



Appeal Decision

Site visit made on 7 March 2022

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 MARCH 2022

Appeal Ref: APP/L5240/W/21/3282853

50 Welcomes Road, Kenley CR8 5HD

- 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 James Hannah of Church Hill Holdings against the Council of the London Borough of Croydon.
 - The application, Ref 21/01273/OUT, is dated 10 March 2021.
 - The development proposed is the erection of six flats (two storey with roof accommodation) and two houses with associated facilities.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of six flats (two storey with roof accommodation) and two houses with associated facilities at 50 Welcomes Road, Kenley CR8 5HD in accordance with the terms of the application Ref 21/01273/OUT, dated 10 March 2021, and subject to the conditions in the attached schedule.

Preliminary Matters

2. The application is made in outline with appearance and landscaping reserved for later approval. Matters relating to access, layout and scale are for consideration as part of the appeal.
3. In addition to this appeal, I have also considered appeals on 3 other sites in Welcomes Road¹ that seek to introduce more intensive forms of development, although in different ways. While interested parties will recognise a degree of repetition in the appeal decisions because of the similarities in character analysis and policy framework, I have considered each proposal on its own merits. I have also had regard to a recent appeal decision at 52 Welcomes Road².

Main Issues

4. The main issues are the effect of the development on:
 - the character and appearance of the area, including trees;
 - living conditions of future occupants, with regard to accessibility, amenity space, waste and cycle storage, and parking;
 - highway safety;

¹ APP/L5240/W/21/3276882, 3279128, 3279654

² APP/L5240/W/21/3267900

- sustainable transport;
- the ecological value of the site; and
- fire safety.

Reasons

Character and appearance

5. Welcomes Road runs along the bottom of a shallow valley with land rising on either side. Fronting the road but set back from it are large, mainly 1 and 2 storey dwellings set in spacious gardens. The gardens contain a preponderance of mature trees, shrubs, and other greenery. The combination of domestic scale dwellings, spacious gardens and greenery gives the area a verdant and low density character.
6. The spatial strategies in the London Plan 2021 (the 'London Plan') and the Croydon Local Plan 2018 (the 'Local Plan') set out ambitious housing growth targets. Policy H2 of the London Plan requires boroughs to recognise that local character evolves over time and will need to change in appropriate locations to accommodate additional housing on small sites. Policy SP2 of the Local Plan, while concentrating development in the places with the most capacity to accommodate new homes, recognises that places change and in particular suburbs will need to sustainably grow. In all cases, support for residential development needs to be balanced against other objectives of the development plan, including respecting existing residential character and local distinctiveness.
7. As a result of these policies, the character and appearance of Welcomes Road has started to change. Although still predominantly detached dwellings set in spacious grounds, some plots have recently been redeveloped, for example with a block of flats or a tandem form of development. These largely accord with the guidance in the Croydon Council Suburban Design Guide Supplementary Planning Document 2019 (the 'Suburban Design Guide'), albeit with varying degrees of success. Other similar schemes have been permitted³, including a scheme similar to the appeal proposal at 42 Welcomes Road, that is under construction.
8. While recognising the need to accommodate more intensive development on small sites in suburban locations, it is also important to retain the features that make those locations distinctive places in which to live. The general character of Kenley and Old Coulsdon is summarised in the Local Plan⁴. Welcomes Road displays many of the distinctive features that characterise that place and which I consider should be retained in any new development. These include that the buildings are set back from the road frontage with a generous degree of spacing around them, garden land is maintained along the road frontage, side and rear boundaries to accommodate planting to soften views and screen parking, and mature trees are retained wherever possible.
9. It is also important that while almost inevitably there will be more building bulk in an intensified development, its size and height should have regard to the more domestic scale of surrounding buildings. Policy DM10 of the Local Plan

³ Summarised in Appendix A of the Council's Statement of Case.

⁴ Croydon Local Plan 2018, Chapter 11: The Places of Croydon - Kenley and Old Coulsdon, pp 238-240.

seeks to achieve a minimum height of 3 storeys, subject to amongst other criteria the appearance, materials, and built and natural features of the surrounding area. The Suburban Design Guide advises that where surrounding buildings are predominantly single storey, new development should accommodate the third storey within the roof space.

