

Appeal Decision

Site visit made on 2 November 2021

by Martin Small BA(Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2021

Appeal Ref: APP/L5240/W/21/3268149

125 Mitchley Avenue, South Croydon, CR2 9HP

- 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 Dipak Mistry against the decision of the Council of the London Borough of Croydon.
 - The application Ref 20/03842/FUL, dated 25 August 2020, was refused by notice dated 20 October 2020.
 - The development proposed is the conversion of the existing 4 bedroom house into 1 x 2 and 1 x 3 bedroom flats with associated landscaping and vehicular parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's fifth reason for refusal is the contention that the submitted plans are inaccurate and ambiguous. The Council has not provided any evidence of inaccuracy or ambiguity in the plans other than the Planning Officer's Report noting the absence of any demonstration of how the development would be accessed from the road. I am satisfied that the submitted plans are sufficient to allow me to determine this appeal and I return to the matter of the access below.
3. Two of the Council's reasons for refusal cite policies from The London Plan The Spatial Development Strategy for London Consolidated with Alterations Since 2011 (2016). During the course of the appeal this was replaced by the publication of The London Plan The Spatial Development Strategy for Greater London (2021). The policies of the 2016 version of The London Plan therefore no longer have any weight.
4. The main parties were given the opportunity to comment on the implications of the new London Plan for this appeal. The Council has confirmed that, in its view, there have been no major policy changes which would have altered the assessment of the main issues but has not directed me to any relevant policies of the new Plan. The appellant, however, has referred to Policy H2 in the new Plan, which I consider below.
5. The proposal follows the refusal of a previous application for the subdivision of the appeal property into two 3 bedroom units (19/05165/FUL). The appellant contends that the scheme before me addresses the concerns of the Council with the previous scheme in a number of respects, including garden areas, space standards and cycle storage. I return to these matters below.

Main Issues

6. The main issues are:

- i) the effect of the proposed development on the character and appearance of the area;
- ii) the effect of the proposed development on the safe and convenient use of the highway;
- iii) whether the proposed development would provide satisfactory living conditions for future occupiers with particular regard to internal floorspace and external garden areas; and
- iv) whether the proposed development would promote means of travel other than by the private car, with particular regard to the provision of cycle storage facilities.

Reasons

Character and appearance

- 7. Mitchley Avenue is a mature residential area characterised by 2 storey detached and semi-detached dwellings set back from the road with hardstandings and lawns to their frontages. Some of these frontages are open whilst others are bounded by hedges, such as the appeal property, and/or dwarf walls. The hedges, wide grass verge and trees in the verge or in front gardens give the area a pleasant character. The dwellings are set in narrow plots with reasonably large rear gardens of similar size, resulting in a regular pattern of development. The land rises to the rear of these properties.
- 8. The proposal includes the removal of the existing hedge and a lawn from the frontage of the property to create a parking forecourt. It would also appear that a moderately-sized tree would need to be removed. Although not specifically cited in the reasons for refusal, this is identified as a concern in the Planning Officer's Report. The proposed layout allows for some planting along the path to the front door, but this would be limited and would not screen the forecourt from the public realm.
- 9. During my site visit I noted that the other open frontages on Mitchley Avenue were not so numerous as to be a defining characteristic of the area and detracted from its pleasant character. The loss of the vegetation on the frontage of the appeal property would result in more harm to the character and appearance of the area. I acknowledge that it may be possible to create a larger area of hardstanding as permitted development under Class F of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, this need not necessitate the removal of the frontage hedge and tree.
- 10. The proposal also includes the sub-division of the rear garden of the property into two to provide separate private garden areas for the proposed flats. This would result in garden areas that would differ from those of other properties in the vicinity. However, the only alteration to the existing footprint of the appeal property is a modest extension to the porch at the front. Therefore the overall amount of open space associated with the property would not be significantly decreased, notwithstanding its sub-division.

11. Consequently, the relationship of built form to open garden and the fundamental pattern of development in the area would be retained. This degree of variation in garden layout would thus not be harmful to the overall character and appearance of the area. Furthermore, the sub-divided garden would only be readily apparent from the appeal property and the neighbouring properties, not from Mitchley Avenue. There would therefore be no harm to the street scene from the alterations to the garden.
12. The only external changes to the existing dwelling would be the new porch extension on the front elevation and the replacement of the garage door with a window. These would be modest alterations and would not adversely affect the character or the appearance of the building.
13. I therefore conclude that the proposed development would result in harm to the character and appearance of the area, albeit localised. Accordingly, in this respect, the proposed development would conflict with Policies SP4.1 and DM10.1 of the Croydon Local Plan (2018) (the Local Plan). These policies, amongst other things, require development proposals to be of a high quality that contributes positively to townscape and respects the development pattern.
14. However, I find no conflict with Policy DM10.7 of the Local Plan which relates to the architectural detailing and materials of a proposal, services and roof form. Although not cited in the reasons for refusal the Planning Officer's Report refers to Policy DM10.4 which sets out the need for all proposals for new residential development to provide private amenity space that is of high quality design that enhances and respects the local character. For the reasons given above I find no conflict with this policy in respect of character and appearance.
15. Section 4.21 of the Suburban Design Guide Supplementary Planning Document (2019) (the SDG) this relates to extensions and alterations to roofs. As neither are proposed to the roof of the appeal property, this section of the SDG is not relevant to the proposal before me.

