
Appeal Decision

Site visit made on 10 October 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 9 November 2017

Appeal Ref: APP/L5240/W/17/3175955
72 Brighton Road, Purley CR8 2LJ

- 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 Peter Dosanjh (Monarch Partnership) against the decision of the Council of the London Borough of Croydon.
 - The application Ref 17/00033/FUL, dated 20 December 2016, was refused by notice dated 23 March 2017.
 - The development proposed is described as the adaption of existing 8 bed house with side extensions & full second storey extension, with associated landscaping. Change of use from single dwelling to multiple occupancy.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council changed the description of application Ref 17/00033/FUL from that contained on the application form to 'Alterations, erection of front porch, first floor side extension, two storey front/side extension and construction of a new second floor. Conversion to form 7 one bedroom and 2 two bedroom flats and provision of associated parking and refuse storage'. This is a more accurate description of the development proposed which I have therefore used in the determination of this appeal.

Main Issues

3. The main issues are:
 - Whether the proposed development makes an adequate contribution towards the provision of family accommodation within the Borough.
 - The effect of the proposed development on protected species.
 - The effect of the proposed development on the character and appearance of the surrounding area.
 - The effect of the proposed development on the living conditions of the occupants of the adjacent property at 'The Dell' with particular regard to outlook and privacy.

Reasons

Family accommodation

4. The appeal property comprises a vacant two storey detached dwelling having six bedrooms and constructed of traditional brick in a mock tudor style. It is located on a corner plot at the junction of Purley Rise with Brighton Road and lies within an area that is characterised by substantial residential properties of two and three storey height. The adjacent properties at No 70 Brighton Road (comprising Nos 1-16 Phyllis Baugh Court) and No 74 (comprising the Sanctum Apartments) are relatively recent apartment developments of three and two storey height (with accommodation in the roof space) respectively.
5. The rear boundary of the property is formed by a close board fence that is positioned close to the rear façade, beyond which is a chalet style bungalow, 'The Dell' which is accessed off Purley Rise. This bungalow has a side window serving a bedroom/living room positioned approximately 9m from the existing rear windows of the appeal property.
6. The proposed development would involve the construction of a front porch, a first floor side extension, a two storey front/side extension and a new second floor. The property would be internally configured to provide seven, one bedroom flats and two, two bedroom flats.
7. The Council has drawn my attention Policy SP2.5 of the Croydon Local Plan: Strategic Policies (2013) (Local Plan) and Policy 3.8 of the London Plan (Consolidated with alterations since 2011) (2015) (the London Plan). These policies, amongst other things, require that new development should provide a mix of housing choice and that 60% of new homes outside the Croydon Opportunity Area should have three or more bedrooms. The Council indicate that the appeal property lies outside of the Croydon Opportunity Area.
8. In not providing any family units with three or more bedrooms the proposal is in conflict with the above policies. Although the appellant suggests that the narrow depth of the property makes it difficult to configure a three bedroom flat around the internal stairwell, I do not consider this to be the case on the proposed second floor where the stairs from the first floor could be made private.
9. The appellant suggests that the proposed flats would be offered to first time buyers under affordable shared-ownership and part affordable rent scheme. However, I have no evidence of any mechanism or a planning obligation that could secure the delivery of such affordable accommodation. Nevertheless, even if such provision of affordable accommodation was able to be taken into account it would still not resolve the clear conflict with the requirements of the above policies.
10. I also have taken into account the appellant's contention that other sites in the vicinity of the appeal property have provided 100% family accommodation and therefore that it should be considered acceptable for 40% of other schemes to provide a mix of one and two bedroom accommodation. However, the objectives of the policies are to ensure a mix of accommodation is provided in the Borough. I have no other evidence to suggest that the strategic target of 60% of new homes outside the Croydon Opportunity Area having three or more bedrooms has been met.

