
Appeal Decision

Hearing held on 9 September 2015

Site visit made on 9 September 2015

by G J Rollings BA(Hons) MA(UD) MRTPI

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

Decision date: 14/12/2015

Appeal Ref: APP/T5720/W/15/3013641
34-40 Morden Road, London, SW19 3BJ

- 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 outline planning permission.
 - The appeal is made by Mr Gareth Jones, Jones Granville Ltd against the Council of the London Borough of Merton.
 - The application Ref 14/P3856, is dated 9 October 2014.
 - The development proposed is demolition of the existing houses, flats and outbuildings; construction of a new building consisting of ground and four upper floors plus an accessible roof garden, amenities, ground level service access and limited parking; the proposed use is an aparthotel plus replacement residential suites.
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Decision

1. The appeal is dismissed and planning permission for the demolition of the existing houses, flats and outbuildings; construction of a new building consisting of ground and four upper floors plus an accessible roof garden, amenities, ground level service access and limited parking; for use as an aparthotel plus replacement residential suites, at 34-40 Morden Road, London, SW19 3BJ, is refused.

Procedural Matters

2. The site address given on the application form was for 34 Morden Road. However, it was agreed at the Hearing that the address of 34-40 Morden Road was a more accurate description, as it includes all of the properties forming the appeal site.
3. Additional and amended plans were submitted by the appellant with the Statement of Common Ground. These are DMWR/A33 rev/A, and an unnumbered plan showing height comparisons between an earlier proposed scheme and the current proposals, and PL2-00004. The main parties had the opportunity to comment on these revisions at the Hearing. The plans incorporate only minor revisions, and new information is restricted to illustrative representations of the previously submitted plans. I am satisfied that no-one would be prejudiced by my acceptance and consideration of these plans.

Background and Main Issues

4. The scheme has been submitted in outline form, with matters of access and scale included for detailed consideration at this stage. Matters pertaining to

layout, landscaping and appearance are reserved as detailed matters for later consideration.

5. The appeal was made prior to **the Council's determination** of the application. Following the start of the appeal, the Council issued a decision notice indicating that had it refused the application, it would have been on the grounds of a failure to achieve a satisfactory quality of design and relationships with surrounding buildings, the wider setting, and the visual amenities of neighbours.
6. **A previous proposal for an 'aparthotel' scheme on the appeal site was dismissed on appeal last year¹.** The Inspector considered the main issues in **that instance to be the scheme's effects on the character and appearance of** the area, and the living conditions of neighbours. Although the Council did not include a reason for refusal relating to living conditions in the appeal before me, the submissions that I have received from surrounding occupiers and discussion at the Hearing suggests that the visual outlook from neighbouring properties remains an issue of significant concern.
7. On this basis, the main issues are:
 - The effect of the proposed development on the character and appearance of the area; and
 - The effect of the proposed development on the living conditions of surrounding occupiers, with particular reference to outlook.

Reasons

Character and appearance

8. The appeal site incorporates four individual sites. A two-storey residential terrace runs across all four of the sites, which also have front and rear gardens. The southern boundary of the appeal site abuts The Path, from which a **vehicular laneway runs along the site's rear boundary**. The northern side of The Path is characterised by two-storey houses with a typical suburban layout and appearance. In contrast, a large retail commercial unit with open parking area is located on the south-western corner of the intersection of Morden Road and The Path.
9. There is a mix of uses, and buildings of varying heights and appearance lining Morden Road between the site and South Wimbledon Underground Station. This includes the four-storey flatted block within the housing estate facing the appeal site, and Spur House; the latter being a tall building currently under development with a scale that causes it to be particularly noticeable within the street scene. The appeal site is at a point where there is a noticeable shift between these different character areas: the low-rise residential development to the west, the open and spacious areas of commercial/industrial and parkland uses to the south, and the more intense and close urban form of development to the north of the site.
10. This change of character acts as an entrance signifier for the South Wimbledon **centre**. **At present, Spur House performs the 'gateway' role** for the centre, its unique scale attracting attention in approach views. **Replicating its 'landmark'**

¹ Appeal ref: APP/T5720/A/14/2216963, decision date 4 August 2014.

or 'gateway' qualities on the appeal site would duplicate these functions, albeit at a smaller scale. The scheme before me differs from the previous appeal scheme, predominantly with regard to its scale, and would now provide a less jarring relationship with its low-rise neighbours.

