



Appeal Decision

Site visit made on 6 April 2010

by **M A Champion BSc CEng FICE
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an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
28 April 2010

Appeal Ref: **APP/T5720/C/09/2115901**

Land at **30 Hawthorne Avenue, Mitcham, CR4 3DN.**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Mohammad Kamran against an enforcement notice issued by the London Borough of Merton Council.
- The Council's reference is 42214.
- The notice was issued on 9 October 2009.
- The breach of planning control as alleged in the notice is:
Without planning permission, a material change of use of the Land from a single dwelling house to a House in Multiple Occupation (HMO).
- The requirements of the notice are:
(a) To cease the use of the Land as a House in Multiple Occupation and revert it back to its use as a single family dwelling house.
- The period for compliance with the requirements is four months.
- The appeal is proceeding on the grounds set out in sections 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

The appeal on ground (a) and the deemed application

Main Issues

1. The main issues are the effect of the development on: firstly, the living conditions of residents of the appeal site with particular regard to the standard of accommodation and amenity space provided; secondly, the living conditions of neighbouring residents with particular regard to noise, disturbance and privacy; and thirdly, the demand for on-street parking in the area.

Policies

2. Saved Policies BE.15, BE.22, HP.5, HS.1, PE.2 and PK.3 of the London Borough of Merton Unitary Development Plan 2003 (UDP) deal with residential amenity and urban design, design of new development, flat conversions, housing layout and amenity, pollution, and parking. These are supported by Supplementary Planning Guidance Note: *Residential Extensions, Alterations & Conversions* (SPG).

Reasons

3. The appeal site lies in a residential area and is a mid-terrace house. It has rooms on three floors and is occupied by a number of persons. Although the appellant asserts that these are family members and do not pay rent, the Council states that their Council Tax records indicate otherwise. Moreover, site

visits by their officers have established that a change of residents has taken place with the new persons paying a monthly rent and being unrelated to other occupants.

4. At the time of my site visit there was a single and a double bedroom on both the ground and first floors, with a further single bed in the second floor room, thus providing sleeping accommodation for seven persons in five rooms. While the bedrooms were lockable, there were also two communal kitchens including one with a dining area, two WCs, a bathroom and a rear outside amenity area. This was fully paved with a storage building adjacent to the rear boundary.
5. I consider it likely, therefore, that the house is used for multiple occupation. Whether or not this is so, the Council states, and the appellant does not dispute, that the room sizes are smaller than advised by SPG. Their size and that of the rear garden area appeared to me to be small for the current use. The stacking and layout of the rooms result, I consider, in potential disturbance for the residents.
6. Additionally a group of people living in the same house is likely to result in a greater intensity of activity than that arising from a single family, leading to increased noise and disturbance. In my opinion this harms the living conditions of neighbouring residents.
7. Furthermore, the increased number of adults living in one house has the potential for placing increased pressure on the available car parking spaces in the road. While the appellant states that he is the only car driver resident on the site, future occupants could all be car drivers. I observed that there were no parking restrictions for private cars outside the site, but even in mid-morning, there were only a small number of spaces available. I would expect there to be fewer free spaces in the evening when most residents might be at home.
8. I conclude, therefore, that the development adversely affects the living conditions of residents of the appeal site by way of the standard of accommodation and amenity space provided, and of neighbouring residents by way of noise, disturbance and privacy. It also has an adverse impact on the demand for on-street parking in the area. The development is thus contrary to the policies and guidance cited above.

Conclusions

9. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the notice and refuse to grant planning permission on the deemed application.

Formal Decision

10. I dismiss the appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

M A Champion
INSPECTOR