



Appeal Decision

Hearing held on 9 February 2022

Site visit made on 10 February 2022

by D J Board BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2022

Appeal Ref: APP/L5240/W/20/3257791

2 Red Gables, Beech Avenue, South Croydon, CR2 0NL

- 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 The Estate of Mrs Joan Jameson Green (Mr C Botsford) against the decision of the Council of the London Borough of Croydon.
 - The application Ref 20/00558/FUL, dated 31 January 2020, was refused by notice dated 7 May 2020.
 - The development proposed is described as 'The proposal is for the demolition of a single large dwelling with garage (Red Gables) and the erection of a part 3/4 storey block of 34 flats, comprising 8 no. 1 bedroom flats, 3 no. 2 bedroom 3 person flats, 8 no. 2 bedroom 4 person flats and 15 no. 3 bedroom units; basement parking, cycle and bin storage; associated landscaping'.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of a single large dwelling with garage (Red Gables) and the erection of a part 3/4 storey block of 34 flats, comprising 8 no. 1 bedroom flats, 3 no. 2 bedroom 3 person flats, 8 no. 2 bedroom 4 person flats and 15 no. 3 bedroom units; basement parking, cycle and bin storage; associated landscaping at 2 Red Gables, Beech Avenue, South Croydon, CR2 0NL in accordance with the terms of the application Ref 20/00558/FUL, dated 31 January 2020, subject to the conditions in Annex A.

Application for costs

2. At the hearing an application for costs was made by Estate of Mrs Joan Jameson Green (Mr C Botsford) against the Council of the London Borough of Croydon. This application will be the subject of a separate Decision.

Background and Main Issues

3. Since the decision was taken and the draft statement of common ground was submitted the London Plan 2021 (LP) was adopted. In formulating the final signed statement of common ground (SOCG) the parties agreed which of the policies of the new LP are relevant to consideration of the appeal scheme¹. Amended plans were attached to the appellant's statement of case. These were the existing and proposed site plans and drawings relating to drainage. These plans are listed in the SOCG and in the agreed conditions. Given the limited changes to these plans I am minded to accept these plans as part of the

¹ SOCG 2.3.1

appeal on the basis that no parties' interests would be prejudiced by my taking them into account. The appeal is considered on this basis.

4. Following the decision of the Council and in discussions regarding the SOCG the Council has confirmed that it will not be defending reasons for refusal 2, 3, 4 & 5².
5. Accordingly the main issue in the appeal is the effect of the proposal on the character and appearance of the area.

Reasons

Character and appearance

6. The Croydon Borough Character Appraisal (CA) and the Croydon Suburban Design Guide (SDG) are used to guide and inform new development proposals in the area and there is agreement that these documents are material considerations in consideration of the appeal scheme.
7. The relevant part of the CA identifies the characteristics of area is as mainly detached housing on relatively large plots and this is evident along Beech Avenue. Purley Downs Road contains a flatted block as well as planned estate housing, detached and semi-detached, with a mix of styles. There was agreement that the wider area generally benefits from generous gardens and spaces around and between properties which generally comprise of detached housing with some mid rise flats. The appeal site is substantial within the immediate locality and contains mature planting which contributes to the character and appearance of the area. Nevertheless, it is unique in its corner location and it is immediately flanked by two flatted blocks and would be viewed in this setting within the street scene.
8. The Council suggests that the appellant has not done enough analysis to justify the appeal scheme. The appeal scheme is supported by a Design and Access Statement³ which does consider the character of the area in which the appeal scheme would be located. The character of the area is picked up by the DAS⁴. More specifically Beech Avenue is identified as being reasonably consistent in typology but that the area does contain some flatted development. In this case I consider that the appellant's DAS adequately explains the design approach and the response to context when formulating the scheme, including responses to pre application advice and various iterations of the design.
9. The appeal scheme would replace a large single dwelling 'Red Gables' with a single block containing flats. The new building would be positioned in part on the site of the existing building. It would also increase the built form on site by providing a building with a greater footprint. The appeal site is wide and deep and as such the footprint of the new building would not fill either the width or depth of the site. The remaining gaps to the site boundaries would be greater than many of the others along Beech Avenue and Purely Downs Road. In addition to this the siting of the new building would allow a significant amount of the existing planting on the site to remain along the frontages with the road.