10. Having regard to these matters, I consider that the proposed scheme meets the terms of the policies in a form that accords with the advice in the Suburban Design Guide. The front block of flats has been designed with its third floor wholly contained within the roof, with eaves at a height similar to that of a 2 storey house. The rear pair of houses would be 2 storeys in height, staggered slightly because of the slope of the site. While the proposed buildings would be larger than neighbouring dwellings, their layout, scale, and height would respect the domestic character and appearance of the area.
11. The front building would be set back from the road. Although parts of it, including gable projections, would be sited further forward than the existing building, it would not appear intrusive in the street scene, there being variation in built form along the road. Both front and rear buildings would retain a good level of spacing around them, including to the sides. Land would be retained at the front which would allow space for a hedge to be planted along the road frontage; important in maintaining one of the defining characteristics of Welcomes Road. Glimpsed views of the rear pair of dwellings would be gained along the drive and possibly of their roofs above the front block, but that would be little different to similar schemes already permitted by the Council and would not be harmful to the overall character of the area. The sizes of the rear plots are large enough to enable the retention of mature trees on the rear and side boundaries without creating undue pressure for future removal or reduction.
12. The Council has criticised the lack of a character analysis in support of the buildings' designs. However, as appearance is a matter reserved for later approval justification of the appearance or external materials are not necessary at this outline stage.
13. The proposal is accompanied by a tree survey and arboricultural impact assessment⁵. Three category C trees would need to be removed but these are of no or little public amenity value and their loss would not harm the character or appearance of the area, given that other mature trees would be retained. Only minor intrusions into some root protection areas would be required. I am satisfied that the development would not materially harm the trees to be retained. Additional tree planting would be a matter for consideration as part of the landscaping reserved matters.
14. I conclude that the development would not harm the character or appearance of the area. While it would introduce considerably more development on the site than at present, the scheme accords with the approach for intensification in suburban locations set out in the Suburban Design Guide and would retain those features which are distinctive to Welcomes Road. The development would therefore comply with Policies D3 and D4 of the London Plan and Policies SP4, DM10 and DM28 of the Local Plan, which seek a high standard of design that respects and enhances local character and contributes positively to the public realm.

⁵ Oakwood Tree Consultants Ltd, Tree Survey, June 2021 and Arboricultural Impact Assessment, August 2021.

Living conditions

15. The first and second floor flats would have Juliette balconies but would not have any private outdoor amenity space. This would conflict with Policy DM10 of the Local Plan, which requires a minimum amount of private amenity space per unit based on the number of occupants. I interpret private amenity space as being separate to the communal garden land available to the occupants of all the flats.
16. As private amenity space is a policy requirement and important for the living conditions of future occupants, I consider such space should be provided. However, the appearance of the development is one of the matters reserved for later approval, and I consider that the provision of balconies to provide private amenity space to the first and second floor flats could be addressed at that stage. Considering the provision of balconies as a reserved matter would also enable the views of neighbouring occupants to be sought and taken into account when reaching a decision on those matters.
17. Communal amenity space would be provided around the block of flats and would be comparatively generous in this case, including not just a seating and a play area but also the surrounding lawns and planting areas. Together these areas exceed the minimum communal space requirement. Criticisms of the size and stepped access to the seating and play areas, and the block of flats, could be addressed through hard and soft landscape design at the reserved matters stage.
18. The development includes a refuse and recycling store for the flats incorporated within the front building. In the absence of any clear reason from the Council why this would be insufficient I consider it to be acceptable. Bulky waste storage could be provided outside, possibly in combination with the refuse bin collection point for the houses at the rear. If this needs to be moved to make the collection of bins more convenient and at a suitable gradient there is scope to do so within the site.
19. Given the prevalence of domestic sheds and outbuildings in the area, I see no objection to the cycle store being provided on site as a separate structure rather than by incorporation in the front building. Its position on the corner of the driveway is unlikely to lead to conflict with vehicle movements, which would in any case be few and slow at this point. I consider its position acceptable. If necessary, there is scope to enlarge it to accommodate the minimum number of cycle racks required. Separate cycle storage for each of the houses at the rear of the site could be provided in their gardens, with details secured as part of the landscaping reserved matters.
20. I conclude that the shortcomings identified by the Council in relation to private and communal amenity space, cycle storage, refuse and recycling storage, and accessibility can be addressed as part of the reserved matters or by condition. Subject to these details being addressed, the development would provide satisfactory living conditions for future occupants of both the flats and houses. It would therefore comply with Policies T5, D5 and D7 of the London Plan and Policies SP2, SP4, DM10 and DM13 of the Local Plan, which require new residential accommodation to achieve acceptable living standards for their occupants.

