



Appeal Decision

Site visit made on 7 December 2021

by D.R McCreery MA BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 19 January 2022

Appeal Ref: APP/L5240/W/21/3274856

157-157a Ecclesbourne Road, Thornton Heath CR7 7BR

- 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 David Meer against the decision of the Council of the London Borough of Croydon.
 - The application Ref 20/04375/FUL, dated 24 September 2020, was refused by notice dated 9 December 2020.
 - The development proposed is alterations, demolition of existing building behind facade and removal of side fence on Bensham Lane and rear fence on Bert Road, and removal of existing advertisement hoarding, erection of two storey building (ground and first floors), re-provision of ground floor retail unit facing Ecclesbourne Road with ancillary storage, kitchen and w/c in existing basement. Provision of 3 flats, one at ground floor and two on first floor accessed from Bensham Lane. Provision of rear ground floor amenity spaces and rear first floor balconies, and provision of off-street parking at rear, and associated cycle and refuse storage.
-

Decision

1. The appeal is allowed and planning permission is granted for alterations, demolition of existing building behind facade and removal of side fence on Bensham Lane and rear fence on Bert Road, and removal of existing advertisement hoarding, erection of two storey building (ground and first floors), re-provision of ground floor retail unit facing Ecclesbourne Road with ancillary storage, kitchen and w/c in existing basement. Provision of 3 flats, one at ground floor and two on first floor accessed from Bensham Lane. Provision of rear ground floor amenity spaces and rear first floor balconies, and provision of off-street parking at rear, and associated cycle and refuse storage at 157-157a Ecclesbourne Road, Thornton Heath, CR7 7BR in accordance with the terms of the application Ref 20/04375/FUL, dated 24 September 2020 and subject to the conditions in the attached schedule.

Procedural Matters

2. Planning law requires that applications for planning permission be determined in accordance with the development plan for the area unless material considerations indicate otherwise. In this case, the development plan comprises policies in the Croydon Local Plan (Local Plan) and the London Plan.

3. The National Planning Policy Framework (the Framework) is a material consideration which I have paid regard to, including Chapter 12 on achieving well designed places (as updated in July 2021).
4. The planning application was considered by the Council under the now superseded London Plan (2016). As appeals are decided on the basis of the development plan in force at the time of the appeal decision, I have assessed the proposal against policies in the 2021 London Plan as necessary.
5. In the interests of clarity I have adopted the description of development and site address from the Appellant's Appeal Form and the Council's Decision Notice.

Main Issues

6. The main issues are:
 - The effect on the character and appearance of the surroundings.
 - Whether the proposal would result in an unacceptable impact on highway safety.
 - The effect on the living conditions of occupants of nearby properties, with particular regard to loss of privacy to properties on Bert Road.

Reasons

Character and appearance

7. The surroundings are predominately residential, typically two storey terraced houses of traditional form and appearance, with some mixture in terms of age and general style. A number of larger scale commercial uses also inform the character, most notably the Lyntons Building that sits on the corner of Bensham Lane and Ecclesbourne Road. Bensham Lane serves as a relatively busy vehicular thoroughfare and bus route that also influences the character of the surroundings.
8. The site is not the subject of a heritage designation. The acceptability in principle of demolishing and redevelopment of the built form to the rear of the façade that fronts Ecclesbourne Road is also not a matter in dispute.
9. This is a prominent corner plot location that is open to extensive public views from a number of vantage points. Particularly notable in terms of extent is the close view from Bensham Lane, near to the junction with Bert Road, where the side of the site is fully visible. In this and other views, the upper floors of the main building appear mostly blank and the roof slopes are partially asymmetrical. The high fence at the boundary further reinforces the blank and lifeless appearance that the building presents to the side.

