



Appeal Decision

Hearing Held on 30 September 2021

Site Visit made on 1 October 2021

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 December 2021

Appeal Ref: APP/L5240/W/20/3254443

88 Riddlesdown Road, Purley CR8 1DD

- 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 Mantle Developments Ltd against the decision of London Borough of Croydon.
 - The application Ref 19/04371/FUL, dated 11 September 2019, was refused by notice dated 20 December 2019.
 - The development proposed is the demolition of existing five-bedroom detached house and erection of a block of flats comprising of 21no. units.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The London Plan 2021 (LP) has been adopted and the revised National Planning Policy Framework (The Framework) has been published. I have had regard to these in my determination of the appeal.
3. Following the determination of the appeal planning application, a Preliminary Ecological Appraisal, a Protected Species Report: Bat Presence and Absence Survey and a Flood Risk Assessment & Drainage Strategy have been submitted. The main parties agree that matters arising from reasons for refusal 4 and 5 could now be adequately addressed by way of planning conditions. Based on the information I have before me I find no reason to take a different view, and therefore I proceed on that basis.
4. Amended plans have been submitted during the course of the appeal to correct inconsistencies on the plans provided at planning application stage. These amendments relate to minor matters and I am satisfied that, on application of the 'Wheatcroft Principles'¹, no party would be prejudiced by my acceptance of these amended plans.

Main Issues

5. The main issues are:
 - (i) Whether or not the proposal makes adequate provision for affordable housing

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

- (ii) Whether or not the proposal makes adequate provision for larger homes
- (iii) The effect on the character and appearance of the area

Reasons

Affordable housing

6. Policies GG4 and H4 of the London Plan 2021 (LP) set out a target for 50% of all new homes delivered across London to be genuinely affordable. Policy H5 of the LP sets out a threshold approach to affordable housing, including with reference to a minimum provision of 35% and to the Viability Tested Route. Policies SP2.4 and SP2.5 of the Croydon Local Plan 2018 (CLP) set out a strategic requirement for an up to 50% provision of affordable housing, with a minimum provision either of 30% or 15% plus a review mechanism to be entered into.
7. The appellant intends to provide 3 affordable dwellings, which numerically represents a 14.3% provision, plus a review mechanism would be included as a planning obligation. The Council further referred at the hearing to a ratio based upon the number of habitable rooms that would be provided in the affordable dwellings as compared to the number of habitable rooms that would be provided within the market housing, which is the approach set out in the LP. This would place the figure of affordable housing at 10%.
8. Therefore, irrespective of which figure is used, the proposal would fail to accord with Policies SP2.4 and SP2.5 of the CLP, where they set out the requirements for the delivery of affordable housing in new developments.
9. Policy H5 of the LP does however allow for viability testing for proposals that would not meet the policy compliant figure of affordable housing. Although I acknowledge the outcome of the most recent Viability Appraisal (VA) which is based on inputs agreed between the parties, the fact that the appellant is willing to provide 3 affordable units demonstrates that they must consider they could do so and still achieve an acceptable return. I am however satisfied that based on the information before me there is no case to be made that a greater provision of affordable housing than this could be achieved.

Larger homes

10. Policy SP2.7 of the CLP sets out a strategic target for 30% of all new homes up to 2036 to have three or more bedrooms. Policy DM1 of the CLP, with reference to the Public Transport Accessibility Level (PTAL) which is applicable to the appeal site, requires a provision of 70% of units to have three bedrooms or more. Although, at the time the planning application was determined, Policy DM1 included provision to achieve compliance through the demonstration that the scheme would not be viable with the required percentage of larger units, that provision is now time expired. I am required to determine this appeal on the basis of the policy at the present time.
11. Reference was made at the hearing to the viability testing that is purported to have informed Policy DM1, in particular with regard to a viability assessment that dates from 2013. However, it stands that the CLP was found to be sound and was adopted in 2018 and accordingly it forms part of the development plan against which the proposal must be assessed. As the appeal proposal would not

provide 70% of the 21 units as three bedroomed dwellings or larger, it would fail to accord with Policy DM1.