² SOCG 3.3.5, 3.6.7, 3.10.4 & 3.11.2

³ Design and Access Statement dated January 2020

⁴ Pages 13-30 Design Development

For these reasons the development would not appear out of character in terms of spaciousness.

10. The design approach of the building would create a substantial flat roof style building. There would be a clear entrance point on the front to Beech Avenue. The building would appear symmetrical to either side. The scale would not be substantially greater than the existing flatted buildings it would be adjacent to. The roof form would be a contrast with the flats on Purley Downs Road and Beech Avenue. Nonetheless there is nothing within the relevant policies or indeed the SDG that suggests that in principle a different roof form could not be considered. The SDG refers to roof design at section 2.19. The Council suggested that use of a flat roof form could compound a lack of character. However, the SDG is clear that they can be acceptable where the proportions are well considered and use of stepping adds interest and helps to reduce the appearance of mass.
11. The SDG provides guidance on how to respond to local character in designing new development. It goes further to set out that one of the approaches within it should be followed and that a justification for the approach should be provided by the appellant. The Council acknowledged that any of the approaches could be deployed but that the detail and execution of it are extremely important to ensure a high quality new development. The appellant describes the scheme as having a contemporary aesthetic⁵ but that this was informed by the character of the surrounding area. The SDG does not prescribe the approach a developer should take and as such I consider that in principle the appellant's approach to the design accords with the SDG. Indeed the SDG offers 'contemporary interpretation' as an option which is described as being a development that reads as contemporary but works with traditional character form or features⁶.
12. At the hearing the Council suggested that 'short' elevations of buildings address the street scene thereby minimising impact from built form. I note this may be the case for Barracks Hall but there is a difference on Purley Downs Road. In any event I have considered the appeal scheme on its individual merits. The footprint of the new building would be wider and longer than the existing building on the site. The main elevation would face Beech Avenue. The Council refer to the stepping of the building which would take place within its design. In some cases it would place lower elements on the site frontages and there would also be a step back at third floor. The Beech Avenue elevation would appear fairly symmetrical with fenestration which responds to the existing built form and where appropriate the provision of balconies. In addition the plans demonstrate that the maximum overall height would be commensurate with the existing flat block on Purley Downs Road.
13. It was suggested that the design approach would make the building overly complex in its form. I have carefully considered the Council's points on this but I cannot agree. In this instance it seems to me that the proposed building would be simple in its design approach. There would be elements where heights would differ and step up or down but these changes have been carefully considered and appropriately used to add variation to the overall built form. It would reduce the impact of the building overall and provide articulation to the elevations visible in the public realm.

⁵ DAS Page 34

⁶ 33 2.8.4

14. The second main point raised by the Council is one of detail and execution and consequently the quality of the scheme. The predominant material in the locality around the appeal site, particularly along Beech Avenue, is brick. The appellant identifies that the bricks do vary in colour within the area. The approach advocated in the DAS would be to use variation in material to provide subtle contrast. Ultimately the exact detail of the material finish can be secured by condition. Nonetheless, I am satisfied that the amount of information provided at application stage and subsequently as part of this appeal demonstrates that a scheme of appropriate quality could be provided on the site.
15. In addition to the issue of material finish the trees and hedgerow on the site make an important contribution to the character of the area. This was not a point of dispute but the Council quite rightly pointed out that the scheme would be visible even with maintenance and enhancement of the existing planting on the site. The building will be visible from both Beech Avenue and Purley Downs Road. Given my findings on scale and appearance the development would not appear out of place or domineering in the street scene. In addition the presence of existing and the supplemental landscape proposal⁷ would serve to integrate the building into the street scene and soften views of it. A final landscaping scheme can reasonably be secured by condition.
16. Overall, the site location is transitional in the street and its size is such that it could accommodate a building of the size proposed. I appreciate that there may be gaps in the existing planting and that it may be seasonal. Nonetheless, a building of the design and appearance proposed would not look out of place in the street scene of either Beech Avenue or Purley Downs Road.
17. I therefore conclude that the proposal would not have a harmful effect on the character and appearance of the area. It would therefore not be in conflict with Policies SP4.1, SP4.2 and DM10 of the Croydon Local Plan (CLP), the Croydon Suburban Design Guide and LP policies D1, D3 and D4 which amongst other things requires development of a high quality that respect and enhance Croydon's varied local character.