Highway safety

21. There is no policy requirement for a 1.5m wide strip of land at the front of the site for use as a grass verge. The reference given by the Council to section 3.6 in the Suburban Design Guide relates to a chapter on areas of focussed intensification, which this site does not fall within.
22. I note the Council's wish to minimise the number of access points onto a road, particularly one also used as a public footpath. However, there are also benefits in accessing the site via two points because it would allow the parking area to be broken up and would provide an access to the pair of houses at the rear. The site already has two accesses, and the development would therefore not result in any increase in access points. No objection was raised to a dual access at a similar scheme at 46 Welcomes Road⁶ and I see no good reason for doing so in this case.
23. The Council's concerns as regards vehicular and pedestrian visibility splays and manoeuvring space within the site appear to stem from a lack of information rather than from any substantive highway objection to the scheme. A Transport Statement⁷ submitted as part of the application provides swept path diagrams for a 4.8m vehicle and confirms that vehicular visibility splays of 2.4m x 25m and pedestrian visibility splays of 1.5m x 1.5m could be achieved at both access points. These visibility splays are not marked on the submitted drawings but from my own observation on site I see no reason why they would not be achievable. Details of the splays could be secured by condition prior to development commencing on site.
24. The disabled parking spaces and those partly surrounded by a retaining wall are shown with insufficient manoeuvring space around them. However, these shortcomings could be addressed through amending the parking layout as part of the landscaping scheme at the reserved matters stage.
25. Pedestrian access to the buildings, including the houses at the rear, would be via shared surfaces. Given the small amount of traffic within the site, and the slow speeds that would be involved, I consider this would be acceptable. I reach that view notwithstanding the comment made in the appeal at 52 Welcomes Road⁸.
26. I conclude that subject to suitable conditions or consideration as part of the reserved matters, the development would not result in harm to highway safety, and therefore would not conflict with Policies T4 and T6 of the London Plan or Policies SP8, DM29 and DM30 of the Local Plan, which require that development proposals should not increase road danger.

Sustainable transport

27. The Council has sought a financial contribution towards transport and highway improvements aimed at encouraging walking, cycling and the use of public transport and electric vehicles. The justification for such a contribution is given as the requirements of Policy SP8 of the Local Plan and the recommendations of the Kenley Intensification Zone Transport Study (the 'Transport Study')⁹.

⁶ APP/L5240/W/21/3279654

⁷ Highway Planning Ltd, Transport Statement, August 2021

⁸ APP/L5240/W/21/3267900, paragraph 32.

⁹ WSP, Kenley Intensification Zone Transport Study, February 2020.

28. Policy SP8.12 says that the Council and its partners will enable the delivery of electric vehicle charging infrastructure throughout the borough, and SP8.13 requires new development to contribute to the provision of electric vehicle charging infrastructure, car clubs and car sharing schemes. However, there is no explicit reference that off-site infrastructure of this type is to be funded through financial contributions over and above those already made through the Community Infrastructure Levy. On-site electric vehicle charging points could be secured through the use of a condition.
29. The purpose of the Transport Study is to identify what additional transport infrastructure or improvements may be required to accommodate growth in the Kenley Area of Focused Intensification, which is centred around Kenley Railway Station. It does not however explain how those improvements should be funded or, if by financial contributions from new development, over what area that requirement should apply. The Council has not drawn my attention to any resolution or written guidance that provides such an explanation or sets out any requirement.
30. The appeal site lies outside the Kenley Area of Focused Intensification and outside the wider study area identified in the Transport Study. The site would appear to lie within an 800m (10-minute walk) of Kenley Station, although I do not consider that to be determinative. While development on the appeal site may well contribute to increased movements to and from Kenley Station and the local shopping centre, that would apply to a greater or lesser extent to every site in Kenley. I consider the Transport Study by itself provides insufficient justification to demonstrate that the appeal site should contribute towards such transport improvements, which are mainly intended to support the Kenley Area of Focused Intensification.
31. I conclude that financial contributions towards highway improvements to support the Kenley Intensification Zone and off-site electric vehicle infrastructure and car club provision, separate to that which is payable under the Community Infrastructure Levy, is not necessary to make the development acceptable in planning terms, nor would they be directly related to the development or fairly and reasonably related in scale and kind. I therefore conclude that the development would not conflict with Policies T4, T5, T6 and T9 of the London Plan or Policies SP8, DM29 and DM30 of the Local Plan, in so far as they relate to sustainable transport initiatives.

