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# Appeal Decision

Site visit made on 22 February 2022

**by D.R McCreery MA BA (Hons) MRTPI**

**An Inspector appointed by the Secretary of State**

**Decision date: 7 March 2022**

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**Appeal Ref: APP/L5240/W/21/3275266**

**6 Hartley Down, Purley CR8 4EA**

- 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 A Howell (Buxworth Homes) against the decision of the Council of the London Borough of Croydon.
  - The application Ref 20/06342/FUL, dated 4 December 2020, was refused by notice dated 25 March 2021.
  - The development proposed is demolition of existing dwelling and garage; erection of a three storey building with part basement and roof accommodation comprising nine flats; provision of new access, seven car parking spaces; secure cycle and refuse storage and private and communal amenity space.
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## Decision

1. The appeal is dismissed.

## 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 relevant parts of the development plan are the Croydon Local Plan (Local Plan) and the London Plan. The National Planning Policy Framework (the Framework) is a material consideration.
3. A further daylight assessment (May 2021) and drawing were submitted with the appeal. The Council do not object to these details being considered as they do not substantially change the proposal. I agree with this and conclude, from the evidence provided, that accepting the details would not unacceptably prejudice any party. As such, I have paid regard to the additional material.

## Main Issues

4. The main issues are:
  - The effect of the proposal on the character and appearance of the area.
  - Whether the housing mix would be acceptable.
  - Whether acceptable living conditions would be created for future occupants.

- The effects on the living conditions of occupants of nearby properties.
- Whether acceptable provision is made for motor vehicle access and movement and cycle storage.
- The effect on trees.

## **Reasons**

### Character and appearance

5. The character of the area is residential, with a mix of detached and semi detached dwellings, bungalows and two storey houses. Most sit within large plots with gardens and main buildings set back from the front boundary. There is some variation in both the layout and appearance of dwellings, but most can be loosely categorised as traditional and suburban. The suburban character is positively reinforced by the gaps between buildings and mature trees and other planting.
6. This part of Hartley Down is at a bend in the road before it declines ever more steeply towards Reedham station. The site itself also slopes from front to back, consistent with a more widely felt topography that influences the character of the area. The detached bungalow that sits on the site accords with the general character of the area, although notably has street facing twin gabled elements that give the building a novel roof configuration when compared to its neighbours.
7. That the existing building is unworthy of retention is not a matter in dispute between the Council and the Appellant. The question is instead whether the proposed building represents a suitable replacement.
8. Turning to height, form and massing. Both the Council and the Appellant draw on guidance contained in the Suburban Design Guide Supplementary Planning Document (SPD) which, at section 2.10, considers appropriate heights for new developments that would face onto the street. I have paid regard to the guidance, and the comments from the parties regarding how it should be applied.
9. Although it establishes some principles of relevance, the site and its surroundings can be distinguished from the examples provided in the SPD. It is within a context that features both two storey dwellings and bungalows, including one of each as immediate neighbours. It is also heavily influenced by the topography, which provides for both a different spatial relationship with neighbours, compared to a flat area, and wider scope for differing perceptions of factors such as height, mass and appearance depending on the vantage point.
10. Given these site specific factors, the guidance in the SPD can only be regarded as informative in helping to form a judgement about the effects of the proposal, rather than being determinative.

