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## Appeal Decision

Site visit made on 22 September 2021

**by C Coyne BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15/11/2021**

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**Appeal Ref: APP/L5240/W/21/3271429**

**131 Benhurst Gardens, South Croydon, London CR2 8NZ**

- 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 Paramjit Mahi against the decision of the Council of the London Borough of Croydon.
  - The application Ref 20/05676/FUL, dated 15 October 2020, was refused by notice dated 22 January 2021.
  - The development proposed is described on the application form as 'demolition of existing garage structure and construction of a two-bedroom dwelling within the garden of 131 Benhurst Gardens'.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. On 20 July 2021 a revised version of the National Planning Policy Framework (the Framework) was published. However, given the nature of the refusal reasons, the main issues and the development plan policies upon which the refusal reason is based, on this occasion I consider that the publication of the revised Framework does not directly alter the assessment of this appeal.
3. Since the determination of the original application the London Plan 2021 (a Replacement Plan) has been published by the Mayor. This London Plan replaces all previous versions. The new London Plan is clearly referred to within the Council's submissions. A copy of the relevant new London Plan policy was also submitted with the Council's statement which the appellant had an opportunity to comment on. Therefore, I am satisfied that no party has been prejudiced in this regard.
4. The Council have described the development as '*Demolition of existing garage structure and the erection of a two-bedroom dwelling within the garden of 131 Benhurst Gardens. Replacement parking space to the front of the existing dwelling with new vehicular crossover*'. I note that the appellant has also utilised this description on their appeal form. I consider that this revision provides a succinct and accurate description of the proposal and I have therefore determined the appeal on this basis.

## **Main Issues**

5. The main issues are:

- The effect of the proposed development on the character and appearance of the area;
- The effect of the proposed development on the living conditions of neighbouring occupiers having regard to matters of outlook and the adequate provision of outdoor amenity space; and
- The effect of the proposed development on highway safety.

## **Reasons**

### *Character and Appearance*

6. The appeal site is within the large back garden of no. 131 Benhurst gardens a two-storey semi-detached dwelling. No. 131 belongs to a row of pairs of similar semi-detached two storey dwellings with each of these also having sizeable rear gardens and either a smaller front garden and/or a front driveway. The surrounding area is predominately residential comprising a mixture of two storey semi-detached and terraced dwellings with most of them also having larger back gardens and smaller front gardens and/or driveways. Many of these gardens also have trees and other shrubbery on their boundaries. In addition, there are trees on the street along Benhurst Gardens and Sundale Avenue. These gardens, trees, and shrubbery all make a positive visual contribution to the area's suburban character and appearance.
7. As the appeal site is on the corner plot of Benhurst Gardens and Sundale Avenue I consider it to be in a visually prominent location. The proposal would introduce a one and a half storey detached dwelling at the rear of no. 131 which would front onto Sundale Avenue. The dwellings on Sundale Avenue closest to the proposal and those on the opposite side of the road are two storey terraced dwellings.
8. The proposal's front building line would project further than those of the dwellings on Sundale Avenue closest to it and would also project further than the side elevation of the host property which faces Sundale Avenue. The proposal would also have a half-hipped roof which would give it an unbalanced and asymmetrical appearance when viewed from certain directions. It would also have three dormer windows within its front roof slope. From what I observed on my visit, the dwellings on this part of Sundale Avenue which have a hipped roof, have a full one, not a half one which gives them an element of visual symmetry. As a result, given its design the proposal would be at odds with the prevailing roof styles of the other dwellings in the area.
9. I note that some dwellings on Sundale Avenue have flat roofs. However, from what I observed on my visit, these are for the most part in symmetrical pairs of semi-detached properties which the proposed detached dwelling would not be.
10. Consequently, even though it would not be as high as these dwellings, given its design, style and location, the proposal would represent an incongruous addition to the street scene thereby having a significant adverse visual impact, nonetheless. Furthermore, the proposal would also represent a cramped form of development that would be out of keeping with the established prevailing

development pattern of the area thereby also having a substantial adverse visual impact in this regard.

