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## Appeal Decision

Site visit made on 13 January 2020

**by Adrian Caines BSc(Hons) MSc TP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 January 2020**

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**Appeal Ref: APP/L5240/W/19/3232852**

**64 Foxley Lane, Purley, CR8 3EE**

- 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 Ace Developments against the decision of the Council of the London Borough of Croydon.
  - The application Ref 18/06176/FUL, dated 19 December 2018, was refused by notice dated 30 April 2019.
  - The development proposed is erection of 3 two storey, two bedroom mews houses to rear of 64 Foxley Lane.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The description of development on the application form provided with the appeal was partly obscured so I have adopted the description used on the appeal form and decision notice.

### 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 of the occupiers of neighbouring properties, with particular regard to privacy and the provision of outdoor garden space to No 64;
  - the effect on the living conditions of future occupants of the development, with particular regard to privacy;
  - whether suitable provision is made for parking and pedestrian access;
  - whether suitable provision is made for refuse storage and collection; and
  - whether a suitable housing mix is provided.

### Reasons

#### *Character and appearance*

4. No 64 is a two storey, semi-detached property located on the northern side of Foxley Lane on the slope of a hill. I understand that it is undergoing conversion

to 6 flats, which includes extensions that have been built to the side and into the slope at the rear. The remaining rear garden rises steeply and is currently occupied by an outbuilding, which from the evidence is subject to enforcement proceedings, but would in any event be removed to facilitate the proposals. To the front is an area of hardstanding, which I understand is to provide 3 parking spaces and bin storage to serve the flats. The surrounding area is predominantly residential in character with a mix of two storey, pitched roof, semi-detached and detached inter-war properties set within spacious plots with deep rear gardens.

5. It is questionable whether the drawings correctly show the levels because they indicate that land levels would slope downwards to accommodate the development. This would require significant excavations and removal of earth, and with no apparent means for vehicles and machinery to access the rear garden through the existing property, it seems improbable.
6. Nevertheless, considering the proposal on the basis of the submitted drawings, the proposed dwellings would extend nearly the full width of the rear garden. Together with their own gardens and related enclosures, the dwellings would also occupy nearly the whole depth of the rear garden, leaving the existing property with no meaningful garden space. This would be at odds with the spacious character and established pattern of development on this part of Foxley Road. Moreover, although the dwellings would appear single storey from the south, they would still sit prominently at roughly first floor level in relation to the existing property. Their flat roof design would assist in reducing the perceived scale and bulk of the development, but would not respect or complement the character of the surrounding development.
7. As a result of the elevated nature of the plot and the gap between Nos 64 and 62, the development would be visible in the street scene and also from surrounding properties. For all the reasons above, this would have a negative impact on the character and appearance of the area, and could not be overcome by use of acceptable materials and landscaping.
8. I conclude, on this issue, that the development would cause unacceptable harm to the character and appearance of the area. This would be contrary to Policies 7.1, 7.4 and 7.6 of the London Plan (Consolidated with alterations since 2011) (LP), Policies SP4.1, SP4.2 and DM10 of the Croydon Local Plan (2018) (CLP), and the Council's Suburban Design Guide Supplementary Planning Document (2019) (SPD). Amongst other things, these seek high quality development that respects the pattern and distinctive qualities of the area and which contributes positively to townscape and local character, consistent with the design objectives of the National Planning Policy Framework (the Framework).

#### *Living conditions – neighbours*

9. I am informed by the appellant that the separation between the development and the rear of No 64 would be around 13m. As the rear elevation of No 64 contains large windows at first floor and in the second floor dormers, they would be directly overlooked at close proximity by the first floor bedroom windows and balconies in the development, causing unacceptable intrusion and loss of privacy to the occupants of the flats, and vice versa for that matter. I do not accept the appellant's suggestion that this could be overcome by appropriate screening due to the excessive height any such screening would have to be in order to be effective. This would be visually intrusive and

overbearing, and in the case of planting, would take a significant time to establish.