11. In terms of perception from public vantage points, the area of greatest sensitivity is from close and medium public views from Hartley Down, predominantly from lower ground to the north. Here, the views of the site are extensive due to the open nature of the road and its layout.
12. In these views, both the side and front elevations of the proposed building would be highly visible. It would be seen to rise significantly above the neighbouring bungalow with a substantial portion sitting forwards of the front building line of it. As such, the building would adopt an exposed location in the street scene and would be perceived as a significantly larger structure than others in the surroundings. The effect would be compounded by the sloping topography.
13. I agree with the Council that the positioning of the proposed building in layout terms would accord with the spatial pattern of neighbouring buildings. However, the combination of the height and mass of the front and side elevations, as seen in the views described, would result in a built development of excessive perceived scale. It would be seen to dominate the surroundings in a fashion that would have a negative and harmful effect on the suburban character of the area.
14. The proposed staggering of the front elevation would do little to lessen the perceived scale of the building. However, I do not agree with the Council that the staggering is in itself harmful or that it, and the resulting roof form, would be noticeably contrary to the existing pattern of development in the locality. There is sufficient variation in the surroundings to accommodate the proposed approach.
15. In relation to the perception of the proposal from the south, public views would be less extensive due to the bend in Hartley Down, although some views of the site continue up Hartley Old Road. These views would be predominantly from higher ground and filtered through intervening built forms.
16. The perceived scale of the proposal from these locations would be fundamentally different to those experienced from the lower ground to the north and would not carry the same impact on the character and appearance of the surroundings. In this regard, I find the proposal to be acceptable. Although, my conclusions here do not balance out my concerns about the effects from the north.
17. I accept that any development of a greater scale than the existing bungalow in this location would result in a more visible built presence that would have a consequent effect on the surroundings. I also appreciate that both the Local Plan and London Plan encourage optimisation of site capacity. This principle also finds favour in the Framework. In this regard, there is a balance to be struck between respecting existing development patterns and achieving the site optimisation required.

18. However, the scale of development proposed in this instance would lead to demonstrable harm to the character and appearance of the surroundings. As such, I do not regard the proposal to represent appropriate densification.
19. Turning to materials/architectural expression. As a matter of style, I understand how the proposal has evolved over time to adopt what the Appellant refers to as a 'Tudorbethan' detailing. Although there is variety in appearance of dwellings in the surroundings, traditional detailed design is a consistent element. The proposal would be consistent with this approach and therefore acceptable from the standpoint of detailed design.
20. Other development in the area, and more general interest in developing sites, is noted in so far as it is drawn to my attention. Given the locations, contexts, and details provided, the evidence has not materially influenced my conclusions.
21. In conclusion on this issue, considering all the evidence put forward, the proposal would have a harmful effect on the character and appearance of the area. Consequently, there is conflict with the development plan, specifically Policies SP4 and DM10 of the Local Plan which require high quality proposals that are respectful in terms of scale, height, and massing.

#### Housing mix

22. Policy SP2.7 of the Local Plan sets a target for 30% of all new homes to have three or more bedrooms. This is a strategic target applied across the plan period. Given its strategic nature, it follows that not all individual developments would need to meet the target. Depending on the nature of the proposal, some may exceed it and some may fall short.
23. The target should not be applied unthinkingly, however if all proposals fell short without justification then it would never be met and the policy would be severely undermined. There is an absence of more detailed evidence relating to whether the strategic target in SP2.7 is being met, or not. I do not accept the argument at face value that under provision in this instance makes little difference in the wider context of the policy as other proposals would make up for it, either presently or into the future.
24. I have considered the interaction with Policy DM1.1 of the Local Plan. There is some logic to the Appellant's argument that delivery of major development in accordance with this policy may result in a larger proportion of the 30% indicated in SP2.7 being delivered on larger sites. However, again, I do not have evidence that allows me to draw firm conclusions on this matter.

25. For a proportion of development to be M4(3) compliant accommodation is a requirement of the London Plan. It is met by the proposal in the case of what is referred to as Unit 3. I see no policy support for the position that the provision of a larger unit in order to comply with M4(3) should count towards, or otherwise offset, what is set out in SP2.7.
26. I accept that proposals should be considered in the round and in the context of the development plan and housing mix put forward as a whole. However, in the case of the proposal there is only limited explanation as to why the Appellant regards policy requirements to be competing or conflicting and what impact that has on the deliverability of the scheme. Although it favours 2 bed units, the housing mix proposed is otherwise generally balanced. It is unclear why equal balance is a desirable facet of the scheme, particularly in the context of a policy that seeks to achieve a bias towards larger units.
27. Overall, whilst Policy SP2.7 should not be regarded as an absolute requirement, there is limited evidence to demonstrate why it should not be followed in the case of the proposal. As such, the proposed housing mix would not be acceptable. Consequently, there is conflict with policy in the development plan, specifically Policy SP2.7 of the Local Plan relating to mix of homes by size.

