



Appeal Decision

Site visit made on 6 July 2021

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State.

Decision date: 02 August 2021.

Appeal Ref: APP/L5240/D/21/3270907

235 Selhurst Road, South Norwood, London SE25 6XP

- 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 & Mrs Tawfik-Abdalla against the decision of the London Borough of Croydon.
- The application Ref 19/04670/HSE, dated 26 September 2020, was refused by notice dated 18 December 2020.
- The development proposed is the formation of a standard vehicular crossover (dropped kerb) to access driveway of an existing single dwelling house and associated external works involving the rebuilding of front garden wall with new metal gates and railings and new paving to driveway.

Decision

1. The appeal is allowed and planning permission is granted for the formation of a standard vehicular crossover (dropped kerb) to access driveway of an existing single dwelling house and associated external works involving the rebuilding of front garden wall with new metal gates and railings and new paving to driveway; at 235 Selhurst Road, South Norwood, London SE25 6XP; in accordance with the terms of the application Ref: 19/04670/HSE, dated 26 September 2020, subject to the conditions attached as an annexe to this letter.

Application for Costs

2. An application for costs was made by Mr & Mrs Tawfik against the London Borough of Croydon. This application is the subject of a separate decision.

Preliminary Matters

3. During the course of the appeal, the National Planning Policy Framework 2021 (the Framework) was published on the 20 July 2021 which supersedes the 2019 version. The planning application was not refused on the basis of the Framework, however any references made to the Framework will be from the most recent 2021 version.
4. The Council's Planning Officer's report refers to an assessment of harm to the character and appearance of the Conservation Area (CA). The impact towards the CA was not listed as a reason for refusal; however, as I have a legal duty under S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA), I have dealt with this matter as a main issue.
5. I note discussion in the appeal documents¹ with regards to whether the existing vehicular access and the use of the front garden of the appeal property for vehicular parking is lawful. It is not for me under a Section 78 appeal to

¹ Email from Croydon Council to Applicant, Dated 11 August 2020

determine the current correct and legal use of the existing vehicular access and use of the front garden for parking. I have therefore made my decision on the basis of the existing conditions I witnessed on my site visit. To that end it is open to the Council to pursue enforcement action, or for the appellant to apply for a determination under sections 191/192 of the Town and Country Planning Act 1990; if they believe the lawful use is different. My determination of this appeal under s78 does not affect the issuing of a determination under s191/192 regardless of the outcome of this appeal.

Main Issue

6. The main issues are the effect of the proposal upon:

- Highway safety; and
- The character and appearance of the locality, with special attention given to the South Norwood CA.

Reasons

Highway Safety

7. I appreciate that the road conditions I experienced on my site visit was only a snapshot of the road at this particular time, however I have also considered the evidence submitted by both main parties and in light of this, I am satisfied that what I saw represents typical conditions.
8. The appeal property is located on Selhurst Road, a designated London Distributor Road that connects Penge, South Norwood and Croydon. On my site visit the road was moderately busy with a number of cars, commercial vehicles and buses being witnessed. The location has a Public Transport Assessment Level (PTAL) of 5 which is considered to be 'very good' accessibility. The appeal site lies to the fringes of the main shopping street of South Norwood where there is a mix of residential and commercial uses which occupy a number of larger dwellings. To each side of the appeal site are commercial businesses, a dental surgery and a child care nursery with the presence of multi-occupied dwellings and converted apartment buildings opposite and further along Selhurst Road. The majority of properties along Selhurst Road have vehicular accesses with dropped kerbs to a parking area to the front garden, some without front boundary treatment; or like the appeal site, a front boundary wall with vehicular access, but without a formalised dropped kerb.
9. Selhurst Road at the point of the appeal property is a single carriageway in each direction, with double yellow lines at the current vehicular entrance point of the appeal site, and then continuing to a single yellow line from the centre of the property and to the opposite side of the road. Restrictions prevent vehicles parking along the road from 7am-7pm and during the day it would appear that simultaneous two-way flow was not impeded by parked vehicles. Based upon my site visit; whilst vehicles movements were moderate, driven speeds are well under the 30mph speed limit. I have not been made aware of a poor accident record and therefore I deduce that despite its deficiencies, Selhurst Road operates satisfactorily without any significant safety issues.
10. According to the applicant's Statement of Case (SoC), the appeal property is utilised as a single dwelling and provides access for a vehicle that is utilised by the occupants who have registered mobility impairments. The main

disagreement between the parties is whether appropriate sightlines can be achieved from a vehicle exiting the property in a forward direction. According to the Council, a vehicle in the front garden would not be able to exit the site perpendicular to the road, and that this effect would be exacerbated for an additional vehicle if there is a vehicle already parked in the front garden.