12. With respect to the provision of dwellings with 3 bedrooms or more, the VA demonstrates that the £ sq/m sales value of the larger 3 bedroom units would be lower than that of the smaller 1 and 2 bedroom units. Given the conclusions of the VA it appears unlikely that the development could proceed with both an obligation to provide 3 affordable units and a greater number of units that have three bedrooms or more.

Character and appearance

13. Riddlesdown Road is characterised by a range of dwellinghouses and apartment blocks of differing ages and architectural styles. As a result, there is little uniformity in the appearance of buildings within the street scene, or in terms of their visual relationships to one another. The properties are generally set back from the public highway with substantial front garden or forecourt areas. Whilst the part of Riddlesdown Road in which the appeal site is located has properties with mature established vegetation present on their frontages, nearby and in particular with respect to the recent redevelopments at 96A and 98 Riddlesdown Road, there are examples of frontages that are more open and where the buildings have a greater visual impact on the street scene.
14. The Council does not raise concern with respect to the height of the appeal development, and there is support for the redevelopment of sites at a minimum height of 3 storeys in policy DM10.1 of the CLP. Whilst the appeal building would be higher than existing development on Riddlesdown Road, the proposed building would be set well back from the road, which would reduce its visual impact notwithstanding that it would be set on a higher ground level. There would also be reasonable levels of separation between the proposed building and the two adjacent dwellings, which would also ensure that its greater overall height would be integrated visually without dominating them. As such, it would not appear incongruous within the street scene.
15. The plot which forms the appeal site is wider than those of other existing properties nearby, and it in effect forms a double plot when compared to the plot size of these other properties. In this context, there is merit in the reference that has been made to the guidance set out in 2.15 of the Suburban Design Guide Supplementary Planning Document 2019 (SPD), which illustrates a scenario that is broadly analogous to the one that would arise from the appeal development, notwithstanding that there would not be any building across boundaries arising.
16. In particular, the front elevation of the proposed building has been designed to have two main sections which would be constructed in buff brick with red tiled roofs. These sections would be connected by a section recessed back from the front gables that would utilise a contrasting red brick with a darker roof material, which would also have a lower ridge height. The two main sections would be further visually broken up as, at their outer edges, they would appear recessed owing to the presence of balconies. Collectively, the modelling and varied detailing of the front elevation would serve to successfully break up the massing of the proposed development and to ensure that its width integrated well into the street scene.

17. At the present time, there is a parking area to the front of the appeal property, which sits on a plateau between the road and the existing dwelling. This area is not comparable in size to the parking area that is proposed, which would cover a greater area and be more formally laid out. However, frontage parking areas are notable within the existing street scene, in particular with respect to the development at 96A and 98, but also to a lesser extent at older properties and in terms of a number of detached garages located at road level. The visual impact as a result of the proposed increased size of the parking area would be softened by landscaping. As a whole, it would not appear out of context nor would it cause harm to the street scene.
18. Bin storage would be located at road level, and it was explained at the hearing that it is necessary to do this as the topography of the access drive provides an insurmountable obstacle to being able to accommodate bin storage elsewhere. Whilst there are no other examples of formal bin storage areas on the frontages of the existing dwellings, detached garages place built form on the edge of the pavement. Furthermore, the proposed bin store would incorporate a sedum roof and be screened by hedging. This would ensure that it would not have a harmful visual effect on the street scene.
19. For these reasons I conclude that the proposed development would not cause harm to the character and appearance of the area. Consequently, there would be no conflict with Policy D4 of the LP and Policies SP4.1, SP4.2 and DM10 of the CLP, where they seek to protect character and appearance. There would also be no conflict with the aims of the SPD in the same regard.

