



Appeal Decision

Site visit made on 23 January 2017

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 31st January 2017

Appeal Ref: APP/L5240/W/16/3163391
109 Richmond Road, Thornton Heath CR7 7QF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Pav Pavlou against the decision of the Council of the London Borough of Croydon.
 - The application Ref 16/02566/P, dated 6 May 2016, was refused by notice dated 19 August 2016.
 - The development proposed is creation of a new dwelling to provide 2 self-contained flats (2x1B).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant's submission states that there is no window on the rear elevation of the outrigger of 109 Richmond Road. However, it was clear on my site visit that there is a window on the first floor of the rear elevation of the outrigger facing the appeal site and I have dealt with the appeal on this basis.

Main Issues

3. The main issues in this case are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of existing occupiers at numbers 105, 107 and 109 Richmond Road with specific reference to privacy, light and outlook; and
 - The effect of the proposal on highway safety with specific reference to parking.

Reasons

Character and appearance

4. The appeal site lies close to the corner of Richmond Road and Winterbourne Road. The site is occupied by a two-storey end of terrace property which is subdivided into flats. It is proposed to demolish the existing single-storey building which lies to the rear and erect a new building which would contain two self-contained flats with a frontage onto Winterbourne Road. The rear of the site currently appears to be used for storage.
 5. The surrounding area is predominately residential comprised of two-storey terraced properties. The regular rhythm of the south side of Winterbourne Road is
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reinforced by the small enclosed front gardens, the fenestration pattern, bays to the ground floor, raised fire walls and chimney stacks. The Winterbourne Road elevation of the appeal site is defined by the end gable of 109 Richmond Road (No 109), the flank elevation of the outrigger and a wall which abuts the pavement. The appeal site currently provides a visual break and relief from the built-up area allowing views over the wall to the street to the rear.

6. The proposal would have a frontage onto Winterbourne Road and the proposed materials, vertically proportioned windows and bays to the ground floor would reflect that of the surrounding area. However, the plot would have a limited depth and would be smaller than the plots of surrounding properties. Consequently, the proposal would be at odds with the predominant layout and form of terraced properties which are characterised by deeper plots with amenity space to the rear.
7. In addition, the proposal would occupy a high proportion of the plot extending up to the rear boundary of the site. The absence of a rear garden would not be readily apparent from the street; however the proposal would almost immediately adjoin the rear elevation of the outrigger of the host property and would be separated from number 134 Winterbourne Road (No 134) by only approximately one metre. Consequently, due to the mass and bulk and proximity of the proposal to the flank boundaries the proposal would appear cramped and excessive in its plot.
8. The proposal would continue the frontage development consistent with that on the opposite side of Winterbourne Road; however, for the reasons stated, I consider that the proposal would not make a positive contribution to the street scene. In addition, the existing visual break in the street scene would be lost.
9. Furthermore, although the existing single storey building does not contribute positively to the street scene it, nevertheless, appears subservient to the host property. Moreover, the objective of tidying the site up could be achieved by other means. Taking these factors in combination I consider that the proposal would be an incongruous addition at odds with the prevailing pattern of development.
10. Whilst the proposal would have a frontage it would, nevertheless, be situated in the rear amenity area of No 109 and Policy H5 of the UDP, therefore, applies. Policy H5 states that residential development on back garden and backland sites will only be permitted where it respects the character and protects the amenity of adjoining residential areas. For the reasons stated, I consider that the proposal would not meet the requirements of criterion ii) of the Policy which states that the form, layout, siting and site area should respect the existing character and maintain adequate separation between existing and new development.
11. Attention is drawn to an application to convert the host property into two flats. However, this proposal utilised the existing building and is not an infill development. This case is not, therefore, directly comparable to the appeal proposal which limits the weight which I can attach to it in my Decision.
12. For the reasons stated above, I conclude that the proposal would harm the character and appearance of the area and would, therefore, be contrary to saved Policies UD2 and UD3 of the Croydon Replacement Unitary Development Plan (UDP) (2006) which together expect development to reinforce and respect the existing development pattern, plot and building frontage widths, and the height and proportions of surrounding buildings which play an important role in determining the character of the street.

13. In addition, the proposal is contrary to saved Policy H2 of the UDP which states that the Council will permit housing development within the existing built-up area provided this does not conflict with its aim of respecting the character of residential areas. Furthermore, the proposal is contrary to saved Policy H5 of the UDP.
14. Moreover, the proposal would conflict with Policies 7.4 and 7.6 of the London Plan (2016) which together seek to ensure that buildings and structures are of the highest architectural quality and respect local character. I consider that saved Policy UD8 is more relevant to main issue two.

