library or online at [www.merton.gov.uk/committee](http://www.merton.gov.uk/committee).

## DEVELOPMENT AND PLANNING APPLICATIONS COMMITTEE

23 NOVEMBER 2023

(8.00 pm - 10.00 pm)

**PRESENT** Councillor Aidan Mundy (in the Chair), Councillor Matthew Willis, Councillor Stuart Neaverson, Councillor Michael Butcher, Councillor Edward Foley, Councillor Caroline Charles, Councillor Simon McGrath, Councillor Martin Whelton, Councillor Thomas Barlow, Councillor Billy Hayes

**ALSO PRESENT** Jonathan Berry (Head of Development Management and Building Control), Stuart Adams (Area Manager, Development Management), Tim Lipscomb (Planning Officer), Jayde Watts (Democratic Services Officer)

**ALSO PRESENT ONLINE** Sarath Attanayake (Transport Planning Project Officer)

### 1 APOLOGIES FOR ABSENCE (Agenda Item 1)

Apologies for absence were received from Cllr Bhim with Cllr Neaverson in attendance as substitute and Cllr Dan Johnston with Cllr Caroline Charles in attendance as substitute.

### 2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

There were no declarations of interest.

### 3 MINUTES OF THE PREVIOUS MEETING (Agenda Item 3)

Minutes from the previous meeting to be reviewed at December's meeting.

### 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 BURLINGTON GATE, 42 ROTHESAY AVENUE, WIMBLEDON CHASE, SW20 8JU (Agenda Item 5)

The Planning Officer presented the report.

The committee received presentations from two objectors who stated:

- Since preapplication in 2019, the developer only engaged with the Merton Planning Department and not with the families at the development.
- The Planning committee previously refused the application due to reduced communal space which would result in substantial adverse impact on the standard of accommodation to existing residents.
- Residents deserved to keep the communal space, the proposal demolished the conservatory space and reduced rooftop space.
- As the existing home was built before London standards were introduced, they do not have any private outdoor space.
- The proposed landscaping on the east side of the building was not a replacement for lost communal space as it already existed and was in use.
- Section 7.6.5 of the report stated the area was shaded throughout much of the day and therefore not considered to have high amenity value.
- The proposal to the east of the development was more like a bus shelter and not a replacement for the roof conservatory and sunnier space of the roof terrace.
- The north side of the site already existed, and no amount of comprehensive landscaping would make this better than it already was.
- The privacy of families on the ground floor of both blocks would be negatively impacted by the increase of use.
- The proposed development traded the home they had for a couple of benches and potted plants.
- The Resident Management Company had taken care of Burlington Gate since the mid 90's. The original freeholders took no active role during those years and their relationship with residents were of disregard and disinterest. Out of frustration, owners contacted the resident management company for help.
- Ground rent was collected randomly, sometimes every 5-6 years in lumpsums causing financial stress.
- The freeholder was a stakeholder in major maintenance projects whose permission was required for certain changes, but due to a lack of engagement, the estate management treated the freeholder as a absent freeholder who needed to be worked around.
- In 2018, the resident management company decided to accumulate a reserve fund. They were aware their options would be limited by the need to obtain planning permission with an uncooperative freeholder, but they did not expect it to become this complicated.
- This was the latest of several applications with significant errors, omissions, and misleading statements. The developer claimed cost savings for residents based on insulation improvements above the communal areas of the building. This would amount to several pounds per year and no measurable change for residents.
- There was no notification or coordination with residents since the development of this plan in relation to estate management.
- The freeholder failed to respond to recommendations made by Merton Council to communicate with residents regarding building plans and to be transparent and respectful of opinions. The freeholder has never engaged or offered to invite feedback from residents.

- None of the residents would benefit from the building works or want it to go ahead.

