

Appeal Decision

Site visit made on 4 December 2020

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 January 2021

Appeal Ref: APP/L5240/W/20/3250429

Rear of 34 & 36 Riddlesdown Avenue, Purley, CR8 1JJ

- 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 Daniel Brown against the decision of London Borough of Croydon.
 - The application Ref 19/05914/FUL, dated 12 December 2019, was refused by notice dated 6 March 2020.
 - The development proposed is the construction of a 2-storey 3 bed 6person detached dwelling house and 2-storey building comprising 2 x 1bed 2person and 2 x 2bed 4person flats.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a 2-storey 3 bed 6person detached dwelling house and 2-storey building comprising 2 x 1bed 2person and 2 x 2bed 4person flats at the rear of 34 & 36 Riddlesdown Avenue, Purley, CR8 1DH in accordance with the terms of the application, Ref 19/05914/FUL, dated 12 December 2019, subject to the conditions on the attached schedule.

Procedural Matter

2. A scaling error has been corrected via the post planning application submission of drawing number 247-001-B. On the basis that in my opinion no interested parties will be prejudiced by this I accept this drawing as being before me for determination.

Main Issues

3. I consider the main issues are the effects of the proposal on:-
 - living conditions for neighbours; and
 - highway safety

Reasons

4. The appeal site comprises part of the rear gardens of 34 and 36 Riddlesdown Avenue, which would be subdivided to facilitate construction of the new dwellings. The host properties are located on the western side of the site, fronting Riddlesdown Avenue and are two-storey detached dwellings with generous rear gardens. The rear gardens rise steeply from the houses. At the rear of No.36 there is an area of hardstanding with three parking spaces and a double detached garage fronting an access road. The rear of No.34 is formed by a rear garden and a recessed detached garage. The wider surrounding area
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is residential in character whilst properties and gardens are varied but overall combine to give a generally pleasing appearance in this locality.

5. The appeal proposal is as described above. It is shown with generally the same design and scale of properties, and broadly similar inter-relationships between homes, as those constructed alongside over recent years.

Living conditions for neighbours

6. The Council is concerned that the scheme would fail to retain sufficient garden space for the donor property No.36 Riddlesdown Avenue and would thus result in harm to the outlook, openness and amenity currently enjoyed by residents of this house.
7. The reasoning of the Council is based on spatial and amenity purposes as per Policy DM10.4(e) of the Croydon Local Plan (2018) (LP). This requires a development in the grounds of an existing building to have a minimum length of 10m and no less than half or 200m² (whichever is the smaller) of the existing garden area be retained for the host property, after the subdivision of the garden. The Council indicates that while the proposal would retain 13m length of the rear garden for No.36, exceeding the minimum requirement for 10m, the proposed development would retain less than half or 200m² for the host property No.36.
8. However, it is the Appellant's case that the Case Officer incorrectly calculated the extent of the existing rear garden amenity space by including the 'driveway' or 'parking area', resulting in a flawed conclusion that less than 50% of the existing garden space would be retained. The case is made that LP Policy DM10.4(e) refers explicitly to the loss and retention of the existing 'garden space' and not the whole 'curtilage area'. Therefore it is argued that a driveway should not be included within this garden space calculation as it does not form part of the private amenity space, beyond providing space to park vehicles. If one took this approach the retained rear garden length would still exceed 10m and the overall garden area retained would exceed 50% of the total existing garden area in conformity with Policy DM10.4(e). This would apply even with the plan correction noted in paragraph 2 above.
9. My assessment is that in this instance the Appellant's proposition is a reasonable one. The appreciably elevated as well as visually and functionally separate parking area which was clearly formed many years ago does not provide garden amenity qualities for residents of No.36 to my mind. Furthermore in this unusual instance with, importantly, the 'over 10m' requirement being met, and given the nature of the other immediate local development setting the context as I highlight in paragraph 5, the spatial and amenity outcomes which should rightly be tested within the context of LP Policy DM10.4(e) would be met.
10. I conclude that the scheme would not lead to an undue loss of outlook, openness and amenity currently enjoyed by residents of N.36; there would be no conflict with LP Policy DM10.4(e) or the aspirations of the parallel Supplementary Planning Document: Suburban Design Guide (2019).

Highway safety

11. The Council's concerns under this matter relate to the Appellant's failure to enter into legal agreement to secure localised improvements to the service

road. The argument is put that this would be likely to result in unacceptable pressure on the road condition and access to the site which could result in a detrimental impact on the safe operation of the adjacent pedestrian areas and highway. It is put that this would be contrary to Policies 6.1, 6.7, 6.12, 6.13 of the London Plan (2016) and LP Policy DM30.

