



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/21/3279654

46 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 20/06250/OUT, is dated 19 November 2020.
 - The development proposed is the erection of a frontage block of six flats and a pair of semi-detached houses; and the demolition of the existing detached bungalow.
-

Decision

1. The appeal is allowed, and planning permission is granted for the erection of a frontage block of six flats and a pair of semi-detached houses; and the demolition of the existing detached bungalow at 46 Welcomes Road, Kenley CR8 5HD in accordance with the terms of the application Ref 20/06250/OUT, dated 19 November 2020, and subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr James Hannah of Church Hill Holdings against the Council of the London Borough of Croydon. This application is the subject of a separate decision.

Preliminary Matters

3. The application is made in outline with the matter of appearance reserved for later approval. Matters relating to access, landscaping, layout, and scale are for consideration as part of the appeal.
4. 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

5. The main issues are the effect of the development on:

¹ APP/L5240/W/21/3276882, 3279128, 3282853

² APP/L5240/W/21/3267900

- the character and appearance of the area, including trees;
- the living conditions of future occupants with regard to accessibility, amenity space, waste and cycle storage, and parking;
- highway safety;
- the ecological value of the site;
- fire safety;
- sustainable transport; and
- flood risk.

Reasons

Character and appearance

6. 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.
7. 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.
8. 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.
9. 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

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.

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.

10. 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 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.
11. Assessed against this analysis, I consider 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 commensurate for that of a 2-storey house. The rear pair of houses would be 2 storeys in height, each with a staggered floorplate because of the sloping site. While both buildings would be larger than neighbouring dwellings, their layout, scale, and height would respect the domestic character and appearance of the area.
12. The front building would be set back from the road and 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 for screen planting. None is shown on the plans, but this is a matter that can be subject of a condition to allow for further consideration. 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.
13. A protected Corsican pine in the rear garden would be retained, as would the majority of other trees on the site other than for some smaller specimens and pruning of others along the rear boundary. The proposal is accompanied by a tree survey and arboricultural impact assessment⁵ which demonstrates that only minor intrusions into some root protection areas would be required, where not already occupied by the existing building or retaining walls. I am satisfied that the development would not materially harm the trees to be retained. Details of the measures necessary to protect trees during construction can be secured by condition. The front building would flank trees in the adjacent garden. However, it would be set off from the boundary, no nearer than the existing dwelling, and the trees would be to the north. Having regard to this relationship, I do not consider that there is likely to be undue pressure for future reduction or removal.
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 in the Suburban Design Guide and would retain those features which are distinctive to Welcomes Road, including mature trees. The development would therefore comply with Policies D3 and D4 of the London

⁵ Oakwood Tree Consultants Ltd, Arboricultural Impact Assessment, 12 October 2020.

Plan and Policies SP4 and DM10 of the Local Plan, which seek a high standard of design that respects and enhances local character and contributes positively to the public realm.

Living conditions

15. The first and second floor flats would not have any private 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 occupants of all the flats, and which would be comparatively generous in this case. Criticisms over the stepped path to the seating and play areas, and the size of the children's play area could be addressed through minor changes in design, which could be secured by condition.
16. The appellant says that he was discouraged from providing balconies in pre-submission discussions because it would hinder an acceptably designed elevation. I see no reason why that should be the case, and as private amenity space is a policy requirement and important for the living conditions of future occupants, I consider such space should be provided. The appearance of the development is a matter reserved for later approval, and the provision of balconies to provide private amenity space to the first and second floor flats could be addressed at that stage. It would also allow the views of neighbouring occupants to be sought and taken into account when reaching a decision on the reserved matter.
17. The disabled parking spaces are shown with inadequate manoeuvring around them. However, this could be addressed through amending the parking layout as suggested by the appellant⁶. Such an amendment could be secured by condition. Similarly, criticisms of the size of the cycle store, cycle and refuse storage for the rear houses, the absence of visitor cycle parking, access to the flat block refuse store and lack of bulky refuse storage are all matters that could be addressed through minor changes to the scheme, which could be secured by a condition.
18. I conclude that, subject to changes to the proposed development as noted above, which can be secured through conditions or considered as part of the reserved matter, the development would provide satisfactory living conditions for future occupants of both the flats and houses. It would therefore comply with Policies D3, D5, D6, T5 and T6 of the London Plan and Policies SP8, DM10, DM13, DM29 and DM30 of the Local Plan, which require the provision of domestic facilities to certain minimum standards in new residential development.

Highway safety

19. 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

⁶ Brian Madge Ltd, letter dated 20 January 2022, appendix A.

⁷ Highway Planning Ltd, Transport Statement, March 2021

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.

20. I am also satisfied that emergency vehicles could access the site, including the houses at the rear. Although there is a small pinch point adjacent to the bin collection, this still meets the minimum standards as set out in Manual for Streets.
21. I conclude that the development would not result in harm to highway safety, and therefore would not conflict with Policy T4 of the London Plan or Policies DM29 and DM30 of the Local Plan, which require that development proposals should not increase road danger.

Ecology

22. An ecological appraisal⁸ 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.
23. The ecological appraisal included 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 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 Road⁹, 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.
24. 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, DM27 and DM28 of the Local Plan, which seek to protect and enhance biodiversity.

Fire safety

25. 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.
26. 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.

⁸ Cherryfield Ecology, Ecological Appraisal, 29 March 2021.