The committee received representation from the applicant John English who raised points including:

- The previous application was only refused due to a loss of amenity space. This application proposes a new 120 square metres roof terrace, almost double from the previous application.
- 91 square metres of amenity space would be provided on the ground floor, 40 metres more than the previous application. On the 21 March, the daylight and sunlight consultant concluded more the 84% of the space would receive at least two hours of direct sunlight which was more than the 50% required.
- This application would give new flats more private amenity space.
- The unused area of 137 square metres on the north of the site would be refurbished and landscaped to provide more amenity space for residents.
- Roof was not accessible for all residents such as the elderly, those with young children and those with mobility issues.
- Current site had no usable ground floor amenities. The application proposed to refurbish and landscape 228 square metres of ground floor space, accessible to everyone.
- As set out in the rooftop condition survey, the existing roof was in state of disrepair. Well used places were loved and looked after, the rooftop terrace did not appear to be either and was not a safe or friendly environment for children and residents.
- The rooftop terrace had no shade, the proposal covered areas on the ground floor and roof which offered an alternative option. There was the opportunity to close such areas if the residents wished.
- The conservatory was 30 years old, 10 years older than its intended lifespan. Roof panels, window gaskets and double glazing were all broken and with the removal of the staircase and lightwell there would legally only be enough space for four chairs.
- Thermal efficiency of the existing building was 30 years old and would not meet today's standards. The proposed development would install two new layers of insulation above the building which would improve thermal efficiency for the flats below.
- The top floor currently sat under the roof terrace whilst the new structure would float above which would create a thermal, fire and sound barrier.
- Benefits for residents would be a new landscaped roof terrace, 228 square metres of ground floor amenity space, new covered ground, and rooftop seating area, two fully insulated roofs and new landscaping throughout the entire site.
- The Council could not provide a 5 year housing supply.

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

- In relation to side amenity space, there could be some additional noise disturbance. The height of the windows was just above head height but although there could be some disturbance, officers felt that this was not to the extent of material harm to residents.
- The side amenity space would not require step access.
- The area of land to the side of the property already existed so the area given as part of the application was not more than what was provided with the previous application, the use was what had changed. The key change for considerations was the rooftop area.
- The roof was not currently accessible, nor would it be in the proposed plans as there were no lifts.
- The area to the north of the development would be solely accessed by the block closest, the landscaping was to assist with improving the application. There was no additional space created. The application was for three units so there was no requirement for play space to be provided, this would only be the case for ten units plus. There was an area that could be reorganised to include play space, but the rooftop was not a designated play space, although it could be used in such a way.
- As a minor application there was no requirement for a statement of community involvement although it could be useful to gain feedback from residents on landscaping. As a committee, they had to assess the application presented, based on planning policies regarding the amenity space. If the application were a new development, the amenity space provided would exceed the requirement.
- Prior approval changes allowed for an additional floor to be built on top of flats. A reason the first prior approval was refused was due to when the property was built, but there remained doubt on whether it was an extension or rebuild.
- The reuse of the space at the side of the development did not hold much weight as part of the assessment process. The area was not new but would be relandscaped, via a condition, to include plotted plants, benching and a summer house. In policy terms, the resultant level of communal amenity space was acceptable. Landscaping the area would not make an unacceptable development acceptable and was an additional benefit to the development. Less mobile residents would be able to access this area and the addition of some play equipment could be conditioned. The report highlighted that 84% of the area would receive 2 hours of sunlight per day.
- Officers could not give a decisive answer on how safe the roof was or how often it was used. However, what must be considered was the reduction of 146 square meters to 120 square meters and how that measured against the London Plan Policy.
- In terms of consultation on the condition, it was difficult to envisage how that would work although officers were not opposed to the idea and could look at a liaison arrangement throughout the course of the discharge of conditions, which could also include ward members.
- The rooftop plans were indicative of what it should look like. Officers would expect something similar and could enforce this through the condition discharge. In terms of change, they would expect the same facilities as offered

but the layout could change with suggestions from the resident liaison group. The lighting may be more than wanted and could be looked at again.