#### Living conditions – future occupants

28. In relation to outlook from what are referred to as Apartments 1 and 2 on the plans, the bedrooms in both properties would have a more limited outlook from their windows due to their location at lower ground floor level.
29. The bedroom of Apartment 1 would include a window looking out onto a shallow lightwell. This would allow for very limited outlook for what is the only bedroom of the apartment. The quality of outlook from this space is not compensated for in other areas, for example through a good quality outlook from the main living space to the rear, although I accept it exceeds the requirements of the London Plan in terms of size. Overall, considering Apartment 1 as a whole, the evidence does not demonstrate that the quality of outlook provided would create acceptable living conditions for future occupants.
30. In the case of Apartment 2, the windows would be dual aspect. Whilst the external space between the windows and the boundary would be restricted to the side, there would be more space to the front. This unit would also have a more generous outlook to the rear when compared to Apartment 1. Considering the outlook for the unit as a whole, acceptable living conditions would be created for future occupants.
31. In relation to standards of natural light, it is noted that the Council have considered the Appellant's additional light assessment which was submitted with the appeal. They confirm that it satisfactorily addresses their concerns regarding natural light standards.

32. In reviewing the light assessment and the plans I note that the living area for Apartment 1 would rely on light gained from a roof light that would sit within a ground floor communal terrace. This is a sub standard configuration and, at the very least, the roof light would need to be obscure glazed in the interests of ensuring adequate privacy conditions for the occupants of Apartment 1. It is unclear whether a requirement for obscured glazing would affect the light assessment.
33. However, given my assessment in relation to outlook, it is not expedient to pursue this matter further with the Appellant and the Council as it does not affect my overall conclusions. Consequently, I do not make a finding of conflict with Policy 10.6 (d) of the Local Plan.
34. In conclusion on this issue, the evidence does not demonstrate that the proposal would create acceptable living conditions for future occupants. Consequently, there is conflict with policies in the development plan for the area, specifically Policy D6 of the London Plan which requires housing development to be of a high quality design with a comfortable and functional layout.
35. In drawing my conclusions on this issue I have paid regard to the guidance set out in the SPD, in so far as it is drawn to my attention and is relevant.

#### Living conditions – existing occupants

36. The Council's reason for refusal makes reference to effects on living conditions in terms of outlook, overbearing impacts, overlooking and visual intrusion. These effects principally relate to the immediate neighbours at numbers 4 (No.4) and 8 (No.8).
37. In terms of outlook, the primary source of outlook from both neighbours would be directly towards the rear boundaries, which remain unaffected. The proposal would intrude to a degree on the outlook of the immediate neighbours by introducing a built presence to the side. However, as the primary source of outlook would remain, any deterioration resulting from the proposal would not be at a level likely to materially affect the living conditions of occupants.
38. The Council also refer to concerns about visual intrusion. It is unclear from the evidence how this term is distinct from quality of outlook. Nevertheless, I am not persuaded from the evidence that visual intrusion requires special consideration in this case by virtue of any standalone effects that are not captured by an assessment of outlook.
39. Turning to overlooking, the proposal would allow for a degree of overlooking into the rear garden of No.8 from the upper floor terraces. Such views would be at an angle and broken by intervening boundary features.

40. As such, given the suburban context where a degree of mutual overlooking is to be expected, any reduction in privacy for the occupiers of No.8 would not be at a level likely to have a material effect on living conditions. A condition aimed at securing privacy screening would not pass the test of necessity given the acceptability of the effects.
41. I have considered the impacts in relation to other amenities and properties, including the comments from other interested parties. I find the proposal to be acceptable in this regard, or capable of being acceptable subject to planning conditions.
42. In conclusion on this issue, the evidence demonstrates that the proposal would have acceptable effects on the living conditions of occupants of nearby properties. Consequently, there is no conflict with policies in the development plan, specifically Policies SP4 and DM10 of the Local Plan in relation to well being and protection of neighbouring amenity.
43. In drawing my conclusions on this issue I have paid regard to the guidance set out in the SPD, in so far as it is drawn to my attention and is relevant.

