
Appeal Decision

Site visit made on 29 September 2020

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: Wednesday, 25 November 2020

Appeal Ref: APP/L5240/W/20/3253581

121 Foxley Lane, Purley, CR8 3HR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Matt Harveson (Harnel Group) against the Council of the London Borough of Croydon.
 - The application Ref 20/00382/FUL, is dated 23 January 2020.
 - The development proposed is redevelopment by construction of 4 storey block of flats comprising 9 units.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Procedural Matters

2. I note that the description of development used by the Council in a letter dated 15 September 2020, headed '*Authority to Contest Appeal – Refusal of Planning Permission*' uses a different description of development to that given on the planning application form. As this is not a formal notice refusing planning permission and that the description of development given on the application form adequately describes the development proposed I have used that in the determination of this appeal.
3. I note that the appellant submitted amended plans to the Council in order to address some of their concerns and these are set out in the Final Comments submitted by the appellant. I also note that the Council has not assessed these plans and has addressed in the letter above and its statement the plans originally submitted by the appellant with the planning application.
4. The Council has also acknowledged that the amended plans submitted by the appellant would have required further consultation as part of their assessment. Therefore, in the absence of consultation on the amended plans submitted by the applicant during the course of the planning application I have determined this appeal on the basis of the plans which were considered by the Council in responding to this appeal. As those which should have been consulted on the changes have not had an opportunity to comment on them.

Background and Main Issues

5. This is an appeal against the failure of the Council to give notice within the prescribed period of a decision on an application for planning permission.

Therefore, there is no formal decision of the Council determining the application.

6. The letter referred to above, whilst not constituting a formal decision, does contain the reasons why the Council objects to the appeal proposal. I have therefore taken the content of this letter into account on framing the main issues in this case.
7. I have also been supplied with a statement of case from the Council expanding upon the reasons for objecting to the appeal proposal. I have also used the information contained in this statement to identify the main issues in this appeal.
8. The appellant has submitted final comments which seek to address the Council's concerns regarding the appeal proposal set out in the officer's report. These have been taken into account in framing the main issues.
9. Therefore, and taking account of the above, I consider the main issues in this appeal are:
 - the effect of the development on the character and appearance of the area;
 - the effect of the proposal on the setting of the adjacent Conservation Area;
 - the effect of the development on transport issues and highway safety in the locality;
 - whether the proposal makes adequate provision for storage of domestic waste; and
 - whether the development is likely to affect mature trees.

Reasons

Character and appearance

10. The part of Foxley Lane where the appeal site is located is characterised by large houses standing in substantial grounds, with hedges and trees. Whilst some of the houses in the Lane have been converted to flats, it still retains a traditional appearance, as a leafy residential street with front gardens and drives.
11. The majority of the houses between the entrance to the Webb Estate and the junction of Foxley Lane with Little Woodcote Lane, are either detached or semi-detached with two stories. They are traditionally designed with pitched roofs, constructed of brick and tile with some timber detailing and render. The majority have front drives and gardens characterised by trees and other vegetation.
12. The proposed building would not be traditionally designed and would present a sharp contrast between it and the existing buildings in Foxley Lane. The 90-degree angles used in the design to create a stepped appearance, without pitched roofs, would jar with the traditionally designed houses in the Lane. This difference would be emphasised by its height in relation to the adjacent dwellings. The central glazed column, the large windows with horizontal

- emphasis and balconies, would also accentuate this difference with the prevailing building type in the area. Moreover, the removal of a significant amount of the mature planting between the proposed building and Foxley Lane would increase its prominence in the street scene. Consequently, its contrast with the prevailing character of the area would be emphasised.
13. I have had regard to the appellant's view that the building represents an innovative and original design. However, any building still needs to respect its context in order to be acceptable. The appeal proposal by reason of its height, shape, bulk, massing and detailing does not do this and as a result would appear as an incongruous addition to the area.
 14. I note that the central glazed column is intended to break up the massing of the building, but due to it being set back from the front elevation this effect would be reduced. Therefore, the mass and bulk of the building would still be evident when viewed from Foxley Lane. The use of setbacks, balconies and the variety of materials in the design of the building leads to a rather incoherent approach when the appearance of the building is compared to other buildings in the area.
 15. I have also taken into account the Suburban Design Guide (SPD) of April 2019 and the appellant's view that the proposal is consistent with its principles. I note that the appellant has highlighted examples from the SPD which, he contends, demonstrates this consistency. In my view the SPD is clear in illustrating what is acceptable in the Borough in terms of design. The examples given by the appellant, whilst modern in style, occupy different sites and have different relationships to surrounding buildings than the appeal proposal. In any event I am required to deal with the merits of the particular case before me and whilst I have had regard to these examples they are of limited value when assessing the current proposal.
 16. As a result, and for these reasons the proposed development would be at odds with the prevailing architectural style in the area, not integrate with the surrounding buildings and would represent a prominent and discordant feature in this part of Foxley Lane. This would be harmful to the character and appearance of the area. Consequently, it would be in conflict with Policies 3.5 and 7.6 of The London Plan 2016 (LP) and Policy SP4 of the Croydon Local Plan (CLP) 2018. These policies seek, amongst other things, to support development that respects the pattern and layout of an area, the scale, height and the massing of its buildings and be constructed of materials that respect its surroundings.

Setting of the Conservation Area

17. The Webb Estate and Upper Woodcote Village Conservation Area (CA) lies to the rear of the appeal site. The proposed building is separated by a large mature garden from its boundary with the CA. There are also mature trees on the boundary of the site and the CA. It is the appellant's intention to retain the mature garden to the rear of the appeal building and it is likely that the existing mature trees will remain if the appeal proposal is implemented.
18. The setting of a CA is the surrounding in which the heritage asset is experienced. The appeal proposal will front on to Foxley Lane. The rear of the building will face towards the boundary of the CA. The boundary of the CA is at the end of the long garden with mature trees separating the site and the CA.

The rear garden will remain in the event of the appeal proposal being implemented. It is unlikely that the building will be experienced from the CA and so therefore is unlikely to affect its setting. In the event that the appeal building could be seen from the CA these would be likely to be glimpsed views through mature vegetation and the building would be viewed as another dwelling in the row of dwellings backing on to the CA from Foxley Lane. This would have, at worst, a neutral effect on the setting of the CA.

19. I therefore find that the appeal proposal is consistent with the Policy 7.8 of the LP and Policy DM 18 of the CLP in that it would not harm the setting of the CA.

Transport and highways

20. The Council has made various points in relation to the compliance of the development to its transport standards. However, it appears that the details have either not been supplied or have not been assessed. The Council has given an indication that the proposal is capable of meeting these requirements subject to appropriate conditions or legal agreements.
21. Having assessed the Council's requirements against the appeal proposal I have no reason to doubt that conclusion. Consequently, I find that subject to the use of appropriately worded conditions and the completion of a suitably worded s106 agreement the proposal is capable of being made consistent with the relevant policies of the development plan with regard to transport standards and highway matters.

Storage of domestic waste

22. Policy DM13.1 sets out the standards required for the storage of household waste on residential sites, including the storage of bulky waste. The appeal proposal does not meet these requirements as the proposed bin storage arrangements are not sufficiently accessible and there is inadequate provision for the storage of bulky waste. The proposal is therefore in conflict with this policy of the CLP.

Trees on the site

23. There are mature trees on the site, and it is clear from the plans that the construction of the car parking area to the front of the proposed building would affect trees both on the site and the roots of those on adjacent sites.
24. It appears that the Council Tree Officer has not visited the site to assess the trees and the likely effect of the proposed development on them. The appellant has submitted comments from an arboricultural consultant to address the Council's concerns. However, it appears that these concerns cannot be adequately addressed without the Council Tree Officer visiting the site or the appellant supplying an appropriate photographic survey of the trees affected.
25. It is clear to me that the development will affect a significant number of trees on the site and these have been identified in the Arboricultural Report submitted by the applicant. The Council was supplied with a copy of the report with the planning application. It appears to me that the principal area of disagreement between the parties is that the Council has not had an opportunity to assess the quality of trees on the site itself, and uncertainty around the affect the development would have on the roots of the trees on the neighbouring site at No 123A.

26. The absence of such an assessment by the Council could affect how the site could be developed. Furthermore, the lack of detailed evidence concerning the affect of the development on the roots of trees in neighbouring gardens leads to uncertainty about the effect of the development on these trees. I note what the appellant's arboricultural consultant has said concerning this matter, however I am still uncertain how the development would affect trees on the neighbouring site without a thorough assessment by the Council's Tree Officer.
27. Consequently, and in the absence of an assessment of the tree information submitted by the appellant, I find that the development could result in harm to the existing trees on or around the site. The appeal proposal is therefore in conflict with Policies SP7 and DM28 of the CLP.

Conclusion

28. I have found that there is a neutral effect of the proposal on the setting of the CA and that the detailed matters concerning transport and highway are capable of being resolved through the use of a legal agreement and conditions.
29. However, I still find that the development is unacceptable in terms of its effect on the character and appearance of the area, its inadequate provision for the storage of domestic waste and uncertainty around its effect on trees.
30. For the reasons given above the appeal is dismissed.

Peter Mark Sturgess

INSPECTOR