



Appeal Decision

Site visit made on 13 August 2019

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th September 2019

Appeal Ref: APP/L5240/W/19/3230471

4A Sylvan Hill, Upper Norwood, London SE19 2QF

- 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 R Patel against the decision of the Council of the London Borough of Croydon.
 - The application Ref 19/01477/FUL, dated 23 March 2019, was refused by notice dated 31 May 2019.
 - The development proposed is the demolition of an existing house and the erection of a new residential building housing 8 dwellings with basement, ground, first and second floor accommodation with associated bins and cycle lockers.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

- Whether the proposal would preserve or enhance the character or appearance of the Church Road Conservation Area (CCCA);
- The effect of the proposal on the supply of family dwellings in the Borough;
- Whether the proposal would provide suitable living conditions for future occupiers with regard to private amenity space and internal living conditions; and
- The effect of the proposal on the living conditions of the occupiers of 4 Sylvan Hill with regard to outlook and light.

Reasons

Character and appearance

3. The site lies within the CCCA, a suburban residential area, which was previously a high class Victorian suburb. The built form of this upper section of Sylvan Hill is subservient in scale to the larger villas on Church Road. The road slopes steeply and has an established character, reinforced by hedges and trees along the road frontages.
4. The existing building on the appeal site is within a row of four modern detached houses with shallow pitched roofs, which are set back from the road behind

front gardens with parking forecourts and areas of planting. The house on the appeal site is separated from its neighbour at No 4 by a gap that is narrower than those between the others in the row. The building is also taller and bulkier than the others. The appeal site makes a neutral contribution to the CCCA.

5. The adjacent modern building at 6 Sylvan Hill, outside the boundary of the CCCA, has been built at a significantly lower ground level, so that it is separated from the site by a substantial retaining wall. Although the building is very large, it is set behind a row of mature trees and is located away from the boundary with the appeal site.
6. The replacement building on the site would be the same height as the ridge of the existing building and would fill the width of the plot, but would be bulkier due to its roof form. It would be set further forward than both of the neighbouring buildings. As a result, it would be prominent on the site. The additional height and flat roof form, as well as the proximity to No 4, would result in an uncomfortably tight relationship with that building, and an awkward juxtaposition of roof forms. The resulting appearance would be cramped and out of character with more spacious relationship between buildings that is characteristic of this part of the CCCA. I appreciate that the building would provide a transition in height between Nos 6 and 4 and that there is variation in the height of buildings in the surrounding area, but for the reasons set out above the proposal would unduly prominent, cramped and incongruous due to its bulk, form and siting.
7. Accordingly, the proposal would fail to preserve or enhance the character or appearance of the BCA. It would thereby conflict with Policy 7.8 of the London Plan 2016 (the London Plan) and Policy DM18.1 of the Croydon Local Plan 2018 (the Local Plan), insofar as they seek to ensure that new development that affects heritage assets is only permitted if it preserves or enhances its significance.
8. In the context of the CCCA as a whole, the harm to the significance of the designated heritage asset would be less than substantial. In accordance with paragraph 196 of the National Planning Policy Framework (the Framework), the harm, to which I afford considerable importance and weight, should be weighed against the public benefits of the proposal. There would be a public benefit in terms of the provision of additional housing in a location that is accessible to nearby facilities and services, as well as public transport links, and this would bring social and economic benefits to the area. However, I have seen no evidence that the additional housing could not be provided in a way that would be less harmful to the CCCA. I am therefore not persuaded that the public benefits of the proposal constitute clear and convincing justification to outweigh the harm I have identified to the significance of the CCCA. The proposal would therefore conflict with the relevant policies of the Framework.

Family dwellings

9. Local Plan Policy DM1.2 states that the redevelopment of residential units will be permitted where it does not result in the net loss of 3 bedroom homes (as originally built) or the loss of homes smaller than 130 square metres. The proposal would result in the loss of a four bedroom dwelling. While I note that the appellant states that the building was in use as a Home in Multiple Occupation (HMO) for a considerable period of time, and had been marketed as such, I have seen no firm evidence that this is its lawful use.