#### Motor vehicle parking and cycle storage

44. I am satisfied that the motor vehicle access and turning details are sufficient to make an assessment of the likely effects of the proposal, proportionate to the scale of the development and likely risks.
45. In relation to potential conflict between users of the access ramp. Given the length of it and restricted visibility across the site, it would be advantageous to have a mechanism in place to avoid the potential of two vehicles accessing the ramp at the same time. The Appellant's suggestion of a light operated shuttle system is a proportionate response to this risk and could, in my view, be the subject of a planning condition.
46. When the access is in use by exiting vehicles, the evidence indicates that those wishing to enter would be unable to wait wholly within the site. The Appellant's evidence indicates that such vehicles would wait partially within the site and partially overhanging the footway.
47. Whilst overhanging the footway is not ideal, the risks to public safety (including pedestrian safety) resulting would be low. This is due to the likely level of pedestrian and traffic activity around the access. The Council have not provided adequate justification to demonstrate that the further assessments they require are a proportionate response to the likely level of risk.
48. In relation to cycle storage, whilst the location may be inconvenient for some users, I am not persuaded by the Council's argument that the location and standard of provision is unacceptable.



49. In conclusion on this issue, the evidence demonstrates that acceptable provision is made for motor vehicle access and movement and cycle storage. Consequently, there is no conflict with policies in the development plan for the area, specifically Policies DM29 and DM30 of the Local Plan in relation to highway safety and car and cycle parking.

### Trees

50. As discussed above, the presence of greenery that results from trees and other planting positively contributes to the character of the area. This is particularly the case to the rear of the site where trees provide a more wooded backdrop than is apparent to the front.
51. The proposal would result in the removal of three unprotected trees to the side, which would be contrary to Policy DM28 of the Local Plan if the trees make a contribution to the character of the area. In response to the appeal, the Council have indicated that they no longer object to the loss of the trees provided suitable replacement is secured by condition. This would ensure that there is no net loss of overall tree coverage from the surroundings. I agree that this would be appropriate as the contribution that the trees make to character lies in their collective, rather than individual, value. There is enough space within the site to realistically deliver such provision.
52. In relation to wider tree protection, the Appellant's tree plan and other supporting arboricultural evidence adequately categorises trees and shows the relevant root protection areas. I have no reason to dispute that the details accord with the relevant industry standards. The evidence, including arboricultural method statement, demonstrate that development is capable of taking place with a realistic prospect of no lasting harm occurring to the trees that are identified for retention. Further detailed measures could be secured by condition.
53. As a result, in relation to tree protection, the potential for quality landscaping, biodiversity enhancements, and urban greening would not be undermined.
54. For the above reasons, the proposal would have acceptable effects on local trees. Consequently, there is no conflict with Policies DM27 and DM28 of the Local Plan in relation to protecting and enhancing biodiversity and trees.

### **Conclusions**

55. The proposed development would be contrary to the development plan in that it would be harmful to the character and appearance of the area and would not result in an acceptable housing mix or living conditions for future occupants.



56. I have paid regard to the benefits that would flow from the proposal. Notwithstanding my conclusion on housing mix, there would be an addition to the housing stock of the area, and associated provision and social and economic benefits, that attracts positive weight.
57. This is aligned with the aims in the Framework of significantly boosting the supply of new homes (paragraph 60) and recognising the important contribution that small and medium sites can make (paragraph 69). I also acknowledge the importance that the London Plan places on such sites, as part of meeting overall housing delivery requirements. The Local Plan (and accompanying SPD) sets part of the local planning framework and I see nothing in the evidence that leads me to conclude that it doesn't set a positive tone for managing change that is consistent with paragraph 125 (a) of the Framework.
58. The benefits do not come at any cost. There is a balance to be struck and a line after which appropriate site optimisation and densification becomes materially harmful. In the case of the proposal, the benefits do not provide material considerations that would outweigh the conflict with the development plan.
59. For the above reasons and having regard to all other matters, I conclude that the appeal should be dismissed.

*D.R. McCreery*

INSPECTOR