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# Where There's Muck There's Brass!



Planning consultant **David Kemp** BSc (Hons) MRICS Barrister\* (\*non-practising) and Director at DRK Planning Ltd, comments

Planning permission was achieved earlier this month to redevelop a site comprising six off-street small garages for two new houses – a 2-bedroom and a 3-bedroom house.

The road to obtaining this permission was tricky initially, as we met with resistance from the council in our pre-application consultation with officers.

However, getting schemes through the planning application process requires a fair bit of determination and perseverance – if it were easy, then everyone would be doing it!

## Redeveloping garages

Lock-up off-street garages can be seen around many of our towns and cities. They are a throw-back to earlier days of town planning but are now largely obsolete and bring with them a number of other problems.

Much of the time, they are too small to park a car in and tend not to be used much (if at all), other than as spare domestic storage or as a dumping ground for old furniture and rubbish. This creates a neglected and abandoned feel to some roads or estates, which can in turn attract anti-social problems such as drug users and dangerous waste. The fabric of these garages is also often deteriorating, often with asbestos roofs, and they can look ramshackle and harmful to the street scene.

As we look more closely at regenerating our towns and cities, improving environmental sustainability and reducing car emissions, it makes sense to look at these opportunities, whether on a larger scale in redeveloping blocks of garages on housing estates, or on a smaller scale where they create an opportunity for infill development.



## Pre-application with the council

So, all this makes sense and any proposal in front of the council should be 'virtually-guaranteed' planning permission...?

It is a great starting point. However, it will still leave open plenty of scope for the council to argue about different aspects of the scheme.

We submitted this scheme for pre-application to Wandsworth Borough Council last year as 2 x 2-bedroom dwellings. The gap in time between this response and the submission of our planning application this year was due to deal negotiations and delayed by legal matters in securing the site and the right terms for our client.

The council considered issues that you can always expect would come up – such as window alignment or external appearance, scale and bulk of proposed extensions to the rear, and materials.

Generally, if the planning success of a scheme is largely down to these issues, then they are all negotiable.

However, the key point that officers came back with was that they felt that the site was 'too cramped' for two dwellings, and they thought that the site should comprise a single family 3-bedroom house instead.

This would not have been a viable way forward for this site, and so we had to try and push back on this.

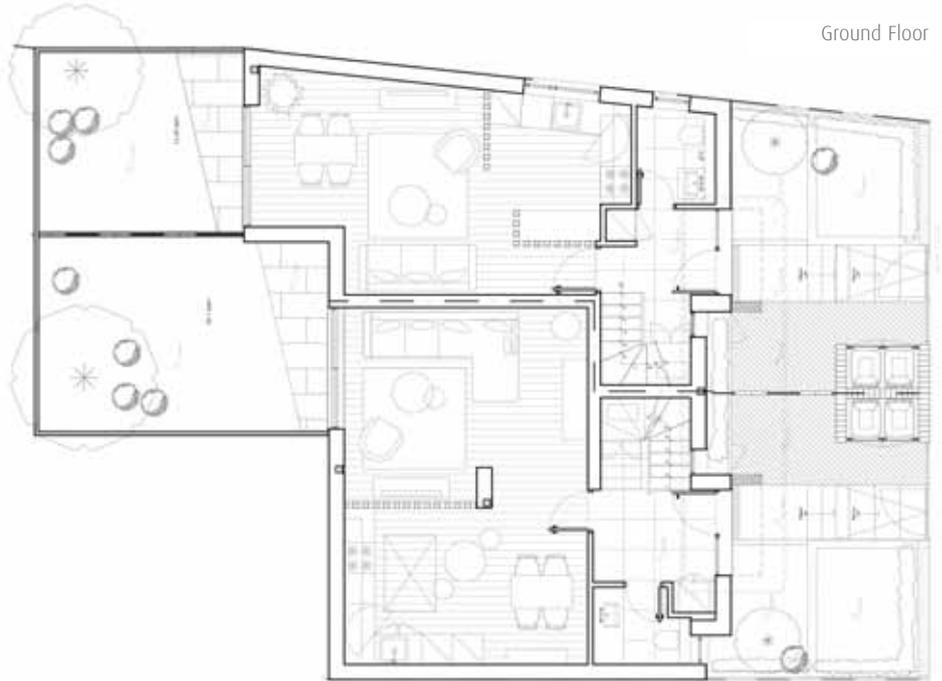
## Following-up: Testing the officers

The first thing to do when trying to push back on what officers say in a pre-application is to simply ask: "Is there a policy justification for this?" We also had to bear in mind that this was the initial view of the case officer, who was an experienced planning officer but would not have been the officer finally 'signing-off' on the pre-application response.

Having poured over the Wandsworth Local Plan Policies, plus the adopted and draft London Plans, we could not see any justification for this. After putting this to officers, and discussing the right strategy and tone of response with the client, we managed to essentially avoid the final pre-application response requiring a single 3-bedroom house on site.

The tone of any follow-up with officers is important, even when seeking to test them on critical aspects of policy affecting the principle of what might be built on site. Here are some key points or perhaps 'golden rules':

- Try to understand the rationale for the objection/issue – it needs to relate to planning purpose or a clear planning objective
- Is it supported by policy – without support in policy, then it is easily challenged, but check the supporting text to any relevant policies (e.g. on dwelling mix) as well as the policy text
- Try to speak with a Policy Officer BEFORE speaking again with the case officer or their team leader – they might be able to confirm by email that their policies do not require at least one family dwelling on site
- Write to the case officer (copy in the team leader) to put your explanation to them



Ground Floor

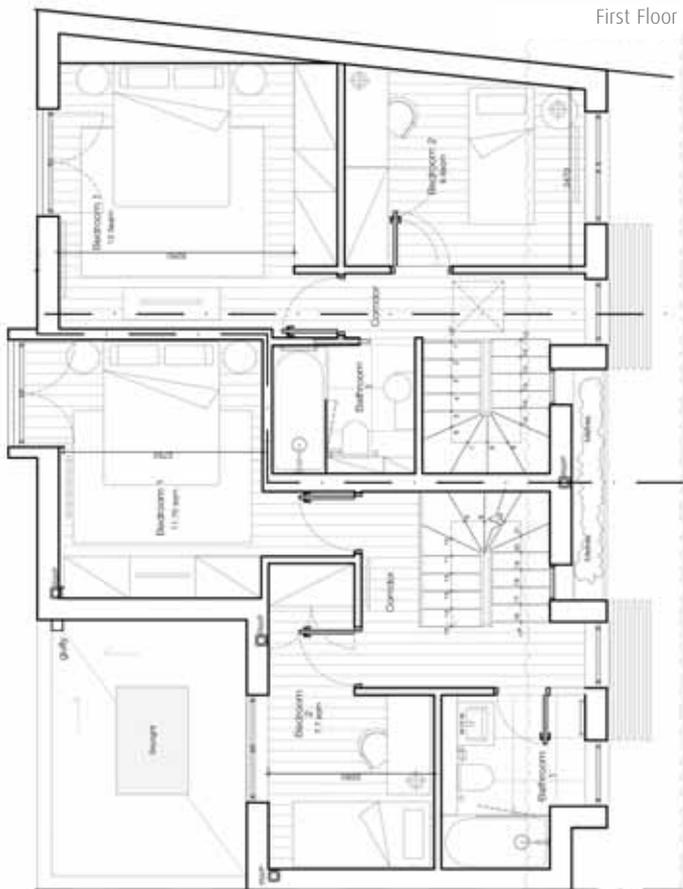
having also confirmed to them (either with or without Policy Officer support) that there is no policy restriction – you need to do this before they settle their pre-application response, if possible

I find it is most effective when coming at this from the point of view of a “Columbo of Planning”! – you do the detective work

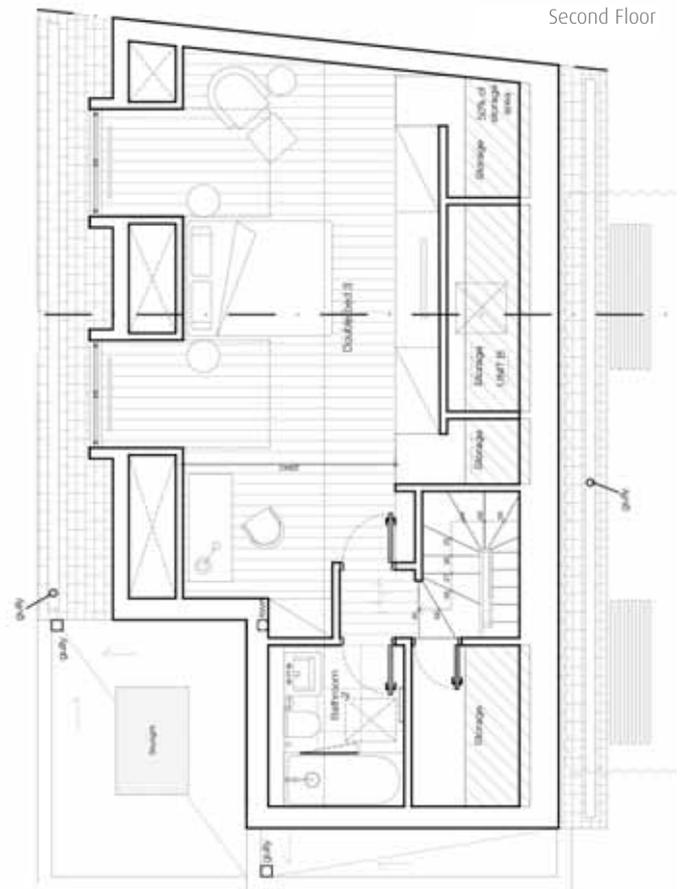
on the policies first, look for witnesses in support (Policy Officers), but then have a friendly but ‘intensely enquiring’ approach to the case officer.

