



Appeal Decision

Site visit made on 10 November 2021

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 04 FEBRUARY 2022

Appeal Ref: APP/L5240/W/21/3272320
72 Hayes Lane, Kenley CR8 5JQ

- 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 [outline] planning permission.
 - The appeal is made by Mr S Budge against the Council of the London Borough of Croydon.
 - The application Ref 20/03622/FUL, is dated 10 August 2020.
 - The development proposed is demolition of existing dwelling; erection of a three-storey residential development with roof accommodation comprising 7 flats; erection of a pair of two-storey semidetached houses at the rear; provision of modified access, nine parking spaces, refuse and recycling stores, secure cycle parking and communal landscaped amenity space.
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Decision

1. The appeal is dismissed and planning permission for demolition of existing dwelling; erection of a three-storey residential development with roof accommodation comprising 7 flats; erection of a pair of two-storey semidetached houses at the rear; provision of modified access, nine parking spaces, refuse and recycling stores, secure cycle parking and communal landscaped amenity space is refused.

Main Issues

2. The main issues are;
 - (i) The effect of the proposal on the character and appearance of the area;
 - (ii) The effect of the proposal on the living conditions of neighbouring occupiers;
 - (iii) Whether the proposal would be accessible;
 - (iv) The effect of the proposal on highway safety; and
 - (v) Whether the proposal would provide adequate refuse facilities.

Reasons

Character and appearance

3. The appeal site is within a residential area, dwellings are generally large, detached units, occupying generous gardens. This level of space and consistent grain of development creates a tangible sense of spaciousness, which is

- enhanced by mature hedgerows and trees along boundaries and interspersed within the area generally.
4. The proposed block of seven flats would replace the existing detached dwelling, with the semi-detached units sited to the rear of the site, accessed via a path along the side of the block of flats.
 5. Dwellings in the area are generally traditional in their design and style, with hipped and cross hipped roofs, incorporating brick elevations. The proposed dwellings are referred to as being of a contemporary reinterpretation in their design. The mansard roofs on the semidetached units would appear to jut out of the front elevation, which when read with the proposed dark material palette would create a heavy and jarring elevation facing into the site. Furthermore, other than what appears to be a proposed change in the shade of brick, the side elevations would be largely absent of any detail, which would create large, two storey blank and somewhat oppressive side elevations.
 6. Whilst the design of the dwellings to incorporate flat roofs would reduce the overall height and mass, the built form would nevertheless occupy a significant portion of the site and stretch across its width, creating a development that would appear as if it had been squeezed into the site. Furthermore, the intimate design elements referred to above would create an oppressive and brutal development. I did not witness any other sites along this part of Hayes Lane that have had development sited to the rear of the site, and the proposal before me would insert a built form that would be harmful to the clearly residential, spacious character of the area.
 7. The block of flats would respect the roof form of the properties along the road, despite being three storeys in height with an additional storey within the roof. The palette of materials would introduce darker materials to the street scene, however the separation distances between the built form would allow the building to sit comfortably within the site and would not cause the block of flats to visually clash with its neighbours. The use of windows with a vertical emphasis would reflect design details in the area generally, and whilst balconies are not a common addition to the existing dwellings, the proposal would incorporate them with a mixture of brick and iron work, such to create an interesting, but not too fussy, front façade.
 8. The area to the front of the site would be laid out for parking, however the plans indicate a level of soft landscaping. Accordingly, I am satisfied that a suitable condition could be secured to ensure that the landscaping scheme did not result in harm to the character of the area.
 9. Whilst I consider the block of flats to be acceptable, I find that the houses to the rear would be harmful to the character of the area. Accordingly, when considered in its entirety I find that the proposal would conflict with Policy DM 10 of the Croydon Local Plan 2018 and Policy D4 of the London Plan 2021 which collectively seek to ensure development is of a high quality design.

Living conditions

10. Flats on the first and second floors would have windows on the side elevations which would allow direct views into the rear gardens of the neighbouring properties. The proposed development would extend substantially beyond the rear building lines of neighbouring dwellings, and this would allow views into

the patio areas immediately adjacent to those dwellings. This would result in a significantly harmful level of overlooking and loss of privacy to neighbouring occupiers.

11. I note the suggestion that these windows could be obscurely glazed. Whilst it may be suitable to use obscure glazing in bathrooms, I do not consider that such glazing would be suitable for main habitable rooms. This would create a somewhat oppressive environment for that habitable room, and due to the prominent location of the windows in relation to the neighbouring dwellings there would still be an element of perceived overlooking, which would create an overwhelming development.
12. Accordingly, I find that the proposal would be significantly detrimental to the living conditions of neighbouring occupiers with particular regard to overlooking and loss of privacy. It would therefore conflict with policy DM10 of the Croydon Local Plan 2018 which supports development that protects the amenity of occupiers of adjoining buildings and that do not result in direct overlooking of private outdoor space.