12. A Unilateral Undertaking dated 26 May 2020 signed by those with an interest in the land has now been received and includes what the Council deems is a requisite financial contribution to, primarily, improvements to the access arrangement and condition of the road. On this basis it is implicit that the Council would withdraw its objection under this main issue heading.
13. I have carefully considered the position and viewed the narrow roadway and immediate highway pattern and condition locally. For my part I would agree with the Council and conclude that to overcome those reasons set out in paragraph 11 above, and to accord with the development plan policies cited, then the undertaking would be necessary, related to the development and proportionate and I would endorse its content.

Conditions

14. In addition to the standard three year commencement condition suggested by the Council I agree, to provide certainty, that there should be a condition requiring that the development would be carried out in accordance with listed, approved, plans. External materials should be agreed in the interests of visual amenity.
15. I would agree with the Council that a construction logistics plan should be a requirement for residential amenity reasons. Additionally arboricultural safeguards should be put in place for visual amenity reasons. Furthermore surface water drainage should be dealt with appropriately as suggested, for reasons of sustainability. There are a composite range of matters proposed, and repeated below in condition 7, which are rightly suggested by the Council to ensure neighbourly, appropriately sited, well-designed and safe development. The matters in this paragraph (15) must in my opinion be dealt with specifically on a pre-commencement basis for practical reasons and as they are fundamental to ensuring that the development which emerges is satisfactory in amenity, technical and/or environmental terms.
16. I agree that in interests of highway safety and in line with the unilateral undertaking situation outlined above a condition relating to highway improvement works should be applied. Bearing in mind the very unusual relationships between properties particularly stemming from changes in level and varied house types I agree that to protect residential amenity in this instance removal of certain 'permitted development' rights is justified.
17. On this modest scheme I see no need for a restrictive approach to landscaping beyond submitted plans and I have no development plan evidence before me seek controls on carbon dioxide emissions or a 'water use target' outside the existing national planning regime or other specific controlling legislation.
18. On occasions I include some variation from the wording of the conditions set out by the Council in order to aid precision and accord with national guidance and legislation.

Overall conclusion

19. For the reasons given above I conclude that the appeal proposal would not have unacceptable adverse effects on living conditions for neighbours or highway safety. Accordingly the appeal is allowed.

D Cramond

INSPECTOR

SCHEDULE OF CONDITIONS (9)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 247-001 Rev B; 247-002 Rev A; 247-003 Rev A; 109 Rev C.
3. Samples or specifications of the external facing materials to be utilised in the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before any works on site above damp proof course level are commenced. The development shall then be built in accordance with these approved materials.
4. Prior to the commencement of development including demolition a Construction Logistics Plan (CLP) shall be submitted to and approved in writing by the Local Planning Authority. The CLP shall include the following information for all construction phases of the development: a) Hours of construction; b) Hours of deliveries; c) Parking of vehicles associated with deliveries, site personnel, operatives and visitors; d) Facilities for the loading and unloading of plant and materials; e) Details of any site hoardings; f) Details of the precautions to guard against the deposit of mud and substances on the public highway; g) Dust control methods. All construction phases of the development shall be carried out strictly in accordance with the details so approved.
5. Prior to the commencement of works on site including those for demolition, drainage and foundations, a Tree Survey, an Arboricultural Method Statement and Impact Assessment shall be submitted for approval to the local Planning authority specifying the means by which those trees to be retained shall be protected during the works. The approved scheme shall be implemented on site prior to commencement and retained for the duration of the works.
6. Prior to the commencement of development, a Sustainable Urban Drainage System (SUDS) scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be completed prior to occupation of the development and shall be retained for so long as the development remains in existence.
7. Prior to the commencement of development, full details of the following shall be submitted to and approved in writing by the Local Planning Authority: (1) security lighting (2) any boundary walls and fences or other means of enclosing the site (3) finished floor levels of the building in relation to existing

and proposed site levels (4) bin and cycle stores (siting, quantity and elevational treatment) (5) parking bays layout (6) pedestrian visibility splays (7) details/dimensions of the vehicular crossovers (8) swept paths (9) pedestrian sightlines for the proposed parking spaces. Unless otherwise previously agreed by the Local Planning Authority in writing the matters approved shall be provided before any part of the development is occupied and shall be retained for so long as the development remains in existence

8. Prior to the occupation of the development hereby permitted a scheme of highway improvement works (as funded by the 'Public Realm Works' contribution set out in the accompanying unilateral undertaking) necessary to serve this development shall be submitted to and approved in writing by the Council (as both the Local Planning and Highway Authority). The works shall include the following: i) Enhancements to the servicing road to serve the development ii) All other highway works necessary to serve the development. The details approved shall be provided and completed in accordance with this condition prior to the first occupation of the development.
9. Notwithstanding anything contained in Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015, or any amendment or replacement thereof, no additional window openings shall be formed in the flank elevations at or above ground floor level other than as specified in the application and no enlargement of the dwellings (including the erection or enlargement of a garage or any other building or enclosure within the curtilage of the dwelling) shall be carried out without the express permission of the Local Planning Authority.