10. Policy SP2.7 seeks to achieve a strategic target of 30% of all new homes up to 2036 to have three or more bedrooms. As none of the 8 units that would be provided by the proposal would have more than 1 bedroom, it would not meet the requirement of this policy. The proposal would therefore result in the loss of a 3 bedroom dwelling, and would fail to provide any new family dwellings.
11. Consequently, the proposal would have a harmful effect on the supply of family dwellings in the Borough. It would thus be in conflict with Local Plan Policies DM1.2 and SP2.7, which seek, amongst other matters, to ensure that a choice of homes is available to address the Borough's housing needs and to prevent the loss of 3 bedroom homes.

Living conditions for future occupiers

12. Local Plan Policy DM10.4 and the London Plan Housing Supplementary Planning Guidance 2016 (the London Housing SPG) both require the provision of private outdoor amenity space, at a rate of 5 square metres for a 1-2 person unit. As six of the flats would not have any private outdoor amenity space, they would not meet the requirements of the policy. As a result, there would be no external amenity space, which would not create a suitable environment for occupiers. The presence of public parks nearby would not compensate for the lack of private amenity space for the six flats, nor would the other benefits of the location, such as the accessibility to local services, facilities and public transport.
13. The appellant has referred to a number of appeal decisions where new dwellings have been allowed with limited or no private outdoor amenity space. In the cases in Kingston¹ the provision of outdoor amenity space was found to be adequate. In Brent² the site was physically constrained. In Harrow³ there was an overprovision of internal floor space and proximity to public parks. At Camberwell Road⁴ the site appears to be located adjacent to a large public open space. The other cases predate the London Housing SPG and are not directly comparable. As a result, the circumstances of these cases are not comparable and do not indicate that this appeal should be allowed.
14. I have considered this appeal on its own merits and found that it would not provide adequate outdoor amenity space, and therefore would not provide suitable living conditions for future occupiers.
15. While dual aspect dwellings would have better daylight, sunlight and natural ventilation, I note that the London Housing SPG indicates that single aspect one and two bedroom homes can be acceptable. I have seen no firm evidence that the circumstances of the site are such that single aspect dwellings would provide unsatisfactory internal living space in this instance.
16. Notwithstanding my conclusion in relation to the internal living space, for the reasons set out above I conclude that the proposal would not provide satisfactory living conditions for future occupiers with regard to private amenity space. It would therefore conflict with Local Plan Policy DM10.4 and Policy 3.5 of the London Plan, insofar as they seek to ensure that new residential

¹ APP/Z5630/W/17/3168528 & APP/Z5630/W/17/3173718

² APP/T5150/W/17/3169197

³ APP/M5450/W/16/3158255

⁴ APP/A5840/W/15/3136539

development is of the highest quality and provides adequate private amenity space. It would also conflict with the London Housing SPG.

Living conditions of 4 Sylvan Hill

17. The new building would be built in close proximity to the boundary with No 4, but at the rear would be inset at first and second floor levels so that the bulk of the upper floors would be set away from the boundary. Taking into account the position and orientation of No 4, the proposal would not restrict the outlook from the rear upper floor windows or appear unduly prominent. Moreover, any overshadowing would be minimal.
18. I therefore do not find that the proposal would be harmful to the living conditions of the occupiers of 4 Sylvan Hill with regard to outlook and light. Accordingly, it would not be in conflict with Local Plan Policy 10.6, which seeks, amongst other matters to ensure that the amenity of the occupiers of adjoining buildings is protected, or the Council's Suburban Design Guide 2019.

Other Matters

19. Local residents have raised a number of concerns, but these do not have any bearing on the main issues. As I am dismissing the appeal, I have not pursued these matters further.

Planning Balance and Conclusion

20. The Framework is a material consideration in planning decisions. Paragraph 11 states that where the policies which are most important for determining the application are out of date, permission should be granted unless specific policies within the Framework provide a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
21. The Council states that it can demonstrate a five year housing land supply and the appellant has not provided any detailed evidence to dispute this. Therefore the 'tilted balance' of paragraph 11 d) of the Framework does not apply.
22. The draft London Plan has been subject to examination in public and the appointed Panel's report is awaited. While it is a material consideration, limited weight can be given to its housing requirements at this stage.
23. I appreciate that the site is accessibly located in relation to local facilities and services, and sustainable construction methods would be used to create energy efficient dwellings. The Framework is supportive of housing delivered on small sites and the proposal would contribute towards the supply of housing. However, these are not matters that outweigh the harm I have identified.
24. Although I have found in favour of the appellant in relation to the fourth main issue, this does not override my concerns in relation to the other three main issues. Therefore, I conclude that the appeal should be dismissed.

N Thomas

INSPECTOR