



Appeal Decision

Site visit made on 22 February 2022

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 May 2022

Appeal Ref: APP/L5240/W/21/3278504
10 Lower Road, Kenley CR8 5NB

- 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 Ricardo Alves & Mrs Magda Alves against the decision of the Council of the London Borough of Croydon.
 - The application Ref 21/01707/FUL, dated 1 April 2021, was refused by notice dated 28 May 2021.
 - The development proposed is the erection of a first-floor side extension, roof extension and extension to existing rear dormer to create 1x 3-bedroom flat, 1x 2-bedroom flat and 1x studio-flat with associated parking, cycle and refuse storage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposed development was originally described on the planning application form as "the erection of a first-floor side extension, roof extension and extension to existing rear dormer to create 1x 3-bedroom flat, 1x 2-bedroom flat and 1x studio-flat". The description of development in the banner heading above is that used on the Council's decision notice, and subsequently the appeal form; I have used it in preference to the original description as it provides a more accurate description of the proposal.
3. Most of the physical elements of the current proposal – the first-floor side extension, roof extension and extension to existing rear dormer – have already been granted planning permission in July 2021¹. I have therefore confined my consideration in this appeal to the effect of the balconies, railings and privacy screens specifically identified by the Council in its third reason for refusal. I turn to the relevance of the 2021 permission as a fallback position later in my decision.

Main Issues

4. The main issues are:
 - Whether or not the proposed development would provide acceptable living conditions for future occupiers of Flat 1, with particular regard to outlook and privacy;

¹ LPA Ref: 20/02121/HSE

- Whether or not the proposal makes adequate car parking provision;
- Whether or not the proposal makes adequate provision for cycle parking and refuse storage; and
- The effect of the proposed balconies, railings and privacy screens on the character and appearance of the area.

Reasons

5. The appeal property is a three-bedroom detached house, with an annexe outbuilding at the end of its long rear garden. It is within a suburban residential area, and is accessed from a short lane off Lower Road which becomes a footpath leading to Little Roke Avenue.
6. The proposed development is to extend the house at the side at first floor and roof levels, and to convert it into three flats. Flat 1 on the ground floor would have three bedrooms (as well as use of the existing annexe building), Flat 2 on the first floor would have two bedrooms, and Flat 3 on the second floor would be a studio. The flats on the two upper floors would each have a roof terrace, while the ground floor flat would have use of the rear garden.

Living conditions for occupiers of Flat 1

7. Bedrooms 1 and 2 of Flat 1 would be at the front of the ground floor of the building. The window of bedroom 1 would directly overlook the front forecourt and car parking space, and would be right next to the front door serving all three flats. Bedroom 3 would be at the side of the property; its window would open directly onto the narrow alleyway serving the rear of Nos 24 to 32 Lower Road. As a result of this arrangement, both bedrooms 1 and 3 would lack privacy, while bedroom 3 would also have a very limited and oppressive outlook.
8. I acknowledge that, as the appellants pointed out, what would become bedroom 1 in the new Flat 1 is already a bedroom in the existing house. Because of the shallow depth of the forecourt and the proximity of the large front window to the footpath to Little Roke Avenue, privacy within that room is already restricted to some degree. However, I do not agree with the appellants that the proposal does not change anything. At present, the forecourt and front door serve only the existing single dwelling; most people coming to the property, and therefore close to the window of bedroom 1, would be likely to be part of, connected to, or have some legitimate reason to be calling on, one of the house's occupiers. The proposed change of use would mean that occupiers of and visitors to the two upper flats would also be coming and going, and there would inevitably be a further loss of privacy for the occupier of bedroom 1.
9. There would be an area described on the submitted drawings as a "defensible space courtyard", in front of the window serving bedroom 2. This would be around 60cm deep and separated from the front forecourt by metal railings. In a modest way it would help to increase privacy within bedroom 2, although as the space would be set into the front elevation and partly concealed behind two large bike storage lockers it is perhaps questionable how genuinely "defensible" it would be.