Accessibility

13. The London Plan 2021 acknowledges that many households in London require accessible housing to lead dignified and independent lives. Accordingly, Policy D7 requires development to ensure that all other dwellings (which are created via works to which Part M volume 1 of the Building Regulations applies) meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings'. In the explanatory context of policy D7 it is advised that in exceptional circumstances the provision of a lift to dwelling entrances may not be achievable and it may be necessary to apply some flexibility in the application of the policy. One such circumstance is identified as a block of flats of four storeys or less on a specific small scale infill development as set out in Policy H2 of the London Plan.
14. Policy H2 of the London Plan advises that Boroughs should pro-actively support well-designed new homes on small sites (below 0.25 hectares in size) through decision making. The appeal site is approximately 0.11 hectares and therefore is subject to Policy H7. The explanatory content of Policy H7 advises at 4.2.9 that homes located on the ground floor on minor developments should meet the requirements of Policy D7. Homes that are not on the ground floor on minor developments can comply with the M4(1) standard, which does not require step-free access, where provision of step-free access would be unfeasible.
15. I note the appellant's comments with regards to viability, however no technical evidence is before me to address whether additional measures would be feasible or if a more flexible approach should be taken. As such I find that the proposal would fail to comply with Policy D7 of the London Plan 2021.

Highway safety

16. The front of the site would be laid out for vehicle parking and pedestrian access. The footpath linking the block of flats and houses beyond would travel through the parking area meaning pedestrians would have to navigate

vehicles entering and exiting the site or parking in order to access the development. Having regard to the number of vehicles entering the site, and the type of housing to be provided, I consider that this would result in conflict between pedestrians and those using vehicles. Whilst the footpath would be delineated by a different block work to the parking spaces, I do not consider that this would provide a practical solution to the conflict. As such the layout would not provide a safe means of access for pedestrians and would fail to follow the guidance set out in the National Planning Policy Framework which advises planning decisions should ensure developments create places that are safe, inclusive, and accessible.

17. The measured public transport accessibility level (PTAL) for the site has a score of 1b. Public transport routes to and from the local area includes a number of services, with bus stops located within a ten to fifteen minute walk from the site. Kenley railway station can be reached on foot within some twelve minutes. Kenley station provides access to and from services and facilities. The surrounding area has footpaths that are well lit and accessible for individuals or family groups. However, whilst some trips may be made on foot with travel to the train station and use of the bus services, having regard to the distance and the possibility that the units may be occupied by small families, it is likely that people will use private vehicles to access day to day services and facilities.
18. The local highway network in the vicinity of the site is reflective of the predominantly residential nature of the surrounding area, with a high number of detached and semidetached dwellings with off-street parking, driveways and garages accessed by individual dropped kerb crossovers. The local highway network is subject to a speed limit of 20mph. Nine off-street car parking spaces would be provided to support both the apartments and the houses. The location of the vehicular access to the parking area at the front of the site would maintain functional accessibility for vehicles to enter and leave the site. The proposed layout would provide space for vehicles to turn on-site such to ensure that vehicles could manoeuvre onto and off the site in forward gear.
19. Cycle storage for the apartment block would be provided within a single dedicated secure and enclosed area within the rear garden with the scope to accommodate sixteen cycles, which would be in excess of the minimum requirement and provide a realistic alternative to the private vehicle for some occupants.
20. The proposal would provide adequate access for vehicles and is located in an area where there would be some scope to use alternative modes of transport. However, the requirement for pedestrians to share the space with manoeuvring vehicles would be unacceptable, particularly having regard to the possibility of young families occupying the development.
21. Accordingly, I find that the proposal would fail to provide safe access. It would conflict with Policies DM29 and DM30 of the Croydon Local Plan, and Policies T3 and T4 of the London Plan, which collectively advise that development must not have a detrimental impact on highway safety for pedestrians.

Refuse

22. The two units to the rear of the site would be three bedroom houses, suitable for families. In order to access the refuse area occupants of the dwelling would have to cross the communal garden, past the cycle storage, along the length of the apartment block, to the refuse area. Whilst there would inevitably be times when it would be possible to drop off refuse or recycling on the way out of the site, it is not acceptable to suggest that such a distance is appropriate to dispose of refuse and/or recycling on a regular basis.
23. I find that this would be an unsatisfactory arrangement for future occupiers and would conflict with Policy DM13 of the Croydon Local Plan which requires development to provide layouts that ensure facilities are conveniently located and easily accessible by occupants.

Conclusion

24. The proposal would conflict with the development plan. Whilst I acknowledge that there is support for the supply of housing on windfall sites, and the Government is seeking to significantly boost the supply of housing, these factors do not overcome the harm identified or the conflict with the development plan when taken as a whole.
25. For the reasons above and having regard to all other matters raised, I conclude that the appeal is dismissed and planning permission for demolition of existing dwelling; erection of a three-storey residential development with roof accommodation comprising 7 flats; erection of a pair of two-storey semidetached houses at the rear; provision of modified access, nine parking spaces, refuse and recycling stores, secure cycle parking and communal landscaped amenity space is refused.

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INSPECTOR