Ecology

32. An ecological appraisal¹⁰ submitted with the application found no evidence of protected species on the site. It concluded that there was a low potential for the roof of the dwelling to be used as a seasonal bat roost but recommends that a further survey be carried out between May and September. It also recommends various means of enhancing the ecological value of the site as part of the development.
33. The ecological appraisal includes an inspection of the roof void of the existing dwelling, as evidenced by the photographs in the appraisal. However, no bats were found or evidence of them having been there. Given the relatively recent nature of the survey, and lack of evidence of any protected species being on the site, I consider that a further survey of the roof to determine whether it is

¹⁰ Cherryfield Ecology, Ecological Appraisal, 6 April 2021.

used as a seasonal bat roost could be made the subject of a condition in this case. I reach this view having had regard to the appeal decision on 52 Welcomes Road¹¹, and the different circumstances that apply. In the unlikely event that evidence of the dwelling being used as a seasonal bat roost were to be found, the developer would need to obtain a licence from Natural England before any further works could be undertaken.

34. I conclude that the development would not cause harm to protected species. The development would not therefore conflict with Policy G6 of the London Plan or Policies SP7 and DM27 of the Local Plan, which seek to protect and enhance biodiversity.

Fire safety

35. Policy D12 of the London Plan requires all development proposals to achieve the highest standards of fire safety, although not being major development the appellant is not required to submit a Fire Statement.
36. I see no reason why a development of the type sought would not be able to meet the appropriate Building Regulations relating to fire safety, and there is also adequate outside space to enable fire appliances to reach the buildings and for evacuation assembly. These and any other matters relating to fire safety not covered by other regimes could be the subject of conditional approval prior to occupation.
37. For these reasons I conclude that the proposal would not conflict with Policy D12 of the London Plan.

Other Matters

38. Interested parties, including the Welcomes and Uplands Road Association and Kenley and District Residents' Association, have raised concerns on various grounds including harm to the living conditions of neighbouring occupants, access, parking, waste management, loss of trees and habitat, drainage, maintenance of the road, lack of details of the development, and the cumulative effect of development in the area. Where I consider those matters are material to my decision, I have reached conclusions on them in the main issues. Other matters would not cause sufficient harm to be determinative in this case. Maintenance of Welcomes Road is a private matter beyond the scope of this appeal.
39. The Welcomes and Uplands Road Association has drawn my attention to an appeal decision in Orchard Avenue, Croydon¹² but as this is an area with a different character to that of Welcomes Road, I consider it of limited applicability to this appeal.

Conditions

40. I have considered the conditions suggested by the Council against the tests set out in paragraph 56 of the National Planning Policy Framework and imposed them where I consider they meet those tests, subject to rewording in the interests of clarity and consistency.

¹¹ APP/L5240/W/21/3267900

¹² APP/L5240/W/21/3266351

41. Conditions requiring submission of the reserved matter and imposing time limits for the commencement of development are necessary to ensure full details of the development would be subject to approval. I have divided the Council's suggested condition into 3 parts for clarity. I have also expressly included the need to address private amenity space for the first and second floor flats as part of the reserved matters submission.
42. A condition listing the approved plans is necessary in the interests of certainty. I have omitted reference to the elevational drawings as appearance is a matter reserved for subsequent approval.
43. I have also omitted conditions suggested by the Council relating to external materials, hard and soft landscaping, details of refuse storage and parking layout as these all relate to the reserved matters of appearance and landscaping and therefore are unnecessary at this stage. For the same reason, I have not included conditions requiring details of cycle storage and racks, access to the disabled spaces, or swept paths including emergency vehicle access, as these are matters that would also be addressed as part of the reserved matters.
44. Conditions requiring a construction logistics plan, a surface water drainage scheme, visibility splays and a bat survey are necessary to minimise disturbance to neighbouring occupants, ensure adequate drainage and highway safety, and ensure no protected species are harmed. All these conditions need to be approved and implemented prior to development on the site. The appellant has stated they have no comments to make on the suggested conditions, and I have taken this as written confirmation of their agreement to the pre-commencement nature of those conditions.
45. A biodiversity enhancement strategy is necessary in the interests of the ecological value of the site. Details of a fire strategy is necessary in the interests of the safety of future occupants.
46. Conditions requiring accessibility for disabled occupants, improved energy and water efficiency, and the installation of electric vehicle charging points are necessary to meet policy requirements, to ensure sustainable construction measures are included in the development and encourage sustainable forms of transport.
47. A condition requiring obscured glazing is necessary in the interests of the living conditions of neighbouring occupants.