Planning obligation

18. The appellant has provided a signed and dated planning obligation under section 106 of the Town and Country Planning Act 1990, which includes a number of obligations which would come into effect if planning permission were to be granted. I have considered these in light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 and as set out in paragraph 56 of the National Planning Policy Framework (the Framework). These state that a planning obligation must be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. The Council has provided a CIL compliance statement⁸.
19. The obligation contains provisions for air quality, carbon off setting, sustainable transport, local employment and training, parking permits, s278 highway matters, affordable housing and review mechanisms and monitoring.

⁷ See Landscape Design Statement

⁸ Pre hearing letter submitted on 7 February 2022

20. Air Quality Contribution: In accordance with CLP policy DM23 a financial contribution of £100 per dwelling is sought to fund initiatives to reduce the impact of pollution. This provision would meet the policy requirements and the tests set out in Section 122 of the CIL regulations.
21. Carbon Offset Contribution: To accord with the requirements of CLP policy SP6 CO2 emissions arising from the development should be met through a contribution to the borough's offset fund. A contribution of £9779 is sought by the Council and the obligation makes provision for this. This provision would meet the policy requirements and the tests set out in Section 122 of the CIL regulations.
22. Sustainable Transport Contribution: CLP SP8 seeks to support and grow the boroughs sustainable transport network. A contribution of £51 000 is sought towards sustainable transport initiatives. This provision would meet the policy requirements and the tests set out in Section 122 of the CIL regulations.
23. Local Employment and Training: CLP policy SP3 and part SP3.14 seeks opportunities for employment and skills training by means of s106 for major developments of 10 or more. The obligation would secure a contribution and a local employment and training strategy. This provision would meet the policy requirements and the tests set out in Section 122 of the CIL regulations.
24. Parking Permits: The obligation places a restriction on parking permits for new residents in the event that a Controlled Parking Zone (CPZ) is introduced in the area. I have been referred to policy DM29 which seeks to promote sustainable travel and reduce congestion but does not explicitly refer to the provision of CPZs. The Council has confirmed that there is agreement that the scheme would provide sufficient parking on site to accommodate the needs of the development⁹ and as such there should not be an overspill onto the surrounding streets. Therefore, taking both of these factors into account I do not consider that this element of the obligation would meet the test of necessity.
25. Affordable Housing: the obligation makes provision for 8, 1 bed shared ownership units, which would be 14.7% by habitable room. This would meet the requirements of CLP policy SP2.5c and LP policies H4, H5 and H6. This policy requires this provision to be made with a review mechanism in place. The early and late stage review mechanisms give potential to increase the provision. I am satisfied that this planning obligation meets all three planning obligation tests and so is necessary. I give the provision of affordable housing significant weight.
26. Monitoring Fees: The document s106 and its relationship to CIL guidance 2019 sets out the requirements for monitoring fees¹⁰. In this case the fees would be £6000. I am satisfied that this provision would meet the policy requirements and the tests set out in Section 122 of the CIL regulations.

Planning balance

27. The duty in section 38(6) of The Planning and Compulsory Purchase Act 2004 enshrines in statute the primacy of the Development Plan. The appeal scheme would not harm the character and appearance of the area and subject to

⁹ SOCG 3.9.5, 3.9.6

¹⁰ Section 11

appropriate conditions would not have a harmful effect on valued trees on site, protected species or habitats, flood risk and would make an appropriate provision for affordable housing. Therefore the appeal scheme would be in accordance with the Development Plan.