10. Furthermore, as alluded to earlier, the development would not leave any outdoor garden space for the flats in No 64. Whilst in excess of 10m separation would be achieved between the retained building and the development, this would not be garden space for the occupiers of No 64. LP Policy 3.5 and CLP Policy 10.4 require flats to have access to both private and communal outdoor amenity space. The absence of suitable outdoor garden space for No 64 would lead to substandard living conditions for its occupiers.
11. Nos 62 and 66 both have windows in their rear elevations. The appellant informs me that the separation between the development and respective rear elevations would be around 15m to No 62, and 14m to No 66. There is a large gap in the vegetation along the boundary with No 62, and whilst there is a substantial hedge along the boundary with No 66, it is not in the appellant's control. As such, there is no guarantee that the hedge would remain and I note from the objections that the neighbour had hoped to reduce it. The boundary fences would not offer sufficient screening due to the elevated nature of the plot. Therefore, even though views towards the neighbouring properties would be at an oblique angle, due to the elevation and proximity of the development, there would be an unacceptable intrusion and loss of privacy to the rear windows and gardens of Nos 62 and 66 with resultant harm to the living conditions of their occupiers.
12. The development would be very close to the rear boundary, but based on the levels shown on the plans, the dwellings would be below the property to the rear, such that overlooking in that direction would not be possible. However, this does not outweigh the identified harm to the occupiers of Nos 62, 64 and 66.
13. I conclude, on this issue, that the development would have an unacceptable impact on the living conditions of the occupiers of Nos 62, 64 and 66 in terms of privacy, and in terms of the loss of garden space for No 64. This would be contrary to LP Policy 7.6, CLP Policy DM10, and the Suburban Design Guide SPD, which seek to ensure a good standard of amenity for all neighbouring occupants by amongst other things, avoiding loss of privacy. It would also be contrary to LP Policy 3.5 and CLP Policy DM10 regarding provision of appropriate outdoor space. The Council cited conflict with LP Policy 7.4 in this respect, but as it relates to design and appearance it is not relevant to this main issue.

#### *Living conditions – future occupants*

14. There is no dispute that the proposal complies with the minimum floorspace standards and would provide its own occupants with sufficient amounts of outdoor garden space. However, as alluded to earlier, there would be mutual overlooking between the windows of the development and No 64. This would also apply to the gardens of the proposed dwellings, which whilst of sufficient size, would not benefit from good levels of privacy. As such, the development would suffer from poor levels of privacy, which would be harmful to the living conditions of its occupants.
15. I note that the Council also raised concerns regarding outlook and light. In some respects, I share concerns in relation to outlook given the potential for

the north elevation to be facing onto a retaining wall of significant height. However, the dwellings would be dual aspect and I am satisfied that they would receive adequate levels of light, but this does not outweigh the harm from inadequate privacy.

16. I conclude, on this issue, that the development would have an unacceptable impact on the living conditions of the future occupants in terms of substandard levels of privacy. This would be contrary to CLP Policy DM10, and the Suburban Design Guide SPD, which amongst other things, require development to create a high standard of amenity for future users, including provision of private outdoor space. As the proposal meets minimum floorspace standards for its future occupants I find no conflict with LP Policy 3.5 and CLP Policy SP2.8 in this regard. CLP Policies SP2.6 and SP2.7 relate to housing mix so are not relevant to this main issue.

#### *Parking and access arrangements*

17. From the evidence, it appears that the proposal was not initially designed to be 'car free'. Three parking spaces were removed from the scheme because the access from the north would have been through land not in the appellant's control. In any event, I fail to see how such access could have been achieved in practical terms given the proposed levels.
18. The LP sets out maximum car parking standards for residential developments based on public transport accessibility levels (PTAL) and local character. It is not disputed that the site is in an area with a PTAL rating of 1b, a poor accessibility level to public transport. 'Car free' housing is normally only supported in locations with a high PTAL rating, good accessibility level.
19. The appellant initially stated that the site is just a 3 minute walk to Purley town centre, but I note this was revised to 15 minutes in the final comments. From my experience, walking distance to the shops and other facilities in Purley, including the main line railway station, is between 15-20 minutes. This is sufficient to discourage walking for many people, particularly back up the hill. However, due to bus stops on Foxley Road, future occupants would not be wholly reliant on the private car. Nonetheless, this does not necessarily mean that they will not own a car. In my judgement, given the dwellings would be 2-bed, and in light of the site's poor PTAL rating, car ownership would be likely. I therefore consider that maximum car parking provision should be provided.
20. It has been put to me that a condition could require submission of a Transport Statement to confirm that sufficient on-street parking is available. However, to leave such matters to a condition would be too late, as there would be no certainty of parking availability. Moreover, whilst there are no evident parking restrictions in the vicinity of the appeal site, I observed that Foxley Road was very busy with few available on-street parking spaces. This was during the day. The demand for on-street parking would be likely to be greater in the evening and at weekends. I am also mindful that No 64 is being converted to 6 flats with only 3 parking spaces, which is likely to lead to increased demand for the on-street car parking spaces in the vicinity. In the absence of any evidence to the contrary, I am not satisfied that the development would not lead to an increase in on-street car parking. This would reduce inter visibility and potentially lead to indiscriminate and obstructive parking, which would adversely affect the safety of other road users, particularly cyclists and pedestrians.