⁹ APP/L5240/W/21/3267900

27. For these reasons I conclude that the proposal would not conflict with Policy D12 of the London Plan.

Sustainable transport

28. 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')¹⁰.
29. 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.
30. 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.
31. The appeal site lies outside the Kenley Area of Focused Intensification and outside the wider study area identified in the Transport Study. It appears to be 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.
32. 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.

¹⁰ WSP, Kenley Intensification Zone Transport Study, February 2020.

Flood risk

33. The Council says that the site lies within an area at high risk of surface water flooding and in the absence of any mitigation is concerned that the development could be adversely affected. Surface water drainage is a matter that is normally amenable to a technical solution. It has not been raised as an issue in the other appeals I have considered in Welcomes Road. Recent developments in Welcomes Road permitted by the Council also suggest that such technical solutions are available and have been found acceptable. I have been given no reason why such solutions would not work on the appeal site. I consider this is a matter that could be satisfactorily addressed through a condition requiring details of surface water drainage to be submitted and approved prior to the development taking place.
34. Subject to appropriate drainage being installed, I conclude that the development would not be at risk from surface water flooding or increase the risk of flooding outside the site. Consequently, it would not conflict with Policy SI 13 of the London Plan or Policy SP6 of the Local Plan, which seek to minimise the risk of flooding from all sources.

Other Matters

35. Interested parties, including the Welcomes and Uplands Road 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, maintenance of the road, drainage, 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. The Road Association has drawn my attention to an appeal decision in Orchard Avenue, Croydon¹¹ 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

36. 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. I have also imposed some additional conditions suggested by the Council on a similar development at 50 Welcomes Road¹² for consistency.
37. 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 matter submission.
38. A condition listing the approved plans is necessary in the interests of certainty. I have omitted the elevational drawings as appearance is a matter reserved for subsequent approval.

¹¹ APP/L5240/W/21/3266351

¹² APP/L5240/W/21/3282853

39. Conditions requiring a construction logistics plan, a surface water drainage scheme, visibility splays, a bat survey and tree protection are necessary to minimise disturbance to neighbouring occupants, ensure adequate drainage and highway safety, and ensure no protected species or trees to be retained on the site 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.
40. Conditions requiring revised details of the communal children's play equipment and seating area, access to those areas, cycle and refuse storage, disabled parking and a fire strategy are necessary to address minor shortcomings of the scheme identified in the main issues, for the benefit of the safety and living conditions of future occupants.
41. A condition requiring details of improved landscaping along the road frontage is necessary to ensure that a green frontage is retained to the site, in the interests of the character and appearance of the area.
42. A biodiversity enhancement strategy is necessary in the interests of the ecological value of the site.
43. Conditions requiring accessibility for disabled occupants, and improved energy and water efficiency, are necessary to meet policy requirements and to ensure sustainable construction measures are included in the development.
44. I have added a condition requiring details and installation of electric vehicle charging points in the interests of encouraging sustainable transport. I have also added a condition requiring obscured glazing to first and second floor flank windows, in the interests of the living conditions of neighbouring occupants. The conditions are consistent with those imposed on a similar scheme at 50 Welcomes Road.

Conclusion

45. 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 matter or by conditions.
46. 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 of the development (hereinafter called "the reserved matter") 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 matter 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 matter 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 reserved matter.
- 4) The development shall be carried out in accordance with the following approved plans: Site Plan 2025-01, Floor plans 2025-08, Floor plans 2025-07, Roof plan 2025-09, Proposed floor plans 2025-04, Proposed section 2025-15, Block plan 2025-02 A, Proposed site plan 2025-03 A, 2009/51/AIA, 2009/51/TCP, Landscape Masterplan, Landscape – Outline Hardworks, Landscape – Outline Softworks.
- 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 the commencement of development, including demolition, details of measures to protect trees during the construction period shall be submitted to and approved in writing by the local planning authority. The approved protection measures shall be implemented prior to development taking place and shall be maintained until all construction activity, equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made.
- 10) Prior to commencement of works above ground level, details of the children's play equipment, communal seating area, access to the play and seating areas, and a management plan for maintenance of these communal areas shall be submitted to and approved in writing by the local planning authority. The approved communal facilities and access shall be installed prior to occupation of any of the flats and thereafter retained.
- 11) Prior to commencement of works above ground level, details of short and long stay cycle storage and parking, and details of refuse and recycling storage including an area for bulk refuse and access to the refuse store in the front building, shall be submitted to and approved in writing by the local planning authority. The approved facilities shall be installed prior to occupation of any units on the site and thereafter retained.
- 12) Prior to commencement of works above ground level, further details of the landscaping along the road frontage shall be submitted to and approved in writing by the local planning authority. The approved landscaping shall be implemented within the first planting season following occupation of any part of the development or sooner, and thereafter retained. Any plants that die, are damaged or removed within a period of 5 years from planting shall be replaced with plants of a similar size and species.
- 13) Prior to commencement of works above ground level, details of the layout of the parking area in front of the front building, to include access to the disabled parking space or spaces, shall be submitted to and approved in writing by the local planning authority. The approved parking spaces shall be laid out prior to occupation of any of the flats and thereafter retained.
- 14) 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.

- 15) 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.
- 16) 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'.
- 17) 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).
- 18) The development hereby permitted shall be designed to achieve a water use target of no more than 110 litres per person per day.
- 19) 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.
- 20) 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*****