11. The proposed building would fill the majority of the site, coming close to the boundaries on both road frontages. It would have a front setback similar to other buildings on the street, such as Spur House, but the site is spatially separated from these. As such, it would project forward of the buildings on neighbouring sites. This would be particularly noticeable from the important southern approach, where the openness of the route would give way to an incongruous 'pinch-point'. It would also present a noticeably harder edge to the local centre, accentuating and artificially precipitating the change of character.
12. The building and its neighbouring properties in The Path would be visible together in views from Morden Road. The stepped scaling of the rear of the building would **reduce the impact of the proposed building's higher scale, and is** appropriate. Nonetheless, the large scale of the proposed building on the corner of the two streets would contribute to a dominating and overbearing appearance at the entrance to The Path, contrasting sharply with the domestic scale of neighbouring buildings. Its scale, including its street setbacks, would be likely to result in a bulky appearance which would be integral to the building, and as such, unlikely to be resolved at the detailed design stage.
13. The Council considered the heritage value of the existing buildings on the appeal site, separately from its consideration of the appeal scheme, but declined to designate these as an **asset on its 'local list'**. I have taken account of the strong local opinions as to the merits both for and against a local listing, as well as the advice relating to non-designated heritage assets at paragraph 135 of the *National Planning Policy Framework* (the Framework). This requires me to make a balanced judgement as to the harm resulting from their loss, and their significance.
14. The existing buildings on the appeal site have some heritage value, being some of the earliest remaining development within the area. Although they have some limited architectural significance and have been altered over time from their original appearance, I consider that they have some historic significance, resulting from their age, status as one of the oldest retained buildings in the area, and visibility. As such, they are a non-designated heritage asset which positively contributes to the character of the area, and harm would result from their loss or any large-scale alterations affecting this significance. In this case, their demolition and replacement with the proposed building would result in significant level of harm.
15. I appreciate that there are surrounding sites which may come forward for development in the future, which could alter the context of the area and its character, but this has not yet occurred. Although the nearby new development at Milner Road shares similarities with the proposed scheme, including its relationship with nearby two-storey houses, its relationships with its neighbouring buildings are different to those of the appeal scheme, and as such, there are limited precedent or comparable factors.
16. I therefore conclude that the proposed development would have a harmful effect on the character and appearance of the area. It would conflict with the

Council's LDF Core Planning Strategy (2011) (the Core Strategy) Policy CS.14, and its **Sites and Policies Plan and Policies Maps** (2014) (the SPP) Policies DM D1 and DM D2. Together, these policies require new development to have a high standard of design which is appropriate within its context, and relates well with neighbouring buildings. These policies are generally consistent with the strategic design policies of **The London Plan** (2015), particularly Policies 3.5 and 7.4, which have similar aims, and the Framework, which seeks high quality design within its core planning principles (paragraph 17). The development would also conflict with SPP Policy DM D4, which seeks to conserve the **borough's heritage assets and distinctive character**.