11. The London Borough of Croydon Local Plan 2018 (LP) Policy DM29 seeks that development not result in a severe impact on the transport network or have a detrimental impact upon highway safety. Policy DM30 of the LP seeks that highway safety is not compromised by the provision of car parking. The Applicant's SoC refers to Council's Vehicular Crossover Guidelines (VCG) which provides more specific guidance for the provision of vehicular crossovers.
12. For Classified Roads, the VCG states that each application will be considered on its merits; and that a minimum front garden turning area of 8 metres x 10 metres is desirable for single dwellings; and that visibility splays as a minimum should be 1.5 metres x 1.5 metres depending on the opening; and that boundary and landscape treatment should not exceed 0.6 metres in height, albeit dependant upon the design as railings may be appropriate.
13. A Vehicle Swept Path Analysis² submitted with the application shows that the site area of the front garden measures 7.65 metres x 12.25 metres, and that the area would be sufficient for an estate vehicle to enter and exit in a forward direction, with also an existing estate vehicle being parked. The plan also shows that a 1.5 metre sightline can be achieved on either side of the access. Whilst I agree with the Council that the 1.5 metre sight line to either side is reliant on the vehicle being exactly central to the access, this is assisted by the width of the proposed dropped kerb being narrower at the pavement level so that vehicles would logically align their vehicle with the placement of the dropped kerb. I am therefore not persuaded that this possible slight variation in sightline which may be possible if a car was not exactly central to the access, would result in severe and detrimental impacts towards highway safety or the road network.
14. Consequently, in consideration of the information before me and the consideration of the policies of the development plan and supporting guidance, in conclusion of this matter, the proposal would be compliant with Policies DM29 and DM30 of the LP as described above.

Character and appearance including the South Norwood CA

15. Section 72(1) of the PLBCA, in respect of development affecting conservation areas, states that special attention shall be paid to the desirability of preserving or enhancing the character and/or appearance of the area.
16. The CA's significance is highlighted in the South Norwood CA Appraisal and Management Plan Supplementary Planning Document 2007 (SPD), where relevant components of the significance in relation to the appeal site relate to the development of large residential dwellings on the fringes of the main South Norwood Shopping Street which experienced building booms as a result of the development of a canal and railway network and the close proximity to Croydon. Whilst a number of streets surrounding the High Street were formally laid out Victorian detached and semi-detached dwellings; the dwellings

² Drawing No. 2151-002, Dated Jun 2020, By Cad Precision Ltd

- constructed along Selhurst Road do appear to have a higher status with larger detached properties with large front gardens, with some residences three storeys tall as per the dwellings on the opposite side of the road.
17. The dwellings within the immediate vicinity and along side roads have many of the same design elements, with most dwellings being three bays wide with a forward projecting bay window with stone dressings which has a pitched and forward facing gabled roof. Dwellings are embellished by decorative barge boards, front porches and central arched front entrance surrounds. The use of traditional materials such as timber, brick and slate along with the similar designs reinforce a uniformity and authenticity which creates a formal picturesque townscape along with vegetated front gardens and street trees that give a spacious, leafy and distinctive character. Many of the streets also exhibit stone kerbing, and where dropped kerbs have been permitted, they are constructed from cobble stones to retain the authenticity and high quality use of the materials of the CA.
 18. The appeal site displays a number of positive qualities of significance to the CA, being a building which is noted as being of local significance and a positive element that contributes to the character and appearance of the area. The appeal building is two storeys tall with front forward projecting gable with square bay window and stone fenestration surrounds. The appeal building also displays the decorative barge boarding and has a higher status in terms of its materials and designs when compared to other properties along the side streets. The front boundary wall does not appear to be historic with brick piers to either end, central brick piers with a pedestrian gate and a further later brick pier which forms a small vehicular accessway with the end pier. The wall infills appear to be brick that is clad with cement render with a hedge behind, however do not exhibit a high quality appearance which is consistent with the existing building or the CA. The kerbing to the front of the property consists of stone setts.
 19. It is proposed to remove the brick pier erected between the pedestrian entrance pier and the end pier to form an enlarged access. The proposed front wall would be rebuilt as a low level brick wall with railings above, with black metal pedestrian gate and vehicular gate. No details have been provided as to the appearance or construction of the dropped kerb.
 20. In undertaking development within CAs, Policies 18.1 and 18.2 seek that development responds to the local character and context, is of high quality; and also preserves and enhances the significance of heritage assets. This policy is supported by a Conservation Area General Guidance SPD which gives further guidance on appropriate design and materials. The design policies of the LP, specifically policies SP4.2 and DM10.1 require development of a high quality, which respects and enhances Croydon's varied local character and contributes positively to public realm, landscape and townscape to create sustainable communities.
 21. The existing brick wall, particularly the infills are of poor quality and are showing signs of decay and stresses within the building fabric. The wall does not appear to be in good overall condition, and the proposal seeks to resolve this effect. The widening of the vehicular access would result in the loss of a brick pier, however it does not appear to be historic fabric and appears to be in a poor visual and structural appearance and overall as a result of its design and

