



Appeal Decision

Site visit made on 7 December 2020

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 December 2020

Appeal Ref: APP/L5240/W/20/3253386

28 Grasmere Road, Purley CR8 1DU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval to details required by conditions of a planning permission.
 - The appeal is made by Mr Ryan Luffman of Crystal Properties UK Ltd against the decision of the Council of the London Borough of Croydon.
 - The application Ref 19/02898/DISC, dated 10 June 2019, sought approval of details pursuant to conditions Nos 3, 4, 5 and 15 of a planning permission Ref 18/01575/FUL, granted on 3 August 2018.
 - The application was determined as a split decision by notice dated 27 February 2020.
 - The development proposed is demolition of a bungalow and garage, erection of three storey building, creation of eight self-contained flats (C3), with associated landscaping, terraces, refuse, cycle stores and car parking.
 - The details for which approval is sought are: External facing materials (condition no 3), Landscaping (condition no 4), SUDS (condition no 5) and Refuse management plan (condition no 15).
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Decision

1. The appeal is allowed in part and condition 3 is deemed discharged. The appeal is dismissed as regards conditions 4 and 5.

Application for costs

2. An application for costs was made by Mr Ryan Luffman of Crystal Properties UK Ltd against the Council of the London Borough of Croydon. This application is the subject of a separate decision.

Procedural Matters

3. The Council issued a split decision, with approval granted under condition 15 for the Refuse Management Plan. No approval was given for the remainder of the details and those are the focus of my consideration.
4. The development was substantially complete at the time of my visit. However, I note that the relevant conditions require the submission and approval of details prior to the commencement of development. There has been a breach of those conditions and it is no longer possible to secure compliance. No party would be prejudiced by my considering whether the submitted information would have been acceptable had it been provided in advance of development commencing. In the event that those details vary from what has been constructed on site, that is a matter for the Council.

Main Issue

5. The main issue is whether the submitted details of external facing materials, landscaping and drainage would have been acceptable for the purposes of discharging the relevant pre-commencement conditions.

Reasons

External facing materials

6. Condition 3 requires the submission of samples/details of the external facing materials. I interpret this to mean those materials which are to be used in the construction of the walls and roofs of the building.
7. The Supporting Statement includes manufacturer details of the brick and tile, and the Council considers these to be acceptable. I concur. The statement indicates that the same type of brick will be used for the dog tooth dentil and corbel brick detailing, and also the brick soldier coursing. Since it was not specified otherwise, it would have been reasonable to assume that the same tile was being proposed for the roof and vertical tile hanging – the appellant has since confirmed this. Details have also been provided of the timber boarding together with photographs of the balustrades and handrails being proposed.
8. I share the appellant's view that a sample of render would serve no beneficial purpose. Specification of the colours for the render and mock Tudor framing would have been useful. However, the condition wording requires details of materials and not finishes and therefore the information cannot be insisted upon. Notwithstanding this, I am content that the black and white colouration applied to the actual building are in keeping with neighbouring buildings.
9. The Council states that it would expect to receive information on items such as window and door openings, soffits and fascias. To my mind, these do not constitute facing materials and had the authority wanted to control such features it should have been more precise in framing the condition.
10. To conclude, the Supporting Statement would have been acceptable for the purposes of discharging condition 3 in relation to external facing materials.

Landscaping scheme

11. Condition 4 requires the submission of a hard and soft landscaping scheme. This is set out on revised drawing 11318/04C which was supplied during the course of the application. Contrary to the statement by the Council, the plan does show soft landscaping to the front of the property in the form of Japanese maple trees in planting beds either side of the access. These details are acceptable, as is the low picket fencing which complements other front boundary treatments in Grasmere Road.
12. The sleeper walling bounding the rear garden varies in height according to adjoining ground levels; however, I am satisfied that the level of information provided is adequate, as is the layout of the garden with its shared patio and play area. Where the landscaping scheme lacks the necessary detail is in relation to the fencing along the boundary with 30 Grasmere Road. The reason for the condition includes, amongst other things, the need to ensure that the privacy of neighbouring properties is safeguarded. At present, there are direct views into the garden of No 30 from the steps. There is also visibility into

ground floor windows of No 30 from the pathway and a ground floor flat, due to the open slats at the top of the fence. The landscaping scheme annotates this boundary with the words '1.8 m high new timber fence' but this level of detail is insufficient to minimise the impacts on the occupiers of No 30. Moreover, I am concerned that the use of tall fencing forward of the principal elevation is not in keeping with the area. Side boundary treatments at the front of properties in Grasmere Road generally comprise hedges and low walls.

13. Furthermore, there are issues with surface treatments. The front driveway has been finished in permeable resin bound gravel, which is acceptable, but this is not annotated on the landscaping scheme. The play area is labelled with a website address but it is unclear which product is being proposed.
14. The Council has raised the concern that the landscaping scheme does not demonstrate the accessibility and inclusivity of the development. However, it does not elaborate on what additional information it is seeking. The topography of the site makes it impossible to have level access to the shared amenity space, although I note that Flats 1 and 2 are fully accessible with private patios.
15. I conclude that the submitted details of landscaping would have been inadequate for the purposes of discharging condition 4.

Sustainable Urban Drainage System (SUDS)

16. The drainage solution for this site has been informed by a ground investigation using two boreholes. The results of this exercise, which showed underlying clay beneath the made ground, means that infiltration is not recommended. The plans show surface water draining to the sewer via an attenuation tank under the front driveway; this has a controlled outlet for gradual release.
17. The appellant states that the site has no greater runoff than previously but it is not clear whether there was ever a connection to the sewer network. Use of the foul sewer for surface water does not feature in the London Plan drainage hierarchy¹ and should not normally be accepted as it brings with it the risk of overflows. That said, I note that Thames Water asset records do not show a combined or surface water sewer within Grasmere Road and therefore the attenuated discharge to the foul sewer may be the only practicable option in the absence of favourable ground conditions for infiltration.
18. The parties blame each other for not contacting Thames Water but in reality it is a joint responsibility. Prior to agreeing a connection to the foul network, a wholly exceptional circumstance, I would need to be satisfied that the foul sewer has the capacity to accommodate the flows from the development and that the rate of discharge is acceptable. I have not seen any correspondence from Thames Water which confirms agreement to the appellant's drainage proposal. In the absence of this, condition 5 should not be discharged.

Other Matters

19. Third parties have drawn attention to aspects of the scheme which have not been completed, for example bicycle storage. The appellant has indicated that the works will be undertaken, but the Council has enforcement powers in any event. This matter is not for consideration under the appeal.

¹ London Plan Policy 5.13 Sustainable drainage

Conclusion

20. I conclude that the submitted details of external facing materials would have been adequate for the purposes of discharging condition 3. For the reasons set out above, the details provided pursuant to conditions 4 and 5 are not acceptable and those conditions could not have been discharged had the information been submitted prior to development commencing.

Robert Parker

INSPECTOR