Conditions [numbers in brackets]

28. I have considered the conditions put forward and discussed at the hearing against the Framework, the Planning Practice Guidance and where necessary I have amended the wording in the interests of precision. Conditions [1 & 2] are required because they set the necessary time limit and the approved plans as this provides certainty. In the interests of the living conditions of nearby occupiers a construction logistics plan would be necessary and should be submitted and agreed in writing [3].
29. In the interests of biodiversity and ecology a construction environmental management plan would be necessary prior to development commencing [4]. The application was supported by a tree survey, impact assessment and method statement. It is reasonable and necessary to ensure that the development is carried out in accordance with this information and that appropriate tree protection is in place [5]. A preliminary ecological survey and bat emergence survey were undertaken as part of the application submission. LP policy G6 requires development proposals to manage impact on biodiversity and aim to secure biodiversity net gain. Therefore a condition is necessary and reasonable [6].
30. LP policy SI 13 refers to sustainable drainage and requirements for surface water management therefore it is reasonable to require submission of this information and its implementation [7]. A condition for the submission of materials was also suggested at the hearing. Given the policy requirements for quality of design I consider it would be reasonable to secure samples of material finish to be agreed by condition [8]. Nonetheless, the site would not impact on a sensitive building or designation and therefore I do not consider that the Council's suggested condition would be reasonable. Therefore I have amended the wording to be proportionate and thereby meet the relevant tests. In the interests of the character and appearance of the area I consider that it is necessary to impose a condition that would secure the detail of hard and soft landscaping and boundary treatments and secure their management [9].
31. LP policy D12 sets out requirements for fire statements. Therefore a condition to secure the submission of one is both reasonable and necessary [10]. A condition requiring compliance with secured by design principles would also be relevant as it would accord with CLP policy SP4 which requires development to contribute positively to the public realm [11].
32. CLP policies SP8.12 and SP8.13 encourage the provision of electric charging points. In the interests of highway safety it is reasonable to secure additional details regarding the car park layout and management. As such condition [12] is necessary and reasonable. A condition to secure cycle parking and refuse storage details are also relevant to planning and necessary to accord with CLP policies SP4 and SP8 [13].
33. The scheme is supported by an energy statement and policy SI 12 of the LP seeks to minimise greenhouse gas emissions. Therefore conditions requiring compliance with the energy statement are necessary and reasonable [14,15].

In the interests of character and appearance a lighting scheme should be submitted and agreed [16].

34. I have amended the condition regarding the optional technical requirements for adaptable homes. This requires a scheme for provision of homes in accordance with these standards to be agreed. This is reasonable and necessary [17]. CLP policy SP6.3c sets a minimum water efficiency standard. This is reasonable and secured by condition [18]. LP policy SI 1 seeks to improve air quality across London and an air quality assessment was submitted at application stage. As such it is reasonable to require details of the boilers to and other plant to be installed prior to occupation [19].
35. I have not attached suggested condition 19 as I have no evidence that there would be noise arising from plant or machinery that would make the condition necessary. Condition 21 would be an extra layer of certainty for the Council on a matter that is addressed through other legislation. Therefore the condition would fail the test of necessity.

Conclusion

36. Therefore, for the above reasons and having regard to all other matters raised I conclude that the appeal should be allowed.

D J Board

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Charles Botsford
Callie Botsford
Anthony Green
Alan Gunne Jones
Sue Kent
Mark Smith

FOR THE LOCAL PLANNING AUTHORITY:

Shanali Counsell
Yvette Ralston
Katherine Riggs
Jan Slominski

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Borough Character Appraisal
- 2 Reptile File Note
- 3 Biodiversity Survey and Report 21/06145/FUL
- 4 Details of Tree Application 21/04301/TRE