- For landscaping on the ground floor, officers would expect to see a plan which, once agreed, could be enforced. Essentially, they could condition that the principles of the images were followed, and that the layout was strongly adhered to. An informative could also be added to the decision notice to say reasonable endeavours for any recommended improvements coming out of the liaison group would be applied.
- To address member concerns around the safety of the roof, Jon Berry (Head of Development Management & Building Control Environment and Regeneration) agreed to raise this with Building Control and may be something that needed to be referred to the Health and Safety Executive.
- If the decision was made to refuse the application, members were encouraged to be as consistent as possible with their reasons given for the last application. Although the balance had shifted slightly, members were encouraged to stick to those reasons for refusal.
- The condition which related to the rooftop would state that before occupation, they required detailed scaled drawings showing all the features to be approved and implanted before residents moved into the building. If this did not happen it would be a breach of condition.
- If members and the applicant agreed, there was the option to enclose an area on the rooftop to provide a like for like weatherproof and sheltered area.
- The applicant responded to queries raised on internal waste storage and the flats exceeded the minimum GIA standards. For the communal bin store, there was currently 5 bins for 34 units but there would be 6 bins for 37 units if the applications were approved, which all flats would benefit from.
- The rooftop was only accessible via stairs and would be one storey higher if the application were approved. The London Plan required buildings of four storeys plus to have a lift, but as this was not a new build and an addition of three units, building control did not require a lift until there was seven floors. As such, a lift was not a requirement that officers could impose.
- A condition related to the landscaping to the north of the site could be included.
- There would be no change to visibility at the north of the site as the pathway already existed.
- Officers planned to implement an S106 agreement to ensure that no parking permits on the street could be obtained. Parking on the site was up to the freeholder, however the applicant already indicated that new residents could not park on site.
- If the application were refused and subsequently reviewed by a planning inspector via an appeal, the planning inspector would ask the council to provide a schedule of recommended conditions in the case that the appeal was allowed.

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

The applicant informed the committee of the following:

- There was access to the amenity space via the right of the northernmost building on site. They proposed to relandscape 228 square metres of ground floor space which could be used for a children's play area.
- All areas were accessible by residents but not used due to being in a state of disrepair.
- They wrote to all residents, held discussions with one of the directors of the management company and took onboard all comments received during the consultation process. They were aware of resident concerns of losing amenity, loss of cupboard space, sustainability and parking which was why they spent a year revising the application to address the concerns. Out of the objections received for this application, only seven were from residents.
- They usually signed up to a resident engagement plan and would be happy to apply reasonable endeavours for this site, with the inclusion of ward councillors.
- Installation of a lift was not possible due to the make up of the existing building. They had not considered a stair lift but would be happy to look into this option. Part of the reason behind the changes on the ground floor amenity space was to give residents an alternative option.
- The applicant agreed to enclose the space highlighted by officers and match the existing volume of seats.
- Confirmed that there was no parking on site for new residents.

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

The public speakers informed the committee of the following:

- There was room on the current roof terrace for four separate spaces but would be reduced to one small area. There were seventy residents and friends who could currently access the roof space and if limited, it would impact residents.
- The gardeners tried to grow on the roof, and they died which was likely to be the case with the landscaping proposed.

The Chair moved to the vote on the Officers' recommendation with the following additional conditions and informatives: Votes For – 8, Against – 2, Abstentions – 0.

#### CONDITIONS:

- The implementation of a Resident Liaisons Group, including Ward Councillors. The applicant would be responsible for organising and hosting quarterly meetings. the Terms of Reference for that group needed to be approved in writing by the Council.
- Landscape to be reviewed for both ground amenity spaces by the resident liaison group, with reasonable endeavours to meet resident requirements.
- Reasonable endeavours for the applicant to look into installing a stair lift to allow accessible access to the roof.

- That the CGI rooftop space was implemented with the addition of the discussed glass unit that could hold the same number of table and chairs that currently existed, unless otherwise stated by residents.
- If requested by the resident liaison group, a play area would be implemented at the back of the site.
- A new condition to ensure that the garden land to the north of the smaller block is accessible to all residents on the site.
- Condition 7 to be amended to include:
  - A time period of 5 years of planting. Anything that died or deteriorated within that time would be replaced.
  - Physical landscaping and play equipment in perpetuity.
  - Amend wording to say, 'proposed roof terrace, land to the north of the main building and to the north of the small building on site.'
  - Include wording which stated it must include a resident engagement or liaison plan.
- For the applicant to clarify access to the second space for residents.

INFORMATIVES:

- That the resident's liaison group has input into the items placed in the play area

RESOLVED: That the Committee GRANTED Planning Permission Subject to Conditions and Informatives and the conclusion of a s106 Agreement.

6 PLANNING APPEAL DECISIONS (Agenda Item 6)

The report was noted.

7 PLANNING ENFORCEMENT - SUMMARY OF CURRENT CASES (Agenda Item 7)

The report was noted.

The chair of the committee advised that he would write to the inspector to highlight the 17 cases and report back to committee if needed.

8 GLOSSARY OF TERMS (Agenda Item 8)

9 CHAIRS PROCEDURE GUIDE (Agenda Item 9)

10 MODIFICATION DOCUMENTS (Agenda Item 10)

This page is intentionally left blank