



Appeal Decision

Site Visit made on 7 September 2021

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2021

Appeal Ref: APP/L5240/W/21/3268741

2A Grasmere Road, Purley CR8 1DU

- 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 Nick Lambert against London Borough of Croydon.
 - The application Ref 20/06481/FUL, is dated 24 November 2020.
 - The development proposed is the demolition of existing dwelling. Erection of block of seven flats with associated refuse, recycling, cycling storage and car parking, with adjusted crossover.
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Decision

1. The appeal is dismissed, and planning permission for the demolition of existing dwelling. Erection of block of seven flats with associated refuse, recycling, cycling storage and car parking, with adjusted crossover is refused.

Main Issues

2. The main issues relevant to this appeal are:
 - the effect of the development upon protected species;
 - the effect of the development upon the highway system;
 - whether appropriate living conditions could be secured for the future occupiers of the development; and
 - the effect of the development upon the character and appearance of the surrounding area.

Reasons

Effect on protected species

3. The appeal site is located within the existing urban area. The surrounding properties are predominantly residential in nature. The appeal site contains a number of plants and trees, in addition to some structures. The surrounding area also contains several differently designed buildings.
4. In consequence, the appeal site has the potential to be a roost for bats. In addition, given the inclusion of an open area on the site and the presence of buildings nearby, there is the potential for the appeal site to be a foraging area for bats. Therefore, the development of the appeal site has the potential to reduce the ability of protected species to survive. This is a concern given that bats are a protected species.

5. Whilst the proposed development would include some new landscaping, owing to the scale of the proposed building, the space for this to be included would be reduced. Therefore, the proposed development would result in a smaller area where foraging might take place. In result, the site would have a diminished ability to accommodate bats.
6. The planning application and appeal documentation does not include an emergence survey into the presence of bats having been carried out. Without such a document, it is not possible to discount the presence of bats on the appeal site, or elsewhere in the vicinity. It is also not possible to establish whether any mitigation is required.
7. In addition, the evidence before me is indicative that an emergence survey should be carried out between May and September. The information before me does not meet this requirement. Therefore, it is not possible to determine that the development would not result in the loss of attractive habitats.
8. I note the appellant's suggestion that a condition could be imposed to secure the carrying out of a survey into the presence of bats and, if necessary, some mitigation. However, without certainty regarding the presence of bats and if so, their extent, it would not be possible to concisely specify the type and amount of mitigation. In consequence, such a condition would fail the requisite test of precision and would therefore be unreasonable.
9. A bat emergence survey has been submitted to me. However, this was not received in accordance with the prescribed timetable for the submission of evidence as part of appeal proceedings. In consequence, I have sought clarification from the appellant as to whether they wish the emergence survey to be considered by me as part of the appeal process. The reason for the need for such clarification is because including the survey as part of my assessments could lead to an application for costs as the timetable for the submission of evidence has not been complied with.
10. Despite offering the appellant the opportunity to confirm whether they wish the emergence survey to be considered, no response has been received. In result, I have been compelled to consider the appeal based on the documents originally submitted. In addition, if I were to consider the emergence survey, it would prejudice the interests of other parties, who would not have the opportunity to comment on its contents. In consequence, I have not had reference to the bat emergence survey in my assessments.
11. I therefore conclude that the proposed development would have an adverse effect on protected species. The development, in this regard, would conflict with the requirements of Policy G6 of the London Plan (2021) (the London Plan) and Policy DM27 of the Croydon Local Plan (2018) (the Local Plan). Amongst other matters, these seek to ensure that development proposals manage impacts on biodiversity, informed by the best available ecological information; and have no adverse effect on land with biodiversity.

Effect on highway system

12. The proposed development would contain some new car parking spaces and would also be near to other services and facilities, in addition to public transport links.

13. In considering this appeal, my attention has been drawn to Policy T6 of the London Plan, amongst other policies. Amongst other matters, this seeks to ensure that developments feature the minimum level of car parking provision. This is appropriate as the site is near to a railway station.
14. Due to the scale of the proposal, there is a likelihood that each dwelling could be occupied by more than one person. Therefore, there is a possibility that multiple vehicles would be associated with each proposed dwelling.
15. Given the number of car parking spaces provided on site, such vehicles would be displaced onto the surrounding road network. The evidence before me is indicative that the occupiers of the development would have the opportunity to apply for residents car parking permits.
16. Therefore, in order to be compliant with the London Plan, it would be necessary for occupiers of the development to be prevented from obtaining such a permit. This causes a concern as I do not have a legal agreement before me which would place such a restriction upon the occupiers of the proposed development.
17. I have given consideration as to whether a condition could be imposed to secure such a restriction. However, given that such a condition would have a bearing on how the potential future occupiers of the development undertake their normal activities, it would not be possible to draft a condition that would meet the required test of reasonableness. In consequence, the lack of a legal agreement means that it would not be possible to overcome this point.
18. In addition, the submitted documentation does not detail how electric car charging points could be accommodated within the development. This would be necessary to reduce the potential effect of the development upon pollution levels arising from the movement of cars within the locality.
19. By reason of the layout and scale of the development, the car parking spaces would be an appropriate size to accommodate most cars and would also have sufficient room to manoeuvre. In addition, highway access could be secured without detriment to the safety of other passing motorists or pedestrians. However, this does not alleviate the preceding issues.
20. Furthermore, due to the layout of the development, there would be space for the potential provision of secure and covered bicycle space to be provided without detriment to the general level of outdoors recreation space. Therefore, the development would also encourage the usage of bicycles as a means of travel. However, this does not overcome my previous concerns.
21. I therefore conclude that the proposal would have a significant adverse effect upon the highway system. The development, in this regard, would conflict with the requirements of Policy T6 of the Local Plan; and Policies SP8, DM29 and DM30 of the Local Plan. Amongst other matters these seek to ensure that developments are designed to provide the minimum necessary parking; make the fullest use of public transport; promote measures to increase the use of public transport; and reduce the impact of car parking.