11. No substantive evidence has been provided to indicate why the site could not be developed in line with the 60% figure or why the clear provisions of Policy SP2.5 should not apply. Consequently, I find that the appeal proposal would not make an adequate contribution towards the provision of family accommodation within the Borough and therefore fails to comply with the housing aims of Policy SP2.5 of the Local Plan and Policy 3.8 of the London Plan.

Protected Species

12. The Council suggest that insufficient evidence has been submitted to demonstrate the extent to which Bats and Great Crested Newts, which are a European protected species, may be present on the site and affected by the proposed development. The Council indicate that responses provided during the public consultation on the application suggest that bats may be present in the large roof space and a small former pond at the front of the property provides a habitat for Great Crested Newts.
13. I have no conclusive evidence to prove, or otherwise, that protected species may be present on the site. However, in light of the concerns raised by the Council, the potential for protected species to be present on the site or immediately adjacent cannot be ruled out.
14. Paragraph 99 of the Government (ODPM) Circular 06/2005 indicates that a survey should be carried out before planning permission is granted where there is a reasonable likelihood of a protected species being present and affected. Consequently, it advises that surveys should only be required by a planning condition in exceptional circumstances.
15. Whilst I have some sympathy with the appellant that the Council did not request the submission of a protected species survey prior to the determination of the application, the responsibility to consider and comply with the requirements of Circular 06/2005 rests with the applicant.
16. Given the potential for protected species on the site, an ecological survey should have been submitted prior to consideration of the proposal by the Council. Consequently, there is no evidence to assess the extent to which the proposed development would affect Bats, Great Crested Newts and their habitat. Taking into account the advice contained within Circular 06/2005, I do not have any evidence to indicate that there are any exceptional circumstances in this case to suggest that such a survey could be required by a pre-commencement planning condition.
17. In the absence of any assessment to confirm the extent to which protected species may be present on the site, the proposal would be contrary to the guidance provided in Paragraph 99 of Circular 06/2005 and Saved Policy NC2 of the Croydon Replacement Unitary Development Plan (2006) (UDP). This policy, amongst other things, indicates that planning permission will not be granted for development that would cause demonstrable harm to a protected species or its habitat. The supporting text to the policy states that the Council will require an assessment to be undertaken prior to determination of an application where the Council has reasonable grounds to suspect the presence of protected species.

Character and appearance

18. The proposed development, involving a number of single and two storey extensions and the construction of a new second floor, would result in a building that would have a greater height, scale and mass than the existing building. However, in the context of the immediate building group the proposed scale, mass, height and architectural style when viewed from Brighton Road would be commensurate with the adjacent properties at Nos 70 (Phyllis Baugh Court) and 74 (Sanctum Apartments).
19. The increase in height by approximately 2.64m would still retain the ridge line below the height of the ridge at No 70. The increase in width from approximately 21m to 30m would result in the eastern side elevation of the proposed extended building being positioned within 5m of the side elevation of No 70. However, given the set back of the proposed building from the road; the fact properties on the opposite side of the road are positioned relatively close to each other and that a similar arrangement between three storey properties exists in the vicinity of the junction of Brighton Road with Lansdowne Road are factors which lead me to conclude that the proposed development can be absorbed into its surroundings without resulting in a cramped or overdeveloped appearance.
20. The western side elevation of the extended property would be positioned a similar distance from the pedestrian footway on Purley Rise to that which exists with the eastern side elevation of No 74. Being of a proposed similar design and height to No 74, the proposed development would form a visible 'bookend' to the junction of Purley Rise and Brighton Road with the resultant entrance to Purley Rise having two similarly positioned buildings of similar height. Given the set back of the side elevations from the road this arrangement would not appear as being oppressive.
21. There would be little change in the relationship between the proposed position of the rear façade of the extended property with The Dell from that which exists with the current property. Although the Council has raised concerns that the proposed rear elevation has little fenestration change to break down its appearance, this elevation would not readily be seen in from Purley Rise due to the height of the boundary planting at The Dell. Although uninspiring, I do not consider that the design of the rear façade would cause any demonstrable harm to the character and appearance of the Purley Rise street scene.
22. Taking the above factors into account, the proposed development would not cause demonstrable harm to the character and appearance of the surrounding area. As such, there would be no conflict with Policy SP4.1 of the Local Plan, Saved Policies UD2 and UD3 of the UDP and Policies 3.5, 7.1 and 7.6 of the London Plan. These policies, amongst other things, require that development should respect the scale, mass, height, development pattern and orientation of surrounding buildings, comprise details and materials that compliment local architectural character and respect and enhance the character of the area.

