
Appeal Decision

Site visit made on 6 November 2017

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 28th November 2017

Appeal Ref: APP/L5240/W/17/3180161
60 Outram Road, Croydon CR0 6XE

- 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 Joey Macedo, Aventier Ltd against the decision of the Council of the London Borough of Croydon.
 - The application Ref 16/05740/FUL, dated 10 November 2016, was refused by notice dated 13 July 2017.
 - The development proposed is the demolition of existing dwelling and replacement with one block of 5 x 2 bedroom & 2 x 3 bedroom apartments with associated access and 3 parking spaces, integrated cycle storage for 14 bikes and refuse store.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposed development would:
 - preserve or enhance the character or appearance of the East India Estate Conservation Area (CA); and,
 - provide acceptable living conditions for future occupiers, with particular regard to privacy, outlook, and private, outdoor space.

Reasons

Preserve or enhance the character or appearance of the CA

3. Outram Road includes an eclectic mix of housing, from small detached bungalows to imposing 4-storey, semi-detached villas together with some modern infill flat blocks concentrated in the middle section of the road, which the CA appraisal identifies as detracting from its significance.
 4. While these detractors have a bearing on the character of development in the CA, their impact is limited. They do not change the overwhelming coherence of the more characteristic buildings in the street which contribute to the richness of its townscape. For example, the numerous stock brick villas standing on the opposite side of the road, with their distinctive, bracketed, shallow-hipped roofs and gablets over finely detailed facades with grand porches and articulated bays. Or, the more suburban form of the bay fronted, clay-tiled houses, some with ornately detailed eaves and window designs, with enclosed and planted front gardens, further down the street.
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5. The design of the proposal in this appeal appears to take its cue from the identified detractors which stand to its sides. When the proposal is viewed between these two side neighbours, in isolation from the rest of the street, there is little harm in terms of its appearance as it closely matches these neighbours. However, the site has an important bearing on the rest of the street which is significant for the variety of designs of housing and the coherence of its key features such as eaves running parallel to the street, generally at first floor level; street-facing entrances; gables as features rather than full-width elements; vertically proportioned windows; modelled roofscapes; and an intricately detailed architectural language.
6. The proposal shares little of the townscape or design influence of the buildings which add to the significance of the CA rather than detract from it. I have taken into account that the CA Appraisal describes the existing building on the site as a neutral contributor, and the bearing the side neighbours have on this site. However, it is not impossible for a design to reconcile the immediate context of this proposal with the wider, higher design quality and more significant bearing of the more characteristic buildings of the CA. There is nothing of any architectural distinction in this design or anything in its arrangement or detailing or materials which responds to the high quality architectural character of its surroundings.
7. I note the expired outline planning permission from 1995 on this site, however the design and external appearance of the building were reserved matters, and it pre-dates the designation of the CA. For the reasons set out above, I conclude the proposal would fail to preserve the character or appearance of the CA in accordance with the requirements of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, the special attention to which, the Courts have determined, I am required to give considerable importance and weight.
8. The proposal would be in conflict with policies SP4.1, SP4.12 and SP4.13 of the Croydon Local Plan: Strategic Policies 2013 (CLP), policy UC3 of the Replacement Unitary Development Plan 2006 (UDP), and policies 7.4, 7.6, 7.8 and 7.9 of the London Plan 2016. These require buildings of the highest architectural quality that comprise details which complement the local architectural character, and which conserve the significance of heritage assets by being sympathetic to their form, scale, materials and detail.
9. Furthermore, the proposed development would run against the design and conservation advice in the National Planning Policy Framework¹ (the Framework), in that it would fail to make a positive contribution to local character and distinctiveness; nor would it take the opportunity available for improving the character and quality of the area. It would also be contrary to advice in the Planning Practice Guidance² which advises that development should seek to promote character in townscape and landscape by responding to and reinforcing locally distinctive patterns of development.
10. In the context of paragraphs 133 and 134 of the Framework I would, in relation to the CA as a whole, define the magnitude of the harm identified as less than substantial. Nevertheless, paragraph 134 still requires that any such harm be considered against any public benefits a scheme may bring. The development

¹ National Planning Policy Framework, DCLG 2012, paras. 17, 58, 64 & 131

² Planning Practice Guidance, DCLG 2014 as amended, para. 007, ID 26-007-20140306

would provide additional dwellings to local housing supply in accordance with paragraph 47 of the Framework which anticipates a significant boost to the supply of housing. This is a considerable public benefit which weighs in favour of the proposal. However, it does not outweigh the harm which would be caused to the appearance of the CA.