Living conditions of existing occupiers

15. The flank elevation of the proposal would be only approximately 8.3 metres from the main rear elevation of No 109. Furthermore, the outrigger has a window on the first floor of the rear elevation which would face directly onto an almost blank two-storey brick wall. There is no evidence before me to suggest that this window does not serve a habitable room. Consequently, the proposal would significantly reduce the outlook from the windows of the main rear elevation and outrigger to the detriment of the living conditions of the occupiers of No 109. Furthermore, due to the close proximity of the proposal to the first floor window of the outrigger the proposal would result in a loss of light to that window.
16. Moreover, a window is proposed to serve a bedroom on the flank elevation of the appeal proposal which would be in very close proximity to the window on the rear elevation of the outrigger of No 109. Consequently, there would be significant opportunities for overlooking resulting in a loss of privacy to the occupiers of No 109. As this would be the only window serving the proposed bedroom it would not be appropriate to require the window to be obscure glazed. There would also be the potential for overlooking to the amenity space serving No 109.
17. The proposal would be approximately 9m from the windows of the main rear elevation of 107 Richmond Road (No 107). Whilst the occupiers would be aware of the proposal it would not be in direct alignment with the rear elevation of No 107 and the occupiers would maintain a view over their rear garden. Due to the orientation and distance of the appeal proposal from 105 Richmond Road (No 105), I do not consider that the proposal would be harmful to the living conditions of the occupiers of No 105.
18. For the reasons stated I conclude that the proposal would cause harm to the living conditions of the existing occupiers of No 109 in terms of loss of outlook, light and privacy. The proposal would, therefore, be contrary to criterion v of saved Policy UD2 of the UDP which requires development proposals to allow adequate daylight and sunlight to penetrate into and between buildings.
19. In addition, conflict also arises with criteria ii and v of saved Policy UD8 of the UDP which seeks to protect residential amenity and ensure that both new and existing occupiers are protected from undue visual intrusion and loss of privacy and ensure the maintenance of sunlight or daylight amenities of occupiers of adjacent properties. Furthermore, conflict arises with saved Policy H5 of the UDP.
20. Moreover, conflict also arises with criterion Bd of Policy 7.6 of the London Plan which states that buildings and structures should not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings in relation to, amongst other things, privacy and overshadowing.

21. I consider that saved Policy UD3 of the UDP and also Policy 7.4 of the London Plan relate to the first main issue. Saved Policy EP1 of the UDP relates to the control of potentially polluting uses and is not directly relevant to this main issue.

Highway Safety

22. Saved Policy T8 of the UDP sets out parking standards for residential development. Development will not be permitted unless it provides car parking in accordance with the standards set out in Appendix 2. Parking provision for flats would have a maximum requirement of 1 space per unit and thus the requirement for the proposal would be a maximum of 2 spaces. No off-street parking would be provided for the proposal.
23. Paragraph 9.32 of the supporting text of Policy T8 of the UDP states that where public transport accessibility is particularly good, the Council will encourage low or zero parking provision for residential development. In addition, criterion Eb of Policy 6.13 of the London Plan states that in locations with high public transport accessibility, car-free developments should be promoted. The appeal site is in an area with a poor Public Transport Accessibility Level (PTAL) rating (1a) and consequently, I agree that a car-free development would be unsuitable. In any event, there is no mechanism before me to ensure that the proposal would remain 'car-free' in perpetuity.
24. In the absence of off-street parking, it is necessary to consider whether any additional parking demand arising from the proposal could be safely accommodated. I noted at the time of my site visit (1500) that both Winterbourne Road and Richmond Road were heavily parked and demand would be likely to increase in the evening and overnight.
25. I note that there is a dropped kerb/crossover in front of the appeal site which would become redundant as a result of the proposal and could be utilised for parking; however, this is not part of the appeal proposal. I have considered whether a condition requiring the reinstatement of the pavement along the length of the existing dropped kerb would overcome my concerns. However, this would need to be subject to an agreement under the Highways Act 1980. The Planning Practice Guidance¹ (PPG) states that planning permission should not be granted subject to a positively worded condition that requires the applicant to enter into a planning obligation or an agreement under other powers as such a condition is unlikely to pass the test of enforceability. Furthermore, the land is not within the control of the appellant and consequently, there is no guarantee that the space would be available for the development in the long term. In any event, this would only partially meet the additional parking demand arising from the development.
26. Furthermore, whilst the parking standards are maximum standards, a parking survey has not been undertaken and consequently, there is no evidence before me to demonstrate that the increase in parking demand arising from the proposal could be safely accommodated on-street and that a lower standard is justified in this case.
27. Consequently, I consider that the proposal would exacerbate the existing parking demand in the area. The increased competition for scarce spaces would be likely to result in indiscriminate parking and the attention of drivers being diverted from the road when searching for scarce spaces.

¹ Planning Practice Guidance Paragraph 101 Reference ID: 21a-010-20140306

28. Attention is drawn to the planning application for conversion from offices to a two bedroom flat on the ground floor of host property. However, this case relates to the conversion of an existing use whereas the appeal proposal is a new development which would generate additional parking demand and is not, therefore, directly comparable to this case which limits the weight which I can attach to it in my Decision.
29. In the absence of evidence to the contrary, I conclude that the proposal would cause harm to highway safety and would, therefore, be contrary to saved Policy T8 of the UDP. Conflict would also arise with Policy 6.13 of the London Plan which states that the maximum standards set out in Table 6.2 of the Parking Addendum should be the basis for considering planning applications.

Other matters

30. The proposal would make a contribution, albeit limited to housing land supply and make efficient use of the land. However, these benefits would be significantly outweighed by the harm which I have identified.

Conclusion

31. For the reasons stated and taking all other considerations into account the appeal should be dismissed.

Caroline Mulloy

Inspector