Planning Obligation

20. A completed Unilateral Undertaking (UU) has been submitted and includes a number of obligations to come into effect if planning permission is granted. The obligations relate to air quality, carbon off-setting, sustainable transport, a local employment training strategy, Section 278 highway works, a restriction on parking permits, a travel plan and monitoring fees. These are all offered to ensure compliance with development plan policies, supplementary planning documents or to ensure that the proposal is acceptable with respect to its impact on the public highway.
21. In addition, there is the aforementioned obligation to provide 3 affordable housing units. However, the UU is defective in that it identifies the intended units as being plots 8, 9 and 15 on plan 2. As plan 2 does not show any of these units, it is uncertain as to which units the UU refers, and therefore which units would be provided as affordable housing.
22. Furthermore, the Council has objected to the clause contained in the UU that relates to the interests of the mortgagee. This clause was amended immediately before the hearing, from one which the Council found acceptable to one that it did not. As a result, its implications were not able to be discussed at the event and the only explanation that has been forthcoming from the appellant is that this is a requirement of the mortgagee. It does however introduce an element of risk that the obligations might not be forthcoming if the site were to be repossessed by the lender.
23. There are also other matters of concern including the reference to an Application Stage Viability Assessment dated 19th August 2021 that was not provided in full during the course of the appeal and because the title plan which

has been submitted does not include the full extent of the appeal site. These matters further undermine the credibility of the UU as a legal document.

24. Overall, I cannot conclude that the UU as submitted would adequately secure the offered provision of affordable housing units and I find there to be an inherent risk with the mortgagee clause that has not been satisfactorily addressed or explored. I therefore adopt a precautionary approach with respect to the UU and afford it no weight in my considerations.

Planning Balance & Conclusion

25. The proposal would not cause harm to the character and appearance of the area, to protected species or in terms of flood risk. It would fail to accord with the policies of the development plan that refer to the provision of larger houses.
26. I have found that the planning obligation that has been submitted is defective, in particular as a result of the absence of a plan which correctly identifies the intended affordable housing units. There is also uncertainty regarding the mortgagee clause, which has not been adequately addressed by the appellant. It cannot therefore be concluded that the intended obligations would be secured, and accordingly I have given the UU no weight in my considerations. As a result of this, the proposal would fail to accord with all of the policies of the development plan that refer to the provision of affordable housing.
27. For the reasons set out, I am not persuaded that the appeal scheme could provide a policy compliant level of larger houses and this consideration contains moderate weight in favour of the proposal. There would also be benefits arising through the provision of 21 new residential units, including through the generation of local employment during the construction phase. Given the relatively small scale of the proposal, they also attract moderate weight. Individually and collectively however, these considerations do not outweigh the conflict with the development plan with respect to the provision of affordable housing.
28. In conclusion, the proposal would conflict with the development plan and the other considerations that have been outlined do not outweigh this conflict. Consequently, the appeal should be dismissed.

Graham Wraight

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Alan Gunne-Jones – Planning & Development Associates Ltd

Lee Clemson – Mantle Developments UK Ltd

Ron Terry – Howard : Fairburn : MHK

Mark Smith – Affordable Housing 106 Limited

FOR THE LOCAL PLANNING AUTHORITY:

Natalie Rowland – Principal Planning Officer

Tim Edwards – Deputy Team Leader

INTERESTED PARTIES:

Nicola Hunt – Adjacent property owner

R.J.H Burrough – Local resident

DOCUMENTS

Draft Croydon Local Plan – Detailed Policies and Proposals – Viability Assessment – October 2013

Appeal decision APP/L5240/W/18/3204818

Report on the Examination of the Croydon Local Plan Strategic Policies – Partial Review and the Croydon Local Plan Detailed Policies and Proposals

Appeal decision APP/L5240/W/20/3265390

Woodcote Valley Road Section 106

Air Quality Action Plan 2017-2022

Section 106 Planning Obligations in Croydon and their Relationship to the Community Infrastructure Levy Review 2019

PLANS

Original proposed elevations, drawing number 6729-P103

Updated proposed elevations, drawing number 6729-P203 Rev A

Updated proposed elevations, drawing number 6729-P203 Rev B

Updated proposed second, third and roof plan, drawing number 6729-P202 Rev A
TPO Plan