10. The overall effect of what I describe above does not contribute positively to the character and appearance of the area and makes for an unwelcoming built form.
11. In terms of scale, the proposal would have a greater rearwards projection and massing than others in the same terrace on Ecclesbourne Road. However, the site is distinguishable due to its corner position and greater extent of public facing elevations. It is also noteworthy that the larger scale commercial uses that face Bensham Lane also impact on the sense of scale in the immediate surroundings of the site in a way that is less apparent further down the Ecclesbourne Road terrace.
12. On the basis of the arguments made by the Council, I am not persuaded that strict accordance to rear building lines is justified. To my mind, this would introduce an unnecessary design constraint that risks undermining the opportunity of achieving a better relationship on the public facing side of the site. For similar reasons, requiring a scale of development that is proportionate to the existing configuration risks reinforcing a status quo that contributes little to the character of the area and would not accord with the principal of seeking to optimise the capacity of sites.
13. Considering the evidence on this point, although the scale and massing of the proposal would be greater than that evident to the existing side and along the terrace, it would be consistent with the general pattern of development in the area and achieve an appropriate relationship with the parent building in terms of its degree of subservience.
14. The main built form would be set back from the pavement at key points, which would result in an acceptable relationship with both Bensham Lane and Bert Road.
15. Overall, I am not persuaded that the combined effects of the siting, massing and layout would represent what the Council refer to as an overdevelopment of the site or fail to respect the character of the area. Instead, the built form proposed would result in a better relationship between the public facing elevations and the street scene, including a greater level of ground floor activation, that would better complement the character of the area.
16. For the reasons set out, the proposal would not have a harmful effect on the character and appearance of the surroundings. Consequently, there is no conflict with the development plan for the area, specifically policies D3, D4, and D5 of the London Plan and SP4.1, SP4.2 and DM10 of the Local Plan which collectively seek to ensure that development achieves a good standard of design.
17. In reaching a conclusion on this issue I have paid regard to the guidance contained within the Council's Suburban Design Guide Supplementary Planning Document, particularly insofar as its contents have been brought to my attention.

Access

18. It is common ground between the Appellant and the Council that the single off street car parking space proposed represents appropriate provision. Considering the Appellant's transport evidence and other details, I have no reason to adopt a different position.
19. The Council have queried the extent to which vehicles have accessed the rear of the site in the past. I have no compelling evidence to dispute the Appellant's contention that servicing and delivery takes place to the rear.
20. Whilst the extent and specific nature of existing servicing is not extensively detailed, I also do not have any evidence to suggest that existing vehicular movements have resulted in specific highway safety issues.
21. Weighing this matter up, including the details of visibility splays, the relatively small scale nature of the development, and the configuration of the access as it would pass over the pavement area and footpath serving the allotments, the evidence does not point towards unacceptable impacts on highway safety resulting from the proposal. I am also satisfied that the plans indicate suitable available space to allow for access to waste and cycle storage.
22. For the reasons set out, the proposal would not have an unacceptable impact on highway safety. Consequently, there is no conflict with the development plan for the area, specifically policies T4 of the London Plan and DM29 and DM30 of the Local Plan which collectively seek to manage vehicular parking associated with development, including ensuring that highway safety is not compromised.

Living conditions

23. In their reason for refusal the Council express concerns about the siting of the proposed first floor balcony that would serve the unit identified as 'flat C' on the plans and potential for a resulting loss of privacy for the occupiers of 1a and 1b Bert Road.
24. The degree to which potentially affected windows in the identified Bert Road properties serve as principal sources of outlook is a matter of dispute between the Council and the Appellant.
25. Notwithstanding this, the Council indicate that views from the balcony towards the properties on Bert Road would occur from a distance of around 12 metres away. I have paid regard to the Council's preference for an 18 metre separation distance that accords with their guidance.
26. However, it must also be acknowledged that the views towards these properties would be at an angle. As such, the proposal could not be regarded as creating direct views.

27. Taking account of this, and the general urban characteristics of the area where some degree of mutual overlooking is likely to occur, I am not persuaded that loss of privacy to the occupiers of 1a and 1b Bert Road would be at an unacceptable level.
28. For the reasons set out, the proposal would have an acceptable effect on the living conditions of occupants of nearby properties, with particular regard to loss of privacy to properties on Bert Road. Consequently, there is no conflict with the development plan for the area, specifically policies D3 of the London Plan and SP4.2 and DM10.6 of the Local Plan which includes requirements relating to enhancement of well being and protecting the amenity of occupiers of adjoining buildings and privacy conditions.
29. In reaching a conclusion on this issue I have paid regard to the guidance contained within the Council's Suburban Design Guide Supplementary Planning Document, particularly insofar as its contents have been brought to my attention.

Conclusion

30. For the above reasons, the proposal would accord with the development plan for the area. As such, the appeal is allowed subject to the conditions set out below.