10. The appellants drew my attention to side and rear windows on the ground floor of the neighbouring property at No 20 Lower Road, which directly overlook the access road from Lower Road and a rear yard. I do not know the nature of the rooms which those windows serve, and therefore the extent to which there may be a resultant poor outlook or lack of privacy for the occupiers of No 20. However, even if a neighbouring property has poor living conditions in these respects, this does not justify allowing further harm elsewhere.
11. I conclude that, as a result of the lack of privacy in bedrooms 1 and 3, and the poor outlook from bedroom 3, the development would not provide acceptable living conditions for future occupiers of Flat 1. The proposal therefore conflicts with Policy DM10 of the 2018 Croydon Local Plan ("the CLP"), as well as advice in The Council's Suburban Design Guide Supplementary Planning Document ("the SPD"), which among other things seek to ensure that new development provides a good standard of amenity for occupiers, including in respect of privacy and outlook.
12. The Council's decision notice referred also to conflict with the 2021 London Plan, although as neither party's submitted evidence has directed me to specific policies I find no conflict with that plan on this matter.

Car parking

13. The appeal site has a Public Transport Accessibility Level ("PTAL") of 1a, meaning that it has poor connectivity to public transport. Railway stations at Kenley and Riddlesdown are within 600m, by the appellants' calculation, although the walking routes are somewhat longer. I saw that the walk to Riddlesdown station involves a climb up the steep hill of St. James Road, which would be likely to dissuade at least some people from making that particular journey on foot. There are also bus stops on Godstone Road a short distance from the site, with services to Sutton and Caterham. Nevertheless, the site is not, by London's standards, well-connected to public transport. Although there are some shops and services nearby, in my view the location is one where many residents would be likely to use a private car for at least some journeys.
14. As part of the Planning Statement accompanying the planning application, the appellants included a parking survey carried out in February 2017 for an application at 20 Lower Road²; this showed that there was around 10% of parking capacity available on nearby roads overnight. I note that the Council considers that an area with on-street parking use of more than 85% is one of high parking stress. However, as the survey is now more than five years old it does not necessarily reflect the cumulative impact of development approved and carried out nearby in the intervening period, nor would it reflect changes which may have resulted from altered working patterns following the Covid-19 pandemic. It is therefore of little help in determining this appeal.
15. Although I did not attempt to carry out my own detailed survey of parking in the area, I saw at the time of my site visit there were very few spaces close to the appeal site on Lower Road, Little Roke Avenue or Sylverdale Road where it would have been possible to park a car legally, safely and courteously. Although the area is not within a Controlled Parking Zone, nor have I been

² The correspondence provided relates to 20 Lower Road (LPA Ref: 19/03593/GPDO), although it in fact was a resubmission of the survey carried out in respect of a proposed development at St. James Hall, Little Roke Avenue (LPA Ref: 18/01263/FUL)

made aware of any plans to introduce such a scheme, my observations support the view that the surrounding area is one of some parking stress.

16. Policy T6 of the 2021 London Plan sets a *maximum* parking standard of up to 1.5 spaces per dwelling for development in Outer London areas with a PTAL of 0 or 1. T6 also states that “car-free development should be the starting point for all development proposals in places that are (or are planned to be) well-connected by public transport”, although for the reasons I have set out above I do not consider that description applies to the appeal site; in other places T6 seeks “the minimum necessary parking”. Policy DM30 of the CLP, meanwhile, seeks to reduce the impact of car-parking in a single of existing on-street parking stress, and three parking spaces should be provided to comply with DM30³.
17. The development would provide a single car parking space on the front forecourt, for the use of the occupiers of Flat 1. The appellants state that Flats 2 and 3 are proposed to be car-free, although such an arrangement is usually dependent on a planning obligation and there is nothing before me to secure such a commitment. Furthermore, as there is not a parking permit scheme in the area I am not in any case persuaded that measures intended to secure a car-free development could realistically be monitored or enforced.
18. The planning application did not include any swept path diagrams showing that the proposed single parking space would be usable for its intended purpose and that a “standard” 4.8m car would be able to enter and leave the site safely. At the time of my site visit, the appellants’ own car was parked on the forecourt, although at angle across the site rather than in what would be the designated parking space. Because of the narrowness of the access road and lane, there is considerable doubt in my mind as to whether the proposed parking space would be usable.
19. The appellants referred to the two cases nearby which relied on the 2017 Parking Survey mentioned above, and where development which did not meet the parking standard required by Policy DM30 of the CLP was permitted. In 2019, in respect of 20 Lower Road, the Council concluded that the increased parking demand arising from the creation of two additional one-bedroom flats could be accommodated on the local highway network. The previous year, an Inspector had allowed an appeal for the St. James Hall proposal where five off-street parking spaces would be provided, rather than the six required by Policy DM30⁴.
20. However, for the reasons I have set out in paragraphs 14 and 15 I consider that the passage of time means that a parking survey carried out in 2017 is of relatively little value today. The St. James Hall scheme also provided a much greater proportion of the total parking spaces sought by DM30 than would be the case here (five sixths rather than one third). While I have no reason to disagree with the earlier decisions either of the Council or my Inspector colleague, they do not reflect the current situation in the area, and do not carry significant weight in favour of this appeal scheme.
21. There is insufficient up-to-date evidence of parking demand and stress in the area around the appeal site, and in this light I cannot be sure that the proposal