Living conditions

22. The proposed development would be located alongside other dwellings. The appeal site and the surrounding area is located on a gradient. This means that

the boundary with Grassmere Road is on ground that is lower than the boundary of the appeal site adjacent to the nearby Warren Road.

23. Owing to this arrangement, a series of steps are proposed between ground level and the main entrance of the building. This poses a concern as it is unlikely that this arrangement would secure appropriate access for all the future occupiers of the development, including those with reduced mobility.
24. There is the potential to gain access to the interior of the development via a different entrance. However, this would result in a longer journey to be made from certain points in the surrounding area. In consequence, this would mean that those residents unable to utilise the main entrance to the development would experience inconvenience. This would not be conducive to securing appropriate living conditions for all the future occupiers of the development.
25. I acknowledge that the proposed development would include a lift, which would aid access to the upper floors of the development and that there would be room within the units of accommodation for the storage of general household items. Furthermore, there would be room for circulation. However, this arrangement would not overcome the adverse effects arising from the lack of appropriate access to the development.
26. I understand that there is some flexibility in the design of the proposed development to achieve conformity with the relevant Building Regulations. However, if I were minded to allow this appeal, I would need to specify an approved set of drawings. In consequence, the lack of an appropriate scheme before me causes significant concerns.
27. In addition to other policies, my attention has also been drawn to Policy D12 of the London Plan. Amongst other matters, this seeks to ensure that new developments include measures to reduce the effects arising from fire.
28. The submitted details does not include information on how this might be achieved. Given that such measures might include specific types of doors, windows, materials, or layouts to be secured, the lack of certainty regarding the measures that should be implemented means that this could not be reasonably secured by a planning condition.
29. The layout of the development would ensure that the occupiers of the development would benefit from appropriate levels of light, outlook and privacy and there would be some private open space within the development. Whilst these are matters of note, they are only some of the points that should be assessed. In consequence, they do not overcome my previous concerns.
30. I conclude that the proposed development would not provide appropriate living conditions for the future occupiers of the development. In this regard, the development would fail to comply with Policies D5, D6, S6, and D12 of the London Plan and Policy DM10 of the Local Plan. Amongst other matters, these seek to ensure that developments can be entered, used and exited safely, easily and with dignity for all; be of a sustainable design; provide accessible housing; achieve the highest standards of fire safety; and be well-designed.

Character and appearance

31. The proposed development would be sited in a predominantly residential area. The surrounding area is built up and contains buildings constructed to a variety

- of different designs. The prevailing character consists of buildings set back from the highway edge by differing amounts.
32. Buildings within the surrounding area of differing designs, heights and sizes. In result, the proposed development's bulk and mass would not appear incongruous. Furthermore, the proposal would not disrupt any significant building lines.
 33. Whilst of a different design the proposed building would feature some architectural detailing present elsewhere within the vicinity. In particular, the proposed development would feature projecting gables, which are present on several buildings nearby. The palette of materials would also be consistent with those used elsewhere in the surrounding area and could be secured by a condition. This would ensure that the design of the development is compatible with the surrounding area.
 34. In addition, owing to the pattern of development within the surrounding area, combined with the general topography with the appeal site's environs, the appeal site is relatively well-screened. Therefore, the proposed development would not be a prominent addition to the surrounding area.
 35. The proposed development features entrances onto Grassmere Road and Warren Road. However, a feature of both roads is the presence of dwellings that front onto the street and have entrances from it. Therefore, the proposal would reflect the prevailing pattern of development.
 36. The surrounding area contains buildings constructed using various palettes of materials. This means that the proposed development would be viewed against a varied context and would therefore not appear particularly unusual.
 37. Furthermore, had I been minded to allow this appeal, I could have imposed conditions that would have controlled the materials from which the development would be constructed from. This would have ensured that the development assimilated with its surroundings.
 38. I therefore conclude that the proposed development would not have an adverse effect upon the character and appearance of the surrounding area. The development, in this regard, would comply with the requirements of Policies D3 and D4 of the London Plan; and Policies SP4 and DM10 of the Local Plan. Amongst other matters, these seek to ensure that developments respond to local distinctiveness; ensure maximum details; are of a high-quality design; be informed by distinctive qualities, identity, topography, and opportunities; and respect the area's scale, height and massing.

Other Matters

39. My attention has been drawn to several other developments elsewhere within the vicinity. I do not have the full information regarding the planning circumstances of these, including the documentation and evidence that was submitted to the Council prior to decisions being made. This lessens the weight that I can attribute to them. For this reason and given their different contexts, their presence does not overcome my findings in respect of the main issues.
40. I note concerns raised by the appellant regarding the manner in which the application was considered by the Council. However, in considering this appeal, I have limited my assessments to the planning matters before me. In addition,

I am required to consider all of the submissions made by interested parties during the application process irrespective of their address.

Planning Balance and Conclusion

41. The proposal would have an adverse effect upon protected species, the highway system and would not provide appropriate living conditions for the future occupiers of the development. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the National Planning Policy Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed, and planning permission refused.

Benjamin Clarke

INSPECTOR