



Appeal Decision

Site visit made on 13 June 2017

by Grahame Gould BA MPhil MRTPI

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

Decision date: 3rd July 2017

Appeal Ref: APP/L5240/W/17/3170701

Pinnacle Court, 401 Brighton Road, Coulsdon CR5 3AZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Mark Bright of Lodgecrest (Pinnacle Court Coulsdon) Limited against the decision of the Council of the London Borough of Croydon.
 - The application Ref 16/02960/P, dated 11 May 2016, was refused by notice dated 8 September 2016.
 - The development proposed is demolition of existing apartment block and construction of a new apartment block comprising 17 one and two bedroom apartments.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The development would involve the demolition of a three storey block of nine flats and the construction of a replacement block housing seventeen flats. The application was made in outline form with matters of layout and scale for approval, while matters of access, appearance and landscaping were reserved for future of consideration. However, the application form states that no new vehicle or pedestrian accesses would be formed and that the existing arrangements would be unaltered. The application drawings similarly show no access alterations. I have therefore treated access to the development as being for consideration at this time.

Main Issues

3. The main issues are:
 - the effect of the development on the character and appearance of the area;
 - the effect of the development on the living conditions for its occupiers, with particular regard to outdoor space;
 - whether the development would make adequate provision for affordable housing; and
 - whether the development would be at risk of being flooded or add to the risk of flooding in the area.

Reasons

Character and Appearance

4. The scale, including the number of flats to be provided in the replacement block, and the layout of the development are for determination. The details shown on the application plans must therefore be taken into consideration.
5. The site is very linear, lying between London Road (the A23) and a railway line, with a strip of varying depth, to the rear of the site being unusable because it is in effect an extension of the railway embankment. The site's form therefore has implications for the scale of development that can comfortably be accommodated within it. The replacement block would be significantly wider than the existing block and while it would not be quite as tall, it would nevertheless be an imposing building given its siting relative to the back edge of London Road's footway. The replacement block, because of its scale, would result in the site having a less spacious character and I consider that the development would have a cramped appearance, which would be harmful to the streetscene.
6. The constrained nature of the site and the need to provide parking would mean that there would be a limited opportunity to introduce meaningful soft landscaping to relieve the block's mass and the void created by the expanse of surface parking between the replacement building and Optima Court. I consider that the protected trees at the site's southern extremity would only provide limited relief and then only when they are in leaf.
7. The indicative elevational drawings suggest that the block would be of a contemporary design. I consider that such a design approach would, of itself, be unobjectionable. However, as I have indicated above, and as two previous Inspectors have concluded, this site's particular physical limitations effects what it can accommodate without there being harm to the area's character and appearance.
8. I therefore conclude that the development would be harmful to the character and appearance of the area. There would therefore be conflict with Policy SP4.1 of the Croydon Local Plan Strategic Policies of 2013 (the CLPSP); saved Policies UD2 and UD13 of the Croydon Replacement Unitary Development Plan of 2006 (the UDP); and Policies 3.5, 7.4 and 7.6 of the London Plan (with consolidated alterations since 2011) of 2015 (the London Plan). That is because the development would not be of the highest quality and it would fail to positively respond to the local townscape and respect or enhance its surroundings, with the need to make provision for parking in part dominating the development's form, while landscaping has not been considered as an intrinsic part of the development's overall design.

Living Conditions

9. The details of the development's layout show the provision of a limited amount of outdoor space for the occupiers of seventeen flats. The communal space that would be available would be highly enclosed by acoustic fencing, which is necessary to mitigate the noise arising from the site's proximity to the heavily trafficked A23 and the railway line. Given the necessary enclosure of the outdoor space and its limited extent I consider that it would not be a particularly inviting space for its users.

10. It has been submitted that external balconies could be incorporated into the block's design. The inclusion of balconies would make up for some of the limitations of the communal space, however, I consider that the balconies would potentially be of limited utility. That is because the balconies would be exposed to high levels of road and rail noise.
11. I conclude that the development, because of the inadequacy of its outdoor space provision, would provide living conditions that would be harmful for its occupiers. There would therefore be conflict with Policy SP2.6 of the CLPSP and Policy UD8 of the UDP because the development would fail to provide homes that would meet the needs of its occupiers.

Affordable Housing

12. Policy SP2.4 of the CLPSP addresses the provision of affordable housing. Policy SP2.4 states that for sites of ten or more dwellings up to 50% of the accommodation should be affordable. Policy SP2.4 allows for the provision of affordable housing to be determined on a site specific basis and this policy is underpinned by Policies 3.11 and 3.13 of the London Plan, with Policy 3.12 of the London Plan recognising that the level of provision may need to be determined on a negotiated basis.
13. The appellant has submitted that if there were to be an affordable housing requirement then this should be calculated taking account of the nine existing flats. I take that to mean that any affordable housing requirement should only relate to the net increase of eight dwellings. However, Policy SP2.4 does not state how the affordable housing requirement should be established when existing housing is to be replaced. The appellant has also submitted that the affordable housing requirement should be determined at the reserved matters stage.
14. I cannot accept that the determination of the affordable housing requirement is an issue that should be left until the reserved matters stage. When outline planning permission is granted it is the permission and accordingly securing affordable housing provision is an issue of principle that must be established at the outline application stage. The appellant has not entered into a planning obligation, via either an agreement or a unilateral undertaking, made pursuant to Section 106 of the Act. Accordingly were permission to be granted there would be no means of securing the provision of any affordable housing associated with this development.
15. I therefore conclude that in the absence of a planning obligation securing the delivery of affordable housing this development would make inadequate provision for that form of housing. There would therefore be conflict with Policy SP2.4 of the CLPSP and Policies 3.12 and 3.13 of the London Plan.

Flood Risk

16. A precautionary objection to the development has been raised by the Lead Local Flooding Authority (LLFA) because the site has been identified as being in an area at risk of ground water flooding. That is because no flood risk assessment (FRA) or details of how the development would be drained have been submitted. The LLFA has also submitted that its preference for the disposal of surface water would utilise a sustainable urban drainage system (SUDS).

17. The LLFA's advice appears to have paid little regard to the fact that the existing flats are of very recent construction, having been granted permission in September 2010. In granting planning permission in 2010 no risk of Pinnacle Court being flooded appears to have been identified. I say that because no condition requiring the installation of flood prevention measures was imposed, either following the submission of details for the Council's approval or in accordance with measures included in the originally submitted planning application.
18. Nothing in the Council's evidence has demonstrated that this site is at any greater risk of being flooded now than was the case when the 2010 permission was granted. I am therefore not persuaded that there are grounds for withholding planning permission on the basis of the risk of ground water flooding for the block's occupiers being of such a magnitude that it could not be appropriately mitigated.
19. While no details of how the development might be drained have been submitted, no evidence has been provided by the Council demonstrating that the development could not be appropriately drained. I therefore consider that securing appropriate surface drainage arrangements could be addressed through the imposition of a planning condition or conditions.
20. I therefore conclude that with the imposition of appropriate conditions there would be no unacceptable risk of flooding for the development's occupiers or to the surrounding area. I therefore consider that there would be no conflict with Policy SP6.4 of the CLPSP, Policies 5.12 and 5.13 of the London Plan or the parts of the National Planning Policy Framework that address flooding. That is because it has not been demonstrated that the development's occupiers would be at an unacceptable risk of being flooded or that SUDS could not be incorporated into the development's design.

Conclusions

21. I have found that the development would unacceptably harm the character and appearance of the area and the living conditions for its occupiers by reason of the inadequacy of the outdoor space provision. The development would also make inadequate provision for affordable housing. While there would be no unacceptable risk of flooding for the development's occupiers or the surrounding area, I consider that issue to be outweighed by the harm that I have identified. The appeal is therefore dismissed.

Grahame Gould

INSPECTOR