21. It has also been put to me that a condition could prevent occupiers from applying for a parking permit in any controlled parking zone, but I have found that 'car free' development would not be appropriate in this case. Irrespective, such a condition would not regulate the development or use of land so it would not be an appropriate mechanism for securing 'car free' housing.
22. The Council has also expressed concerns about the pedestrian access arrangements for the dwellings, which would be via the pathway to the side of No 64. I observed that this would involve negotiating a steep slope and multiple steps over some distance, which would be challenging for people with reduced mobility, mothers with prams, or when having to carry shopping etc. from the street to the front door. The SPD advises that access to individual units via circulation space should be designed to allow ease of access for all users, consistent with paragraph 108c of the Framework. That would not be the case for the development and as such, the Council's concerns in this respect are well founded.
23. Drawing these points together, I conclude, on this issue, that the proposal would not make suitable provision for car parking or access arrangements for the occupants. This is contrary to LP Policy 6.13, CLP Policy DM29 and DM30, and the SPD, where they seek appropriate parking and to ensure development does not prejudice conditions of general highway safety. In addition, there is conflict with the SPD and the Framework where they require development to provide safe and suitable access for all users.

#### *Refuse storage*

24. CLP Policy DM13 requires refuse facilities to be conveniently located and easily accessible by all occupants and waste collectors. The SPD sets out that this should be within 20m of the street.
25. The appellant informs me that the location of the proposed bin store would be 25m from the street. Accordingly, it would not meet the SPD guidance. Furthermore, it would not be in a publicly accessible location for collection. As such, the responsibility for taking the bins to and from the street is likely to rest with the occupants. As described above, this would entail having to take the bins for an excessive distance down and up a steep slope whilst also negotiating steps. Even taking refuse to the store would be relatively arduous given the distance and steep steps to get to it. Such an arrangement would not be convenient and accessible for all occupants. The appellant claims the arrangements would meet the Building Regulations. Any requirements under the Building Regulations are separate from the planning legislation and are not something to be taken into account in this decision.
26. It has been put to me that an alternative location for the bin store could be secured by a condition. However, given the limited available space within the site and the problems associated with increasing the distance from the dwellings to the store, I do not consider that a condition would resolve the issue.
27. I conclude, on this issue, that the proposal would not make suitable provision for refuse storage. This is contrary to CLP Policy DM13 and the SPD, as set out above.

### *Housing mix*

28. CLP Policy SP2.7 sets a target of 30% of new homes to have three or more bedrooms. However, this is clearly expressed as a strategic target rather than a site specific requirement. I note that Policy DM1 only requires homes with three or more bedrooms on sites of 10 or more units. Even if taken cumulatively with the recent conversion of No 64 to flats, the proposal would be under this threshold. No other substantive evidence has been placed before me to demonstrate any overriding need for 3-bed dwellings in this case.
29. I conclude, on this issue, that the proposal would not provide an unsatisfactory housing mix for the area. In this regard, the development would not be contrary to CLP Policies SP2.7 and DM1, as set out above.

### **Other Matters**

30. I have had regard to the aims of the SPD and the Framework in respect of making effective use of land, and adding to the supply and choice of housing in the area. However, these objectives and the modest benefits of the proposal in these respects do not outweigh the harm identified and the proposal's failure to comply with the policies of the adopted development plan in those respects. As such, the proposal does not represent sustainable development.

### **Conclusion**

31. For the reasons given and having taken into consideration all matters raised, I conclude that the appeal should be dismissed.

*Adrian Caines*

INSPECTOR