11. I also note the appellant's point that the proposed dwelling would be of a lower height to the host property and that it would therefore appear subservient to it. However, even so, this does not overcome or outweigh the visual harm that the proposal would cause due to its strikingly different design and appearance when compared to other dwellings in the vicinity.
12. I therefore conclude that the proposed development would materially harm the character and appearance of the area. As a result, it would fail to meet the design and character requirements of policies SP4 and DM10 of the adopted Croydon Local Plan (CLP). For similar reasons, it would also conflict with policy D4 of the published London Plan (LP).

#### *Living Conditions – neighbouring occupiers*

13. Policy DM 10.4 states that all proposals for new residential development will need to provide private amenity space that in the case of development in the grounds of an existing building to be retained, a minimum length of 10m and no less than half or 200 square metres (sqm) (whichever is the smaller) of the existing garden area is retained for the host property, after the subdivision of the garden.
14. According to the submitted plans the area of the existing rear garden of no. 131 is approximately 424 sqm meaning that half of this area would be approximately 212 sqm. The plans also show that the garden area to be retained for the host property would be approximately 224 sqm and that the distance between the rear elevation of no. 131 and the proposed boundary fence at its furthest point would be approximately 10 metres. I therefore consider that the proposal would provide outdoor amenity space that would have a minimum length of 10 metres and an area not less than half the existing garden area or less than 200sqm.
15. I note the Council's point that the distance between the rear elevation of the host property and the proposed boundary fence at its nearest point would be shorter than 10 metres. However, their estimation of 6 metres excludes the distance to the proposed fence from the existing boundary fence to the side of no. 131 which would appear to be greater than 10 metres. Furthermore, criterion e) of policy DM10.4 does not specify that this minimum distance should be from the rear elevation of the host property.
16. With regards to outlook, the proposal would present a two-storey side elevation to the rear of both nos. 129 and 131 Benhurst Gardens. I also note that the separation distance between the host property and the proposed dwelling would be approximately 12 metres which is below the advised threshold of 15 metres as per the adopted Suburban Design Guide Supplementary Planning Document (SPD). However, its roof ridge height would be lower than those of these neighbouring properties. The proposed dwelling would also be on a lower ground level than the existing garage and rear garden at that end of the site meaning that it would appear significantly lower than no. 36 Sundale Avenue when viewed from the rear of nos. 129 and 131 even though the topography of the appeal site slopes upwards slightly as it progresses backwards.

17. Accordingly, given the proposed dwelling's height, massing and the distance between it and the rear of these properties I consider that it would not have an unacceptable adverse impact on the living conditions of their occupiers in terms of outlook.
18. I therefore conclude that even though there would be some technical conflict with the SPD, the proposed development would not materially harm the living conditions of neighbouring occupiers having regard to matters of outlook and the adequate provision of outdoor amenity space. As a result, it would not conflict with the outdoor amenity space provision or residential amenity requirements of policy DM10 of the CLP. Similarly, it would also not conflict with policies D3 and D6 (d) of the LP.

### *Highway Safety*

19. It is proposed to install a dropped kerb and vehicular crossover to serve the existing driveway to the front of no. 131. While on my visit I observed that the level of traffic using the road was relatively low, I also observed that the properties on the opposite side of the road had driveways, dropped kerbs and vehicular crossovers installed. I also have no substantive evidence before me to show that the location of the driveways, dropped kerbs or vehicular crossovers for these properties, such as those for no. 52, have caused any traffic accidents or posed a threat to the safety of road users or pedestrians in the past.
20. Consequently, while I acknowledge that what I saw on my visit represents but a snapshot in time, these factors combined with the fact that, given the speed limit, vehicles using these roads would not likely be doing so at high speed leads me to find that the proposal would not have an adverse impact on highway safety. The Highway Authority have also not objected to the proposal, and from the evidence before me I see no reason to disagree.
21. I therefore conclude that the proposed development would not harm highway safety. As a result, it would not conflict with policies DM29 and DM30 of the CLP.

### **Conclusion**

22. While I have found that the proposal would not conflict with the development plan with regard to living conditions or highway safety, this does not outweigh or overcome the material harm that I have identified above with regard to the character and appearance of the area. Accordingly, the proposal would not accord with the development plan when read as a whole and there are no material considerations which indicate a decision otherwise than in accordance with it.
23. I therefore conclude that the appeal should be dismissed.

*C Coyne*

INSPECTOR