



Appeal Decision

Site visit made on 13 July 2022

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th August 2022

Appeal Ref: APP/L5240/W/21/3283268

67 Lower Road, Kenley CR8 5NH

- 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 John Moya against the decision of London Borough of Croydon.
 - The application Ref 21/00946/FUL, dated 23 February 2021, was refused by notice dated 20 May 2021.
 - The development proposed is Proposed demolition of existing two storey building and construction of semi-detached three-storey block of 2 flats with 3 rooflights, rear courtyard with fencing, 2 recessed balconies, 2 parking spaces, refuse area and cycle storage.
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Decision

1. This appeal is dismissed.

Preliminary Matters

2. I have been presented with amended plans showing the door to the cycle store moved to the front elevation which were not before the Council at the time it made its decision. I have considered the minor nature of these changes, the comments from interested parties in relation to this matter, and the fact that the Council have had the opportunity to respond to the content of this drawing at appeal stage. I have also been provided with a revised Transport Statement which includes a drawing of pedestrian and vehicle visibility splays. This provides clarity to existing drawings but does not include any amendments. For these reasons the parties would not be prejudiced if I were to consider these plans, and therefore the appeal is assessed on the basis of the amended plans.
3. I have invited the main parties to submit comments on the revised 2022 BRE Site Layout Planning for Daylight and Sunlight document. I have taken any comments received into consideration, as set out below.

Main Issues

4. The main issues are the effect on:
 - The living conditions of neighbouring occupiers with particular regard to Platinum Apartments (no 69) and 63 Lower Road, and 38 and 40 Godstone Road in terms of outlook, light, privacy and any overbearing effect.
 - The quality of living conditions for future occupiers with particular regard to outlook, light, accessibility, outdoor space, cycle storage and refuse storage.

- Highway Safety.
- The character and appearance of the area.

Reasons

Living Conditions

5. The proposed development includes a courtyard to the rear of the first floor flat (Flat 1). It is suggested that this could be surrounded by a 2m high fence to avoid overlooking to neighbouring properties. This would be likely to prevent views from Flat 1, however, in the second floor flat (Flat 2) the window to bedroom 2 would have a direct view towards the rear windows at 40 Godstone Road in close proximity. This would result in a harmful loss of privacy and outlook for these existing occupiers. However, given the orientation, angle of view between windows and siting of the proposed courtyard, there would be unlikely to be direct overlooking to the rear windows of the Platinum Apartment block fronting Godstone Road.
6. Turning to daylight and sunlight, in their appeal statement the Council state that the lighting impacts on 38-40 Godstone Road are acceptable. Based on the evidence before me I agree with this. However, the impacts to Platinum Apartments and 63 Lower Road remain in dispute. The side window at 63 Lower Road would have a 34% loss of vertical sky component (VSC), compared to a target of no more than a 20% loss. It is put to me that this window is a secondary window to a dual aspect room and that the room would achieve reasonable daylight distribution. Given these circumstances, the impact on the daylight to this property would be acceptable.
7. There is a ground floor living room window at Platinum Apartments, with a bay overhanging above. The labelling of this window appears to have changed between the original and addendum daylight and sunlight reports. Notwithstanding this, due to the fact that this window has restricted light due to the design of its host building, and taking into account that a reasonable VSC would be achieved without the overhanging bay in place, the loss of light to this window would be acceptable. The light to upper floors is likely to exceed these levels and would therefore also be appropriate.
8. Finally, the inclusion of the rear courtyard would break up the bulk of the proposed building to the rear. Taking into account the location of the main windows to neighbouring properties relative to the massing of the proposed building, the appeal scheme would not result in a harmful sense of enclosure or overbearing impact to neighbouring properties
9. Whilst I do not find harm with regard to light or any overbearing impact to existing occupiers, this is a neutral factor that does not outweigh the harm to privacy and outlook at 40 Godstone Road.
10. Consequently, the proposed development would result in unacceptable living conditions for neighbouring occupiers with particular regard to outlook and privacy at 40 Godstone Road. As such, the proposed development would be contrary to Policy DM10 of the Croydon Local Plan (2018) (CLP), which in part requires that new development should protect the amenities of the occupiers of adjoining buildings including with regard to overlooking. As well as the advice in the Suburban Design Guide Supplementary Planning Document 2019 (SPD)

which provides detailed guidance for suburban residential development including with regard to existing living conditions.

11. Policy D1 of the London Plan (2021) (the London Plan) mainly relates to understanding capacity for growth, Policy D2 to infrastructure requirements, Policy SP4 of the CLP to local character. Therefore, the policies set out above are more relevant to this main issue.

