



Appeal Decision

Site visit made on 21 July 2022

by Philip Major BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1st August 2022

Appeal Ref: APP/L5240/W/21/3283788

20 - 24 Mayday Road, Thornton Heath, London CR7 7HL

- 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 Mayday Road LLP against the decision of the Council of the London Borough of Croydon.
 - The application Ref: 21/01251/FUL, dated 26 February 2021, was refused by notice dated 30 June 2021.
 - The development proposed is the demolition of existing buildings and redevelopment of the site to provide 3no. replacement buildings ranging from one to five storeys in height, comprising 60 new dwellings, with associated access, parking and landscaping.
-

Preliminary Matters

1. The original application, as determined by the Council, made provision for 63 new dwellings. During the course of the appeal the scheme has been amended to address concerns expressed by the Council. The Council has indicated that it has no objection to my consideration of these amended details. Apart from the removal of 3 units of accommodation from the top of one of the proposed blocks, amendments are relatively minor. Given that these changes seek to address concerns, do not fundamentally alter the nature of the proposed development, and reduce the scale of the scheme, there would be no disadvantage or prejudice caused by my taking the changes into account. Having regard to the principles espoused in the *Wheatcroft*¹ case I am therefore content to consider this appeal on the basis of the amended proposal for 60 new dwellings.
2. The scheme in its original form was refused for a total of 8 reasons. In the intervening period several matters have been resolved and the Council now seeks to rely only on part of reason for refusal number 4. That reason relates to the impact of the proposal on some surrounding occupants. That part of the reason which deals with the development potential of 32 – 38 Mayday Road is no longer pursued. I have noted that a scheme for 57 units of accommodation has been granted planning permission in March 2022. I attended the site visit at the appointed time on 21 July but no-one was present to give access to the site (despite such an arrangement being requested). However, I was able to gain access to the adjoining premises in order to assess the impact of the development. I am therefore content that I have sufficient information to reach my decision.

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

3. Although it is made clear that the appeal is pursued by the above named Appellant (Mayday Road LLP) and Optivo (a registered local affordable housing landlord) Optivo is not a party to the S106 Agreement submitted. I deal with this Agreement later but I do not regard the fact that Optivo is not party to the Agreement as determinative in this appeal.

Decision

4. The appeal is dismissed.

Main Issue

5. In light of my acceptance of the revised plans of the proposal the main issue in the appeal is whether the proposed development for 60 dwellings would cause unacceptable harm to the living conditions of nearby residents, with particular regard to outlook and privacy.

Reasons

6. A statement of common ground has been submitted during the course of the appeal which helpfully narrows the matters of contention. In essence the Council's concern is for the impact of the development on some of the residents of flats located off Campbell Road to the south. Though not in itself determinative in the appeal I have not been made aware of any objections from residents of those flats.
7. It is clear to me that a great deal of thought has been put into the design and configuration of the proposed buildings here, with the clear objective of maximising the use of the available space. I agree with the main parties that for the most part the scheme would successfully deliver a high quality development which is appropriate to its location. The design, scale and massing of the buildings would successfully respond to the busy urban area within which they would sit.
8. However, I also share the Council's misgivings in relation to the juxtaposition of Block B with the flats on Campbell Road. I acknowledge that care has been taken to minimise any impact of direct overlooking between flats in Block B and those to the south, but this has necessitated the intention, in places, to include obscure glass in habitable rooms and on dividing screens. In my judgement that should not be necessary in a successful housing scheme, even in a high density urban location. To rely on obscure glazing indicates to me that the proposal is seeking to locate habitable rooms too close to existing properties.
9. The minimum distance between Block B and the Campbell Road flats is about 10m. In part that is clearly a response to the fact that the Campbell Road flats are very close to the site boundary, but that is a constraint which was acknowledged by the architects of the proposed scheme. It is my understanding that the relationship with surrounding sites has been successfully addressed in the permitted scheme for 57 units, but that is not a matter for me. Be that as it may, it is my judgement that the proposed scheme for 60 units before me has failed to give proper attention to the interrelationship between Block B and the Campbell Road flats.
10. In my judgement there would be a significant risk that privacy would be lost for residents of the Campbell Road flats, and equally importantly that the outlook from some habitable rooms there would be unacceptably dominated by the

mass of proposed Block B, creating an overbearing visual impact. Consequently, and although this problem would only relate to a minor portion of the scheme, I conclude that the proposed development would be unacceptable. I recognise that there is much to commend in the scheme as proposed, but in light of my findings above I conclude that there is conflict with development plan² policies. In particular there is conflict with Local Plan Policy DM10.6 in that the development would not protect the amenity of occupiers of adjoining buildings. In addition there is conflict with London Plan Policy D3(7) in that the development would not provide appropriate outlook, privacy and amenity. Although the development would not offend other policies of the development plan this does not outweigh my findings on the main issue.

Other Matters

11. I have noted above that an Agreement pursuant to S106 of the 1990 Act has been submitted. This would provide for a number of matters, including the provision of affordable housing. However, in light of my conclusion on the main issue it is not necessary for me to consider this matter further.

Overall Conclusion

12. I have carefully considered all the representations submitted and for the reasons given above I conclude that the appeal should be dismissed.

Philip Major

INSPECTOR

² The Croydon Local Plan of 2018 and the London Plan of 2021