Conclusion

48. I have found that the proposal strikes an acceptable balance between those policies which support intensification of development in suburban locations while retaining those features which are important to the character and appearance of the area. It would conflict with a number of policies in matters of detail, in particular the lack of private amenity space for some of the flats. However, I consider these shortcomings could be overcome through the approval of the reserved matters or by conditions.
49. I conclude that the proposal would therefore comply with the development plan when taken as a whole and that the appeal should be allowed.

Guy Davies

INSPECTOR

Schedule of conditions

- 1) Details of the appearance and landscaping of the development (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved. The reserved matters shall include details of the provision of private amenity space to the flats on the first and second floors of the development hereby permitted.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this decision.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last reserved matter.
- 4) The development shall be carried out in accordance with the following approved plans: Location Plan 2063-01, Block Plan 2063-02, Block Plan 2063-03, Floor plans 2063-04, Floor plans 2063-07, Floor plans 2063-08, Roof plan 2063-09.
- 5) Prior to the commencement of development, including demolition, a construction logistics plan shall be submitted to and approved in writing by the local planning authority. The plan shall include the following information:
 - 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 inside the site,
 - e) swept paths for manoeuvring and turning of large vehicles inside the site,
 - f) details of any site hoardings,
 - g) details of the precautions to guard against the deposit of mud and substances on the public highway,
 - h) dust control methods,
 - i) condition survey.The construction logistics plan shall be implemented as approved for the duration of the construction period.
- 6) Prior to the commencement of development, excluding demolition, a surface water drainage scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include the following information:
 - a) calculation of the existing and proposed run-off rate (which should achieve greenfield run-off rates unless an alternative rate is adequately justified and achieved),
 - b) confirmation of the impermeable and permeable site areas used for the infiltration calculations,
 - c) details of the on-site infiltration drainage,

- d) details of the on-site attenuation tank,
- e) details of further sustainable drainage measures including use of rain gardens,
- f) an updated layout plan (to scale) of the proposed drainage scheme,
- g) details of the ownership and / or maintenance agreement for the SUDS on the site.

The approved drainage scheme shall be implemented prior to the first occupation of the development and maintained thereafter.

- 7) Prior to the commencement of development, including demolition, plans showing the vehicular and pedestrian visibility splays on either side of the vehicular accesses serving the site shall be submitted to and approved in writing by the local planning authority. The approved visibility splays shall be kept clear of any obstruction above 0.6m in height thereafter.
- 8) Prior to the commencement of development, including demolition, details of a survey of the existing dwelling to determine whether it is used as a bat roost shall be submitted to and approved in writing by the local planning authority. The approved survey shall be carried out during the period specified in the survey prior to any demolition work being carried out on the dwelling, and details of its findings provided to the local planning authority within a period of 2 weeks from the survey being undertaken.
- 9) Prior to commencement of works above ground level, a biodiversity enhancement strategy shall be submitted to and approved in writing by the Local Planning Authority. The enhancement measures shall be implemented in accordance with the approved strategy prior to occupation of the development hereby permitted and all features shall be retained thereafter.
- 10) Prior to commencement of works above ground level, a fire protection strategy shall be submitted to and approved in writing by the local planning authority. The approved strategy shall be implemented prior to occupation of any part of the development and thereafter maintained.
- 11) All of the residential units within the development hereby approved shall be constructed and fitted out to comply with the Building Regulations 2010 (as amended) optional requirement M4(2) 'accessible and adaptable', other than for at least 10% of the units which shall comply with either the optional requirement M4(3)(2)(a) 'wheelchair adaptable', or the optional requirement M4(3)(2)(b) 'wheelchair accessible'.
- 12) The development hereby permitted shall be designed to achieve a minimum 19% improvement in the dwelling emission rate over the target emission rate as defined in Part 1A of the Building Regulations (2013).
- 13) The development hereby permitted shall be designed to achieve a water use target of no more than 110 litres per person per day.
- 14) Prior to occupation of the development hereby permitted, details of electric vehicle charging points shall be submitted to and approved in writing by the local planning authority. The approved details shall be installed prior to occupation of the development and thereafter retained.
- 15) Prior to occupation of the development hereby permitted, all windows at first and second floor level on the northern and southern flank elevations of the block of flats and the 2 dwellings shall be fitted with obscured

glazing of an obscurity level of no less than 3 and no part of those windows that is less than 1.7m above the floor of the room in which it is installed shall be capable of being opened. The obscured glazing shall thereafter be retained.

***** End of conditions*****