**What do local councillors think?**

After about a six-month hiatus in the project, it came live again around April ▶



First Floor



Second Floor



this year – right in the middle of the UK coronavirus lockdown.

Normally, even with a relatively small project such as this, there is an expectation amongst officers and often with local councillors that a ‘good developer’ will canvass the scheme locally first, before submitting the application.

This might normally encompass a local leaflet drop, and a public exhibition held at a local centre during the daytime and in the evening, inviting members of the public and seeking their views, as well as local councillors.

However, this was simply not possible in the circumstances, and council expectations of what was required of us in this respect adjusted accordingly. To give credit to the council, they adjusted to this ‘new normal’ quite quickly and were generally helpful in facilitating contact with the right local bodies and Ward Councillors. In some cases, perhaps on larger projects, there may be an expectation for a virtual presentation online. This was not expected of us, and instead we sent emails and letters to immediate neighbours only (not the wider area or along the street, as we might otherwise have done), and directly to the three local Ward Councillors.

This was a good early test of the scheme, managed local expectations and became a useful ‘touch point’ between our client and the neighbour to the left of the site.

Many look up on any form of public informal consultation as a ‘rod for their own back’. In my opinion, if used well in respect of a well-planned and thought-out and well-

designed scheme, then it can smooth the path of an application. Locals feel engaged and involved, and it avoids unnecessary misunderstandings regarding the proposal. It also provides a platform to push home the negatives about the current use or development on site and emphasises the positive aspects in the proposal.

#### Managing the application timetable

When any planning application goes in, you are still no more than ‘halfway’ there:

You need to get it registered and validated and chase this up to avoid weeks passing without council action. Be ready to chase the officers up for their thoughts 3-4 weeks’ after the validation, just as the minimum public consultation period draws to a close\* (\*people can still make objections after this until the final decision is made or written up for approval).

Be responsive and be ready to compromise on design matters for the sake of getting the permission over the line – obviously, stand firm on some points where you need to, but you may need to be creative about solutions.

Get to a final ‘yes’ as quickly as possible – easier said than done!

This final point is of course all part of generally getting your permission ‘over the line’. There are several points to settle when you are coming to this point in the application.

#### Getting it over the line

Officers raised two main issues in the closing stages of the application – the roof

line and the need for more windows to the façade, especially as they were concerned about the future management and care of the proposed ‘green wall’ between the semi-detached houses proposed.

Together with the architects, Schneider Designs, and the client, we came forward with proposed design changes that not only delivered the effect that the planners wanted, but also was probably more cost-effective for the client without compromising on the sustainability and energy credentials of the scheme.

Personally, I liked the ‘green wall’ in the scheme, but there is not much point in retaining it in a scheme that gets refused planning permission!

Once the design was settled, it was then just a matter of settling pre-commencement conditions with officers and then obtaining the final permission, which all happened 4-5 days after the design was finally agreed with officers.

#### ‘Working with’ officers

There is somewhat of a ‘dance’ that goes on all the time with the council’s planners in most development schemes. However, one should never lose sight of the importance of trying to work with the planners as far as possible. Once matters of principle can be agreed, most of the rest is negotiation.

The local planning authority generally wants to go to appeal even less than you do. It drains council and officer time and resources and often costs them money that they do not have. Therefore, establish a good relationship with the officers, test the scheme with them and the parameters of their initial advice, but mutual respect and understanding, underpinned by a sound policy footing goes a long way toward securing planning permission.

#### The destination makes it worth it

Planning permissions can deliver huge value to developers and investors and there are few things as rewarding as transforming our towns and cities and neighbourhoods in a way that we can all be proud of. It can be a frustrating and testing process at times, but when we look back at what we started with and what we finally get over the line, more often than not, it is definitely worth the journey.

With special thanks in this article to Schneider Designs.