Annex A - Conditions

- 1) The development hereby permitted shall be begun three years of the date of this permission.
- 2) The development shall be carried out entirely in accordance with the approved drawings and supporting documents submitted with the application listed below: 6410-P01; P02A; P03; P04; P05A; P06; P07; P08; P09; C2183-01-REV B; C2183-02-REV B.
- 3) 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. All construction phases of the development shall be carried out strictly in accordance with the details.
- 4) Prior to the commencement of development (including demolition) a Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.
- 5) Prior to the commencement of development (including demolition), an updated Tree Protection Plan must be submitted to and approved in writing by the Local Planning Authority. All works will be undertaken in accordance with the Arboricultural survey Report, Impact Assessment and Method Statement by Ambiental Environmental Assessment dated December 2019 (document ref: 4557) and the updated Tree Protection Plan.
- 6) Prior to above ground works, a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority. The locations of enhancements should be included on any landscape and planting plans which will include the use of native species of benefit to wildlife as part of the mitigation / enhancements. The works shall be implemented in accordance with the approved details and shall be retained in that manner.
- 7) Prior to above ground works, details of the proposed Sustainable Drainage systems, including details of the location and geometries of the proposed green roof and rainwater harvesting, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of the development and maintained thereafter.
- 8) Prior to above ground works samples of all external facing materials shall be submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 9) Prior to the commencement of above ground works, full details of the following shall be submitted to and approved in writing by the Local Planning Authority:

- a) Hard landscaping materials (including samples as appropriate);
- b) Soft landscaping details, including existing planting to be retained, the species, size and density of proposed new planting, as well as the dimensions of new trees;
- c) Urban Greening Factor calculation
- d) Boundary treatments including between private amenity space and communal areas;
- e) Retaining walls;
- f) Details of the child play space, including details of proposed play equipment;
- g) Details of the communal amenity space, including details of any fixed external furniture;
- h) A maintenance/management plan for all aspects of the hard and soft landscaping, including the biodiverse green roof, child play and communal amenity spaces.
- i) The details approved shall be provided and completed in accordance with this condition prior to the first occupation of the development, with the exception of new planting which shall be provided and completed in accordance with this condition prior to the end of the first planting season following completion of the development, and maintained for a period of five years from the date of planting. Any new planting which dies, is severely damaged, becomes seriously diseased or is removed within that period shall be replaced by planting of a similar size and species to that originally planted. The landscaping, play and amenity spaces shall thereafter be maintained for the lifetime of the development.

10) Prior to the commencement of above ground works, a Fire Statement prepared by a suitably qualified assessor must be submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the measures contained in the approved Fire Statement have been implemented and thereafter maintained for the lifetime of the development.

11) Prior to the commencement of above ground works, details of security measures (which shall adhere to the 'Secured by Design' principles from the Metropolitan Police) shall be submitted to and approved in writing by the Local Planning Authority. Such security measures shall be implemented prior to occupation in accordance with the approved details.

12) Prior to the occupation of the development hereby permitted, the following details shall be submitted to and approved in writing by the Local Planning Authority.

- a) a car park management plan detailing the allocation and management of spaces, and
- b) Details of Electric Vehicle Charging Points (EVCPs)
- c) pedestrian and vehicle visibility splays at the site access point;
- d) vehicle tracking for the car park

- 13) The operation of the car park shall take place in accordance with the details approved and maintained for the lifetime of the development, and the EVCPs shall be maintained thereafter (except for like-for-like replacement).
- 14) Prior to occupation, full details of the following shall be submitted to and approved in writing by the Local Planning Authority:
- a) Full details of cycle parking provision (long stay and short stay spaces), including the type of cycle stands.
 - b) Full details of the refuse storage arrangements, including the size and number of bins in the store, the collection point, details of how refuse will be managed on site, as well as a dedicated area for the storage of bulky waste.
- The approved measures shall be provided and completed in accordance with this condition prior to the first occupation of the development and maintained for the lifetime of the development.
- 15) Prior to the occupation of the development hereby permitted the CO2 emission reductions as outlined in the Energy Statement by C80 Solutions dated June 2019 (document ref: 8846) shall have been carried out in full.
- 16) Prior to the first occupation of the development, details of external lighting shall be submitted to and approved in writing by the Local Planning Authority. The approved details must be installed prior to the first occupation of the development and maintained thereafter.
- 17) Prior to the commencement of above ground works a scheme showing which plots will be constructed to Category M4(2) and Category M4(3) standard is to be submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details.
- 18) The hereby approved development must not be occupied unless it achieves a water efficiency standard of a maximum of 110/litres/person/day.
- 19) Prior to occupation of the development hereby permitted details of the boilers and any plant or machinery to be installed shall be submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

END