³ This figure is based on rounding down the Council’s calculation of 3.5 spaces.

⁴ PINS Ref: APP/L5240/W/18/3203906

would provide an adequate amount of off-street parking. It has also not been demonstrated that the proposed single car parking space would be capable of being safely or conveniently used for its intended purpose. As the provision of adequate car parking goes to the heart of whether or not the proposed development is acceptable, I do not consider that it is a matter which (had the proposal been acceptable in all other respects) could have been addressed by conditions requiring the submission of an up-to-date parking survey and a swept path analysis for the proposed parking space, as the appellants suggested.

22. I therefore conclude that the proposed development would not make adequate provision for car parking, and accordingly the proposal conflicts with Policy DM30 of the CLP, the aims of which I have set out above. It would also conflict with Policy DM10 of the CLP, which seeks to ensure that parking is only provided on forecourts where they are large enough to safely accommodate the parking space(s) and appropriate screening. I find no conflict with Policy T6 of the 2021 London Plan, as that only sets maximum car parking levels; however, this does not alter my overall conclusion on this issue.
23. The decision notice also referred to conflict with Policies SP4.1, SP8.3, and DM13 of the CLP. However, these address (respectively) urban design and local character, managing urban growth to make the fullest use of public transport, and refuse and recycling. Nothing in the Council's evidence explained how these policies were relevant to this particular issue, and I therefore find no conflict with them. Again though, this does not alter my overall conclusion.

Cycle parking and refuse storage

24. The SPD advises that, in order to avoid clutter on the street scene, cycle parking and refuse storage should where possible be located to the side or rear of a property. Where storage is located in front of a property, the SPD advises that it should be located away from the front boundary, and in a discreet location where it does not intrude on the street scene.
25. Cycle storage would be provided for all three flats, each having an Asgard brand steel shed. The storage sheds for Flats 2 and 3 would be sited on the front forecourt, and so would be conveniently accessible. However, the shed for flat 1 would be in the rear garden; accessing it would require bicycles to be wheeled through the flat, contrary to advice in the SPD which seeks to ensure that storage is conveniently located.
26. The appellants drew my attention to alternative access to the rear garden, via a gate from the alleyway at the rear of 24 to 30 Lower Road. However, the alleyway is very narrow in parts, and so would not necessarily be convenient (for example) for anyone carrying luggage or shopping on their bicycle. Furthermore, the alleyway appeared to me to be unlit, so it is possible that some people would not consider it an attractive access route after dark. It seems likely to me that for many people, taking a bicycle through the flat would remain the most likely practical means of reaching the shed.
27. The cycle store for Flat 2 would be sited right next to the "defensible space courtyard" in front of the window of bedroom 2 in Flat 1. Given the shallow depth of the courtyard, the use of the storage shed would be likely to have some adverse impact on privacy for the occupiers of Flat 1.

28. Refuse and recycling would be stored in an enclosure on the front forecourt. The appellants suggest that this would be a "low level timber enclosure with flat roof". The submitted drawings show that it would accommodate two "1100 euro bins"; I take this to mean standard 1,100 litre bins, which are substantial pieces of equipment. The necessary bin enclosure would be in a prominent position on the forecourt, immediately adjacent to the front boundary, and as a result would intrude on the street scene.
29. It is also not clear that the bin to be stored in the north eastern corner of the site (shown on the submitted drawings as the recycling bin) would be conveniently accessible by residents, as it would be hemmed in by the cycle storage shed for Flat 3.
30. While the Council also considered that the proposed cycle storage would be harmful to visual amenity, they would not directly abut the pavement (as advised by the SPD). The units which the appellants propose to use are simple and functional but smart. I find no harm in this respect, although this does not outweigh the other harm I have found.
31. The proposed siting of the sheds would not provide convenient access to cycle storage for the occupiers of Flat 1, while the siting of the shed serving Flat 2 would diminish privacy for the occupiers of bedroom 2 within Flat 1. The siting of the refuse and recycling store would be visually intrusive and would not provide convenient access to all of the bins for occupiers of the development.
32. I therefore conclude that the proposed development would conflict with Policy DM10 of the CLP which requires all development to demonstrate high quality design, including in respect of cycle parking and refuse storage, Policy SP8 which seeks to provide new and improved cycle infrastructure, and Policy DM13 which seeks to ensure that refuse and recycling facilities are safe, sensitively and conveniently located, and easily accessible.

Character and appearance

33. The proposed roof terraces at the rear of the building would have privacy screens, approximately 1.8m high and of solid cedar cladding, on their side-facing elevations. There would be black metal railings with vertical spindles on the rear-facing edges.
34. Based on all the evidence before me, including my observations on site, rear terraces and balconies are not a common feature of the housing in the area around the appeal site. However, in terms of its appearance the appeal property is already distinctive in the surrounding area, and visually stands apart both from its older terraced neighbours on Lower Road to the east, and the more modern housing (albeit with a reasonably traditional form) on the former St. James Hall site to the south west.
35. The extensions already allowed by the 2021 permission would give the rear part of the appeal property a modern appearance, with large windows and patio doors, which would further set it apart from its neighbours. Within this context, and noting that the Council did not raise any concern about overlooking or neighbours' privacy arising from the proposed terraces, I do not consider that they are unacceptable as a matter of principal. The application drawings are lacking in some details such as railing heights and design, and the finish of timber screening, without which I cannot be sure that the design of

the railings and screens would be acceptable. However, had the proposed development been acceptable in all other respects this is a matter which could have been dealt with by a condition requiring the submission and approval of such details.

36. I conclude that, subject to the use of an appropriate condition, the proposed balconies, railings and privacy screens would not have a harmful effect on the character and appearance of the area. In this respect, the proposed development would comply with the requirements of Policies SP4.1, DM10.1 and DM10.7 of the CLP, which together (and among other things) require the design and detailing of development to respect and enhance local character.

Other Matter

37. As I have explained above, the proposed first-floor side extension, roof extension and extension to existing rear dormer could already be built under the 2021 planning permission; it is a legitimate fallback position for the appellants. However, I have found the proposal before me to be unacceptable for several reasons which would stem principally from the conversion of the existing single dwelling into three flats, rather than from the physical extensions proposed. The 2021 permission would not have the same impact in these respects, and so it carries very limited weight in favour of the appeal proposal.

Planning Balance and Conclusion

38. The proposed development would provide three new dwellings, resulting in a net increase of two dwellings. This small increase in housing supply is a modest benefit of the scheme. There would also be likely to be some benefits for local businesses arising from an increased number of households in the area, although given the small scale of the proposal this would represent a very modest social and economic benefit.
39. I have found that the proposed development would not be harmful to the character and appearance of the area, although this lack of harm is a neutral factor. However, it would not provide acceptable living conditions for the occupiers of Flat 1, and the proposed arrangements for car parking, cycle storage, and the storage of refuse and recycling are not acceptable. The proposal would therefore conflict with the development plan taken as a whole.
40. There are no material considerations which indicate that the decision should be made other than in accordance with the development plan. For the reasons given above, the appeal is therefore dismissed.

M Cryan

Inspector