Living conditions of future occupiers

11. Policy 3.5 of the London Plan 2016 (LP) says that new homes should have convenient and efficient room layouts which are functional and fit for purpose. The Mayor of London has published supplementary planning guidance recommending design standards for housing (SPG), which policy SP2.6 of the Croydon Local Plan: Strategic Policies 2013 (CLP) requires new homes to meet.
12. In terms of privacy, the bedrooms and living spaces of flats 2 and 3 would be screened by tree planting enclosing their gardens which would provide sufficient privacy from overlooking. While there may be some overlooking as other residents pass to the communal garden, this would be into the hallways, and not harmful to privacy.
13. The windows serving the dining areas of flats 1 and 4 would provide the opportunity to overlook directly into the flat, however, a planning condition to secure an alternative size and height of opening could provide sufficient privacy as well as light and outlook to overcome this shortcoming. Given the limited number of cars in front of the block and their distance from the building, there would be no material loss of privacy to the living spaces of flats 1 and 4. The issue of privacy is finely balanced. However, taking into account the degree of privacy expected in a block of flats where it is accepted that neighbours in the same block do not live in total seclusion, as well as the number of flats and occupiers, privacy levels would be acceptable.
14. In terms of outlook, while the kitchens and living rooms of flats 2 and 3 would be at basement level, they would have wide openings onto small private gardens of sufficient depth to provide an acceptable outlook. The habitable rooms would be single aspect, however, they would face east which would provide access to morning sunlight, and flat 3 would have a hall window facing south. These flats would provide satisfactory outlook. Notwithstanding this, the single bedrooms in flats 6 and 7 would be served only by skylights which would provide unacceptably limited outlook for the occupiers. This would place the proposal in conflict with one of the core planning principles of the Framework which seeks to secure a good standard of amenity for future occupants.
15. The 2016 SPG recommends that a minimum of 5m² of private outdoor space should be provided for 1-2 person dwellings, with an extra 1m² per additional occupant. The 3-bedroom flat on the second floor would have no direct access to private, outdoor space. While flat 4 would provide a small garden area in front of the living room, unlike the garden of flat 1, its privacy would be compromised by the passage of other residents accessing the building and manoeuvring their cars. I note that the scheme includes a large communal garden; however this does not negate the need for private, outdoor space which has a distinctly different function.
16. I therefore conclude that, with particular regard to outlook and private amenity space, the proposed development would provide unacceptable living conditions

for future occupiers. While the Council refers to CLP policy SP6 and UDP policies UD13 and H7, these concern environment and climate change, parking design and the sub-division of a dwelling; they are therefore less relevant. Notwithstanding this, the proposal would conflict with CLP policy SP2.6, and LP policy 3.5, as well as one of the core planning principles of the Framework.

Other Matters

17. While there may be overlooking into the gardens of the blocks either side of the proposal, this would be little different to the present condition of mutual overlooking of adjoining gardens in built-up areas, and not harmful. There would be no risk of material loss of privacy from overlooking into the neighbouring dwellings. Given the good access to public transport, the parking provision does not seem unreasonable. I note that the highway authority raised no objection in this regard.

Conclusion

18. I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA as required by the Act, and considered the policies in the development plan and the Framework. I have also considered the other matters raised in evidence, including the benefit of the additional dwellings the proposal would provide. However, none outweigh the harm that I have identified to the character and appearance of the CA, and the unacceptable living conditions for future occupiers. For these reasons, the appeal is dismissed.

Patrick Whelan

INSPECTOR