Living conditions

23. The majority of the rear façade of the extended building would have the same intervening distance to the side elevation of The Dell as exists with the existing property. The proposed windows in the rear elevation at first and second floor level would be obscurely glazed. Whilst ground floor windows would have

views towards the boundary with The Dell, such views would primarily be towards the existing fence and boundary treatment and, in any event, would be little different from the views that currently exist from the ground floor windows of the existing property. As a result there would be no direct overlooking of The Dell beyond that which exists with the existing property and consequently I do not consider that the proposed development would result in a significant loss of privacy.

24. In order to consider the impact of the proposed development on the windows and doors at the Dell, the appellant has submitted a Daylight and Sunlight Assessment. This accords with the Building Research Establishment (BRE) Report 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' which I accept, in the absence of any other planning policy guidance, is an established document to consider the impact of new development on daylight and sunlight. Consequently, I have attached moderate weight to this assessment.
25. The BRE guide recommends that new development should not cause the Vertical Sky Component (a measure of the general amount of light available on the outside plane of a window as a ratio of the total unobstructed sky viewable following the introduction of a barrier such as a building) (VSC) to be no less than 80% of its former value. The report concludes that the VSC at the windows at The Dell would not be below 80% of their former value. Having regard to the findings of the report I do not consider that the proposed development would result in any significant loss of daylight being received at The Dell.
26. The primary orientation of the windows in The Dell is towards the south west at the front and towards the north east at the rear. As such the outlook from these windows would remain unchanged as a consequence of the proposed development. Whilst The Dell has a side window to a habitable room, given the findings of the Daylight and Sunlight Assessment and the fact that there would be no significant change in the intervening distance between the existing and proposed rear façade to this window, I do not consider that the proposal would cause any additional significant loss of outlook to the side window.
27. The presence of the existing dwelling sited in close proximity to the property boundary with The Dell and existing boundary trees does already create a significant sense of enclosure, particularly in the rear garden and restricts any outlook from the garden to the south east. However, the relationship of three storey properties being located in relatively close proximity to property boundaries does not appear uncommon in the surrounding area.
28. The increase in height of the existing dwelling would be less than a storey and result in a building that is lower than the property at No 70. Whilst this would add to the sense of enclosure, given the close relationship between the buildings that already exists, the presence of existing substantial boundary treatment and the results of the sunlight and daylight assessment are all factors lead me to conclude that any increase in the sense of enclosure would not be of an extent that would result in a demonstrably different living environment for the occupants of The Dell from that which already exists.
29. Taking the above factors into account I find that the proposed development would have some impact on the living conditions of the occupants of The Dell through a slightly increased sense of enclosure but this would not be of an

extent that would warrant the dismissal of this appeal. Consequently, there would be no conflict with Saved Policy UD8 of the UDP or Policy 7.6 of the London Plan. These policies, amongst other things, require that development should not cause harm to the amenity of surrounding buildings with particular regard to undue visual intrusion, loss of privacy and loss of daylight and sunlight.

Conclusion

30. I have found that the proposed development would not cause demonstrable harm to the character and appearance of the area nor would it significantly affect the living conditions of the occupants of The Dell. However, these matters do not outweigh the fact that proposed development would not make an adequate contribution towards the provision of family accommodation within the Borough and that it has not been demonstrated that there would be no harm to protected species and their habitat. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR