



Appeal Decision

Site visit made on 21 October 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 13th February 2020

Appeal Ref: APP/L5240/W/19/3231704

112a Brigstock Road, Thornton Heath CR7 7JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Mark Cello against the decision of the Council of the London Borough of Croydon.
 - The application Ref: 18/04133/FUL, dated 20 August 2018, was refused by notice dated 23 January 2019.
 - The development proposed is described as 'new build one bedroom flat attached to existing property'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - a) the character and appearance of the area, including the effect on the host property and trees
 - b) flood risk
 - c) the living conditions of future occupiers, with particular regard to internal living space, and
 - d) the living conditions of neighbouring occupiers, with particular regard to light and outlook.

Reasons

Character and appearance, including host property and trees

3. The appeal site is at the end of a row of two-storey semi-detached Victorian residential properties. The site comprises a semi-detached building containing three flats, and a rear garden area. The host property is located on the apex of a curve of the B266 Brigstock Road, on the approach to Thornton Heath district centre, near the entrance to a car wash and repair business.
4. The proximity of the bulk of the proposed dwelling to the boundary with Norbury Brook is likely to result in significant erosion of brookside tree cover, both during construction, and afterwards due to reduction of percolation of air and water to roots and future pressure for removal due to branch and leaf drop onto the building below. Pile foundations would not significantly reduce the

detrimental factors described above. No tree protection plan or arboricultural method statement is before me to demonstrate otherwise. Whilst the trees are not protected by Tree Preservation Order for example, the proposal would introduce significant additional pressure which would result in a noticeable loss of part of a leafy green 'wedge', set around the brook. This leafy feature provides verdancy and relief from built-up elements in the urban area.

5. Moreover, views of tree canopies would be replaced with a somewhat sprawling expanse of building, which would - given its mass, extent of rear projection and profile - visually jar with the original core of the host building. Use of brick and tile to match the existing building, on the outer side face of the proposed flat would not override the impact its mass. Cumulatively, in addition to the mass of the existing extensions to the building, the proposed development would look out of proportion with the original host building. It would also distract from the distinctive symmetrical appearance of the frontal view of the host building. Furthermore, the proposal would substantially encroach into the back garden, diminishing the verdancy and spaciousness of the rear garden character of the host row of dwellings.
6. The above effects would be noticeable to various degrees, from the following viewpoints: approaching the site, in its prominent location on the curve of the well-used Brigstock Road, in a north-easterly direction; looking from Brigstock Road across and down the entrance to the car wash; from the front and rear of the host property; and from rear gardens in the vicinity. The substantial bands of fenestration on both storeys of the proposed rear elevation would exacerbate the discordance with the appearance of the host building, viewed from the rear.
7. Together, the above factors would erode the traditional residential scale, form verdancy and spaciousness of the site and the area. I therefore conclude that the proposal would harm the character and appearance of the area, including the appearance of the host building and the local treescape. As such, it would conflict with Policies SP4 and DM10 of the Croydon Local Plan (2018) (CLP) and Policies 7.4 and 7.6 of the London Plan (2016) (LP)¹. The proposed development would also, in respect of trees, conflict with Policies SP7 and DM28 of the CLP, and Policy 7.21 of the LP. Together, the policies seek to ensure that development complements local character, including architectural and 'green' landscape elements.

Flood risk

8. The site is next to Norbury Brook and is located mainly within Flood Zone 3, which has a high probability of flooding. The site is also described by the Council as being within a surface water flood risk area.
9. The appellant's proposal, including its Flood Risk Assessment (FRA) dated August 2018, does not include application of the sequential test. As such, the proposal has not demonstrably addressed the requirement - as set out in the Planning and flood risk section of the National Planning Policy Framework (the Framework) - to steer new development to areas with the lowest risk of flooding.
10. The appellant's statement of case (ASOC) sets out that the finished floor level of the dwelling would be no lower than for existing buildings on the site, and

¹ ¹ The London Plan: The Spatial Development Strategy for London, Consolidated with Alterations since 2011, March 2016.

proposes the following flooding mitigation measures: main entrance and rear bifold 'flood doors'; tanking the lower 1.2m of the dwelling; and a sump and pump. However, a clearly detailed illustration - in section form with key dimensions and levels shown - of the proposed internal building arrangements, and the suggested sump and pump provision, is not presented.

11. Moreover, given the proposal's proximity to the watercourse and the site's flood risk profile, there is insufficient detail - in terms of calculation of soakaway capacity, surface run-off volume and rate, including allowing for climate change, and sustainable urban drainage measures - before me to decisively show that the proposed development would be safe for its lifetime, without increasing flood risk elsewhere, and, where possible, reduce flood risk overall.
12. Nor is it demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk. As such, even if the sequential test were to be satisfied, the exception test is not demonstrably passed. On this basis there is a reasonable prospect that the proposal would have an adverse effect on flood risk. As such, it would conflict with Policy SP6 of the CLP, and Policies 5.12 and 5.13 of the LP. Together, the policies require development, amongst other things, to be located and designed to minimise the risk and impact of flooding. The proposal would also conflict with paragraphs 161 and 163 of the Framework.
13. As Policy DM10 of the CLP does not specifically cover flood risk, it is not engaged in this respect.

Living conditions of future occupiers

14. The ASOC describes the proposal as designed with standard ceiling heights of 2.4m. However, this is not illustrated in the form of a detailed section drawing showing the internal floor and ceiling arrangements, with key dimensions. As such, it is not decisively demonstrated that the proposal would achieve the minimum floor to ceiling height of 2.3m for at least 75% of the Gross Internal Area, in line with criterion 10i) of the Technical housing standards - nationally described space standards (2015).
15. Therefore, the proposal would not demonstrably achieve satisfactory living conditions for future occupiers in respect of internal living space. As such, it would conflict with Policy SP2.8 of the CLP, and Policy 3.5 of the LP, which together seek to safeguard living conditions of residents.
16. As Policy DM10 of the CLP does not specifically cover internal room dimensions, it is not engaged in this respect.

Living conditions of neighbouring occupiers

17. The proposed dwelling would be set at a modestly oblique angle away from the host building at No 112 Brigstock Road. Views down the rear garden, perpendicular to the rear facade would not be obstructed. The proposal would cast some shade on the south-western corner of the rear garden of No 112, later in the day. However, the majority of No 112's existing open garden space would be unaffected by the shading, the proposed dwelling has a stepped-down side profile, and, comparatively, the existing trees cast shade. Although a 45 degree line from the mid-point of windows in the rear elevation of No 112

would technically be breached, taking the above together, the appeal scheme would not have significant enclosing or shading effects on the host property.

18. Therefore, the proposal would not harm the living conditions of neighbouring residents, in respect of light and outlook. As such, the proposal would broadly accord with the aims to protect the well-being and living conditions of residents within Policies SP4 and DM10 of the CLP, and Policy 7.6 of the LP. The absence of harm in this respect is a neutral factor, which does not weigh in favour of the development.

Other Matters

19. The proposal would provide an additional one-bedroom dwelling. However, the benefit would be limited by the scale of development, and not outweigh the harm identified.

Conclusion

20. For the reasons given above I conclude that the appeal should be dismissed.

William Cooper

INSPECTOR