Safe and convenient use of the highway

16. No plans have been submitted showing the access to the appeal property from the carriageway across the highway verge. However, the proposed parking arrangement suggests that cars would be driven directly off the carriageway into the parking spaces. There is no indication of turning being possible on the forecourt. Although the Council has not raised any concerns with vehicles reversing onto the highway, 3 cars close to each other and to the footway could potentially result in conflicts with pedestrians who would have to negotiate cars exiting or entering the forecourt across a substantial proportion of the frontage.
17. Furthermore, a telegraph pole is located on the grassed verge opposite the boundary between the appeal property and No 123 Mitchley Avenue and a tree is located on the frontage of the appeal property. Both of these could obstruct vehicles entering or exiting the property. Without details of the proposed access in relation to these potential obstacles, it has not been demonstrated that that the property could be accessed safely.
18. The proposal includes 3 parking spaces which the Council considers to be acceptable. Notwithstanding the concerns of local residents I have no evidence to demonstrate that this would not be so. Vehicle movements associated with

the additional unit would not be significant in terms of likely existing vehicle movements on Mitchley Avenue, which a local resident describes as 'busy'.

19. For the reasons given above, I cannot conclude that the proposed development would not be harmful to pedestrian safety. Consequently, I am not persuaded that safe and suitable access to the property could be achieved for all users as required by paragraph 110 b) of the National Planning Policy Framework (the Framework). Furthermore, the Framework sets out that applications for development should give priority first to pedestrian and cycle movements and create places which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

Living conditions

20. The appeal property was originally a 3-bedroom dwelling but has been extended to provide 4 bedrooms. Although the internal floorspaces stated by the appellant are disputed by the Riddlesdown Residents' Association (RRA), the Council accepts that the proposed flats would meet the Technical housing standards – nationally described space standard in respect of their overall size. Although bedroom 3 in the ground floor flat is shown with a double bed and would not meet the space standard for a double bedroom, the appellant confirms that the indication of a double bed is only illustrative. The bedroom would meet the standard for a single bedroom and is therefore acceptable. The internal floorspace would therefore be of a satisfactory standard.
21. The provision of private amenity space is a requirement of Policy DM10.4 of the Local Plan and is therefore not a benefit of the proposal. The external garden areas would meet the size standards set out in this policy and would be of a functional shape, with reasonable privacy and outlook, thus offering scope for sitting out or other activities. Access to the garden from the first floor flat would be via the front door and a path along the front and side of the building shared by the occupiers of the two flats. Whilst this would not be optimal, the access would be reasonably straightforward.
22. I therefore conclude that the proposed development would provide satisfactory living conditions for future occupiers of both flats with regard to internal floorspace and external garden areas. Accordingly, in this respect, the proposed development would not conflict with Policy DM10.4 of the Local Plan which requires all proposals for new development to provide private amenity space that is of high quality and functional.
23. The RRA draws my attention to Policy D6 of the Intend to Publish version of The London Plan (2019) which sets standards for both internal and external space. Although this version has been superseded by The London Plan 2021, Policy D6 has been carried through to the new London Plan. I find no conflict with this policy for the reasons given above. Neither Policies SP2.6 nor DM10 of the Local Plan, though cited in the second reason for refusal relating to the standard of internal floorspace, cover this matter. These policies are therefore not relevant to this issue.

Cycle storage

24. The proposal includes two cycle storage spaces for each flat within the gardens. Access to the cycle spaces for the occupants of the first floor flat would therefore be via the shared path to the side of the property. This would not

fully accord with the guidance in the SDG for cycle storage to be easily accessible. However, in my view, any occupier wishing to cycle to their destination would be unlikely to be deterred by the additional time and effort to retrieve their bicycle and to return it to storage, which would be likely to be insignificant relative to that of the whole journey.

25. I therefore conclude that the proposed development would provide adequate cycle storage and thus promote means of travel other than by the private car. Accordingly, in this respect, the proposed development would accord with Policies DM29 and DM30 of the Local Plan which, among other things, set out that cycle parking spaces should be provided and be secure and that development should promote cycling.

Other Matters

26. The Council considers that the proposed development is acceptable in principle. It would accord in principle with Policy SP2 of the Local Plan on homes and Policy H2 of the new London Plan 2021 on small sites, to which the appellant draws my attention. The appellant also refers to a number of other policies of the Local Plan. However, compliance with planning policy is not a benefit of the proposals and therefore carries neutral weight in my determination.
27. The Framework encourages the effective and efficient use of land in meeting the need for homes and the development of under-utilised land and buildings. However, the site is already in use for a family-sized home and with a net gain of one unit, the contribution to the housing supply in the borough and the associated social and economic benefits would be minimal. Moreover, the Framework also exhorts the protection of character and highway safety. The benefits of the proposal are therefore not sufficient to outweigh the conflict with the other policies of the development plan that I have identified above.
28. The appellant draws my attention to other permissions for flatted developments in the locality which demonstrate the acceptability of flats as a form of development. However, the appellant acknowledges that these schemes are not directly comparable to the scheme before me and I have therefore given them little weight in my determination.
29. I note the representations from the RRA and other interested parties in respect of a range of matters including contended conflict with Policy DM1.2 of the Local Plan, the accessibility of the ground floor flat for a wheelchair user, drainage, utility boxes, electric vehicle charging points and refuse bin security. However, none of these matters have been determinative in this appeal.

Conclusion

30. I have found above that the proposed development would conflict with the development plan taken as a whole. There are no considerations, including the policies of the Framework, that indicate that a decision should be made otherwise than in accordance with the development plan.
31. For this reason, and having regard to the other matters raised, the appeal is dismissed.

Martin Small

INSPECTOR