- use of materials does not contribute positively to the character and appearance of the existing building or the CA. The proposed scheme would also result in the loss of the stone kerbing, and whilst the replacement kerbing is not detailed, a suitable stone sett curbing like those surrounding could mitigate the impacts caused to the character and appearance of the CA for this element.
22. Taken as a whole, the proposed alterations to the appeal dwelling would result in some loss of fabric in terms of the stone setts, and a wider access which is not as characteristic in this particular CA. However whilst this is the case, the proposed scheme would result in the significance of the CA being preserved and subject to conditions, would have a high quality design and appearance which would integrate into the historic environment. Consequently, the scheme would not conflict with Policies 18.1, 18.2, SP4.2 and DM10.1 of the LP as described previously.
23. I agree with the Council that harm has been caused, and although serious, the harm to the CA in this case would be 'less than substantial,' within the meaning of the term in paragraph 202 of the Framework. Paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 202 requires that, where a proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal.
24. I note that the benefits of the scheme would include the removal of components of the existing wall, and the installation of a more appropriate wall which was subject to Council approval which would have a betterment to the CA along with an appropriate designed stone sett to construct the vehicular dropped kerb. That said, I therefore find that the public benefits would outweigh the harm caused to the CA. The scheme therefore complies with the Framework, which directs, at paragraph 199, 'that great weight should be given to the asset's conservation...irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance'.
25. In conclusion on this matter, I consider the proposed development would cause less than substantial harm to the significance of the CA. It has however been shown that public benefits would outweigh this harm and the proposal would not conflict with the development plan.

Conclusion and conditions

26. I conclude that the proposals are generally appropriate and would be compliant with the development plan on the basis of the reasons discussed and subject to the conditions attached to this letter as an annex.
27. I have had regard to the context of the Framework and the National Planning Practice Guidance which advises that conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The Council has not forwarded any proposed conditions should the appeal be allowed.
28. Condition 1 is a standard time limit condition for the commencement of works and Condition 2 details the approved plans. Both conditions are standard conditions which are necessary and are required for the avoidance of doubt.

Condition 3 is a pre-commencement condition which is required in order to make the proposed scheme acceptable and to ensure the proposed scheme is in-keeping with the existing building and the character and appearance of the CA.³

J Somers

INSPECTOR

ANNEX: Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Garden Wall Front Elevation Proposed, Drawing Ref: TAW-01-301, Dated Sep'19; By Ark Drafting Studio;
 - Site Plan Proposed, Drawing Ref: TAW-01-102A, Dated Sep'19; By Ark Drafting Studio;
 - Swept Path Analysis using an Estate Car, Drawing No.2151-002, Dated June 2020
3. Notwithstanding the approved plans and prior to the commencement of the proposed development, full details of the following shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and retained in perpetuity, unless further consent from a subsequent application is given by the Local Planning Authority:
 - i) Details of the materials and designs for the front boundary wall, including brick, gauge of pointing, coping, railing and finial details;
 - ii) Details of the materials used in the construction of the dropped kerb.

³ A Regulation 2(4) Notice of The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 was sent to the Applicant on 19 July 2021 and authorised by the applicant via email dated 29 July 2021.