Living conditions

17. In deciding the appeal for the previously proposed scheme on this site, the Inspector considered that the development would harm the living conditions of the occupiers of 2a and 4a The Path, due to its impact on outlook. The proposed development has been amended in response to these earlier concerns. The appeal site is separated from homes along The Path by a service road. The north/south orientation of these homes limits direct views of the site from within habitable rooms, but there are clear views towards the site along their rear gardens.
18. The altered scale of the proposed development, and the stepped nature of its rear elevation, results in an increased distance between these gardens and the appeal building, when compared with the previous appeal proposal. Although the building would be clearly visible in direct garden views and oblique views from within the dwellings, this separation would be sufficient to avoid any unreasonable enclosure of these properties. The stepped nature of the building would result in the avoidance of overbearing effects. Along with the absence of any measurable impacts on daylight and sunlight, and no significant new overlooking, the proposal does not have a harmful effect on the living conditions of occupiers of The Path.
19. I have also considered the effects of the proposal in relation to the flats in the building adjacent to the appeal site, at 30 Morden Road. I visited a flat which had a single-aspect layout, with outward views directed towards Morden Road, along the side of the proposed building. Although the building would again be clearly visible and enclose part of the existing views from this property, views directly towards the road would remain unobstructed. The effects on enclosure at the sides of these views would be slightly detrimental to the occupiers of these flats, but as the majority of their outlook would not be affected, this matter would not warrant a dismissal of the appeal on its own merits.
20. I therefore conclude that the proposed development would not significantly harm the living conditions of surrounding occupiers, with particular reference to outlook. There would be no conflict with SPP Policy DM D2, which requires development to meet criteria relating to the protection of existing development from visual intrusion, amongst others.

Other matters

21. The proposed development would incorporate five on-site car parking spaces. **The appellant's intent is to prohibit their use by future residents or hotel occupants, with the exception of disabled person's badge holders.** On-street parking within the residential streets surrounding the appeal site is controlled

by a permit scheme, and Morden Road's trunk road status equates to an absence of on-street parking opportunities in the vicinity of the site.

22. The appellant submitted a completed Unilateral Undertaking at the hearing, which aims to restrict on-site parking in the manner described above. Additionally, any permit holder would be restricted from using the on-site parking. Together, these would have the likely effect of discouraging private car ownership by future occupants of the development. The Council did not raise any objections to these provisions.
23. SPP Policies DM T1 through T3 support the use of sustainable modes of transport, with levels of expected parking provision dependent on factors which include the level of public transport accessibility on the site. Policy DM T3 supports the provision of a legal agreement to limit the use of on-site parking in certain circumstances, which apply to the appeal site. In conjunction with the specific site circumstances, which include a high level of public transport accessibility, I consider the Undertaking to be appropriate, and able to pass the three tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations (2011), and the tests in the Framework (paragraph 204).
24. Additional concerns were raised by interested parties, including the ward Councillors. However, given that I am dismissing the appeal, it is not necessary for me to consider these matters in additional detail.

Conclusion

25. I have found that the development would not have a significantly harmful impact on the living conditions of surrounding occupiers. However, this does not outweigh the harm that it would have on the character and appearance of the area. The proposal would also conflict with the adopted Development Plan for the area, and thus it is not sustainable development for which the Framework has a presumption in favour.
26. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed, and planning permission refused.

G J Rollings

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Gareth Jones	Jones Granville Limited
Justin True MRTPI	Planning Lawyer

FOR THE LOCAL PLANNING AUTHORITY:

Cllr Andrew Judge	Ward Councillor
Leigh Harrington	Planning Officer
Pat Simcox	Crime Prevention Design Advisor

INTERESTED PERSONS:

Andrew Boyce	Local resident
Christine Hart	Local resident
Derek Manning	Local resident
Roger Rawlings	Local resident

DOCUMENTS SUBMITTED AT THE HEARING

1. Updated Statement of Common Ground, signed by the appellant and the Council.
2. Spur House, 14 Morden Road scheme plans bundle: Ground floor layout; Height comparison; Milner Road elevation (north).
3. High Path Estate redevelopment: Initial concept plan.
4. Final version of the Unilateral Undertaking, dated 8 September 2015.
5. Historical background information bundle:
 - Council conservation officer comments (email dated 27 December 2012);
 - **'Criteria used to identify Local List Buildings in Merton'**, extract from *Local List Buildings in Merton*;
 - *Trafalgar Bicentenary 1805-2005, Nelson at Merton*, issued by Merton Historical Society.