
Appeal Decision

Site visit made on 19 October 2021

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2021

Appeal Ref: APP/L5240/W/21/3268266
110 Lodge Road, Croydon CR0 2PF

- 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 Sameer Patel against the decision of the Council of the London Borough of Croydon.
 - The application Ref 20/02574/FUL, dated 6 July 2020, was refused by notice dated 22 December 2020.
 - The development proposed is conversion of upper flat to form 3 self-contained flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a revised version of the National Planning Policy Framework (the Framework) in July 2021. The main parties were given the opportunity to comment on any implications for the appeal of this change, and I am satisfied that no prejudice would be caused by my consideration of the appeal in light of the revised Framework.
3. The new London Plan 2021 (LP2021) was published on 2 March 2021. It replaces previous versions of the London Plan and can be given full weight. In terms of policies relevant to this appeal, there have been no material changes in LP2021 from those contained in the Intend to Publish (December 2019) and Publication (December 2020) versions of the plan. No party has been prejudiced by me proceeding with the appeal in light of this change in policy.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the availability of on-street parking.
 - Whether the proposal would make satisfactory provision for refuse and recycling facilities, with particular regard to the effect on the appearance of the street scene.
 - The effect of the proposed development on the living conditions of the occupiers of the existing ground floor flat, with particular regard to privacy.

Reasons

Parking

5. The appeal site is located within a Controlled Parking Zone, and I observed that there is limited off-street parking availability in the area, which results in high demand for on-street spaces. The property is in an accessible location close to shops, services, and passenger transport facilities.
6. The appeal site currently provides one on-site parking space on the hard-surfaced front garden, which serves an existing flat. The proposal would result in a net increase of 2no flats, and no additional on-site parking is proposed. This would increase demand for on-street parking in an area that experiences parking stress. The proposal includes no parking capacity surveys to demonstrate that the street in the vicinity of the appeal site could accommodate overspill parking generated by the proposed development. In these circumstances, the Council has indicated that any permission should be subject to a Section 106 planning obligation that removes permit eligibility for future occupiers of the proposed flats.
7. A planning obligation was not completed during the course of the planning application, and one has not been submitted with this appeal. I do not consider this to be a matter capable of being addressed by a planning condition either in respect of securing the development as car free, or through the use of a negatively worded condition requiring the appellant to enter into a planning obligation to secure the development as permit-free. There is no evidence of exceptional circumstances for such an approach as required by the Planning Practice Guidance.
8. In the absence of a feasible means of securing the development as permit-free, I conclude that the proposal would harm the parking environment through the additional demand from the development. This would be contrary to Policies SP8, DM29 and DM30 of the Croydon Local Plan 2018 (the Local Plan) and Policy T6 of the LP2021, which, amongst other things, state that new development must reduce the impact of car parking in areas of existing on-street parking stress.

Refuse/recycling

9. The bins associated with the existing property are currently stationed without any storage facility on the front forecourt, which results in an unsightly appearance. This would be exacerbated by the proposed addition of 2no flats, which would increase the refuse/recycling bin requirement at the appeal site. Drawing No LR-3-05 Rev E shows that 10no wheeled refuse/recycling bins and 3no 23 litre food waste bins would be stored in the forecourt, and no details of storage facilities are shown on the plans.
10. The appellant suggests that a planning condition could be imposed to require details of bin storage facilities to be submitted for approval by the Council. Nevertheless, the bins would cover a significant proportion of the front garden area and cause unsightly clutter in the street scene. Having regard to the excessive number of bins and the lack of details to show how they would be stored, I do not have sufficient certainty that my concerns could be addressed through the imposition of a planning condition.

11. For these reasons, I conclude that the proposed development would make inadequate provision for refuse and recycling facilities, which would be harmful to the appearance of the street scene. The proposal would therefore be contrary to Policies DM10 and DM13 of the Local Plan and guidance contained in the Suburban Design Guide Supplementary Planning Document 2019 (the SPD), which, amongst other things, seek to ensure that the location and design of refuse and recycling facilities are treated as an integral element of the overall design.

Living conditions of ground floor flat

12. I have had regard to the appellant's statement that they currently have a right of way to the side of the building. Nevertheless, the rear garden would be subdivided to provide 3 no separate gardens for the proposed upper floor flats, which would increase movements to the rear of the site. The proposed gardens would be accessed through the garden of the existing ground floor flat, and the plans do not show any landscaping or other measures that would provide an adequate defensible space adjacent to the main habitable windows of the ground floor flat. In the absence of such measures, the proposal would cause overlooking from the occupiers of the upper floor flats into the habitable rooms of the ground floor flat, which would harm the privacy of the occupiers of this property.
13. For these reasons, I conclude that the proposed development would be harmful to the living conditions of the occupiers of the existing ground floor flat in respect of loss of privacy. The proposal would therefore conflict with Policy D3 of the LP2021, Policy DM10 of the Local Plan and guidance contained in the SPD, which, amongst other things, seek to ensure that development proposals protect the amenity of the occupiers of adjoining buildings and that they do not result in direct overlooking at close range of habitable rooms in main rear or private elevations.

Other Matters

14. I have had regard to the previous planning permission¹ in 2017 for an identical scheme at the site, however this has expired and so it does not represent a fall-back position for the appellant. Furthermore, the permission was granted prior to the adoption of the Local Plan and the guidance in the SPD, and therefore this matter attracts limited weight. I have considered the appeal on its own merits having regard to the current development plan and my site observations, and I am not bound by previous decisions made by the Council.
15. I note the appellant's concerns regarding the Council's handling of the case and associated delays, however this would not alter my findings on the main issues.

Conclusion

16. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal is dismissed.

C Osgathorp

INSPECTOR

¹ Council Ref. 17/00282/FUL