Conditions

31. I will consider conditions by reference to the numbering in the attached schedule.
32. (2) is necessary in the interests of certainty. (3) and (5) are necessary in the interests of ensuring a satisfactory standard of external appearance, landscaping and promotion of biodiversity. (4) is needed in order to manage the construction impacts of the development. It needs to be a pre-commencement condition as it includes measures that would need to be in place before works start. (6) is necessary in order to provide certainty over floor levels. It needs to be a pre commencement condition as discrepancies may be harder to rectify at the later point. (7) is necessary in order to ensure appropriate provision is made for waste and refuse storage and other services.
33. Whilst the need beyond other regulatory regimes for measures relating to carbon emissions and water usable is not specifically evidenced by the Council, I acknowledge that (8) and (9) would meet the requirements of Policy SP6.3 and are therefore justified.
34. The sidewall screening to the balconies would accord with the details on the approved plans that are the subject of (2). A specific condition requiring construction of the sidewall is not therefore necessary or justified on the basis of the evidence provided.

35. Where used, I have amended the wording of the conditions suggested by the Council, as appropriate, in the interests of clarity and effectiveness.

D.R. McCreery

INSPECTOR

Schedule of conditions

1. The development shall be begun within three years of the date of the permission. Reason: To comply with the provisions of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
2. The development shall be carried out entirely in accordance with the approved drawings and supporting documents submitted with the application listed: Floor plans 1718-1 ; Elevations 1718-2 ; Elevations and Floor Plans 1718-3G ; Site plan 1718-4A ; Roof plan 1718-5A.
3. Unless otherwise specified in the application the materials to be used for the external surfaces of the development hereby permitted along with work of making good shall be carried out in materials to match those of the existing building.
4. Prior to the commencement of the development (including demolition and foundation works) a Construction Logistics Plan (CLP) (including a Highway condition survey) shall be submitted to and approved in writing by the Local Planning Authority. The CLP shall include the following information for all construction phases of the development: a) Hours of construction; b) Hours of deliveries; c) Parking of vehicles associated with deliveries, site personnel, operatives and visitors; d) Facilities for the loading and unloading of plant and materials; e) Details of the storage facilities for any plant and materials; f) The siting of any site huts and other temporary structures, including site hoardings; g) Details of the proposed security arrangements for the site; h) Details of the precautions to guard against the deposit of mud and substances on the public highway, to include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances prior to entering the highway; i) Details outlining the proposed range of dust control methods and noise mitigation measures; j) Details demonstrating compliance with the non-road mobile machinery (NRMM) regulations 2015; k) Details confirming that all delivery vehicles are registered under the Freight Operators Recognition Scheme (FORS) achieving a minimum of silver status. All construction phases of the development shall be carried out strictly in accordance with the details so approved.
5. Prior to construction taking place above slab level details of the following shall be submitted to and approved in writing by the Local Planning Authority: a) Hard landscaping materials, including existing to be retained (including samples as appropriate). b) Soft landscaping details, including existing planting to be retained, the species, size and density of proposed new planting, including semi-mature tree planting. c) Measures to promote biodiversity/diverse ecology through flora and fauna enhancements. d) Boundary treatments (including new partition fences and works of making good to existing boundary treatments).

(Condition 5 continued) The development shall be completed in accordance with the details approved and shall be maintained for the lifetime of the development, with the exception of new planting which shall be provided and completed in accordance with this condition prior to the end of the first planting season following completion of the development, and maintained for a period of five years from the date of planting. Any new planting which dies, is severely damaged, becomes seriously diseased or is removed within that period shall be replaced by planting of a similar size and species to that originally planted unless otherwise agreed in writing with the Local Planning Authority.

6. Prior to commencement of the development, drawings clearly showing the existing and finished floor levels shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
7. Prior to construction taking place above slab level the following details shall be submitted to the Local Planning Authority for its written approval: a) refuse storage enclosure (appearance), b) cycle storage enclosure (appearance), c) security lighting (siting and manufacturer), d) electric vehicle charging point for cycle storage (siting and manufacturer). The development shall be carried out in accordance with the details to approved.
8. The new development hereby permitted shall achieve a minimum 19% improvement in the Dwelling Emission Rate (DER) over the Target Emission Rate (TER) as defined in Part L1A of the Building Regulations (2013).
9. The dwellings hereby approved shall be designed to achieve a water use target of 110 litres per head per day, unless otherwise agreed in writing with the Local Planning Authority.