Quality of Accommodation

12. Both a bedroom and living/kitchen/dining room to flat 2 and bedroom to flat 1 would achieve the recommended lux level for at least half of the daylight hours across more than 50% of the room. However, the living space in the first floor flat would only achieve this for 32% of the room area and would therefore not achieve the target daylight factor. This would mean that the space would not be sufficiently well daylit by natural light, resulting in a poor quality of accommodation for the occupiers of Flat 1.
13. The light to the living/dining/kitchen room to flat 1 is restricted due to an overhang above that would enable occupiers of flat 2 to have access to a balcony from their living space. Whilst this would be beneficial for occupiers of Flat 2 this would be at the expense of the light to flat 1, and would result in unacceptable living conditions for the occupiers of flat 1.
14. It is suggested that the layout of the living/kitchen/dining room to flat 1 could be altered to create a separate living area and kitchen. However, I am not provided with any detail of this layout, and as such I am unable to assess the quality of the space that would be achieved. Therefore, this decision is based on the plans before me now. I am also referred to appeal decisions at Epping College¹ with regard to light to proposed dwellings. However, these relate to much larger schemes and as such these considerations are notably different to those before me now.
15. Furthermore, the evidence before me relates to the light that would be received to the adjacent front bedrooms in each of the two units only. Given the proximity of tall buildings and proposed boundary treatment to the courtyard I am not satisfied that the rear rooms would receive adequate levels of light. Bedroom 2 on the second floor would also be subject to mutual overlooking with 40 Godstone Road and subsequent loss of privacy, as outlined above.
16. The outlook from these rooms would also be limited for the same reasons. The appellant has indicated that they would accept a S106 agreement to provide landscaping to the rear of no 40, albeit I am not provided with any mechanism to secure such landscaping to this adjoining site. In any case, although planting may soften the view it would not overcome the significant harm to outlook resulting from the scale and proximity of the proposed building.
17. Given the small scale of the development, the private balconies and courtyard would provide reasonably sized, usable amenity space for future occupiers. As such additional communal space or play space would not be necessary. The proposed development would therefore provide adequate private outdoor space for the two proposed units.

¹ APP/J1535/W/20/3258787, APP/J1535/W/20/3263876

18. Policy T5 of the LP would require this development to provide a minimum of four cycle parking spaces. The storage space shown is small and narrow. There is no detail before me as to how cycles would be secured and how this space would accommodate 4 bikes with the ability to manoeuvre them in and out. Furthermore, whilst shared refuse storage may be appropriate between this limited number of units, nevertheless the bin storage arrangement would not appear to provide sufficient space for the two flats including items of bulky waste.
19. Both units would be accessed via stairs. I am provided with no detailed justification as to why an accessible unit could not be delivered on this redeveloped site. As such, the proposed development would be harmful in this regard.
20. Whilst I do not find harm with regard to outdoor space, this is a neutral factor that does not outweigh the harm with regard to outlook, light, accessibility, cycle storage and refuse storage.
21. Therefore, the proposed development would result in unacceptable living conditions for future occupiers with particular regard to outlook, light, accessibility, cycle storage and refuse storage. As such, in this respect, it would be contrary to Policies D5, D6 and D7 of the LP and Policy DM10 of the CP. Together these require that development should achieve the highest standards of accessible and inclusive design and housing, provide high quality housing, including with regard to light and overlooking, and provide suitable cycle parking. As well as the advice in the SPD with regard to future living conditions including cycle parking provision.
22. Policy D4 of the LP sets out how good design should be analysed and scrutinised, and Policy SP4 of the CP mainly relates to urban design and local character. Therefore, the policies set out above are more relevant to this main issue.

Highway Safety

23. It would appear that multiple manoeuvres would be required to reverse into parking space 1 for a 4.3m long car. This is not particularly convenient, and therefore would be likely to result in occupiers reversing onto the highway, especially if they owned a larger car. Therefore, notwithstanding whether appropriate visibility could be secured between pedestrians or vehicles on the road and vehicles leaving the site in a forward gear, given the likelihood that vehicles would reverse into the street, appropriate intervisibility would not be achieved. This would lead to highway and pedestrian safety concerns.
24. Therefore, the proposed development would be harmful to highway safety. As such, in this respect, it would be contrary to Policy T4 of the LP and Policies DM29 and DM30 of the CLP. Together these require that development should not increase road danger, or have a detrimental impact on highway safety. As well as the advice in the SPD with particular regard to the safety of driveways and entrances.
25. Policy T1 of the LP sets out the strategic approach to transport across London, T5 relates to cycle parking, T6 relates to the quantity of car parking, T7 relates to deliveries and servicing, Policy SP8 of the CLP is a high level policy relating

to transport across the borough. Therefore, the policies set out above are more relevant to this main issue.

Character and Appearance

26. In the vicinity of the appeal site, Lower Road has a varied character with the four storey including mansard style roof Legion House, the three storey gables at Platinum Apartments, and the semi detached dwellings at no 61 and 63. There is a pronounced gap between no 63 and the appeal site and some separation at first floor and above between no. 69 and Legion House. These gaps prevent a continuous mass of adjoining development in this area which is particularly relevant to the large building at Legion House and Platinum Apartments.
27. The appeal site is a narrow two storey building most recently used as a dental laboratory. It is separated from no. 69 by an open vehicle access, and there is a small parking area/courtyard to the rear.
28. The appeal scheme would redevelop the site with a three storey dwelling. It would be built up to the site boundaries, in all areas apart from a small proposed first floor rear courtyard.
29. The development would retain the separation with no. 63, although it would remove the break between the site and the building at Platinum Apartments. However, given the limited size and width of the appeal site, the proposed height and different appearance to Platinum Apartments, even with the proposed increased footprint, the appeal scheme would not create an unacceptably dominant massing in this context. Furthermore, given the diverse appearance, height and roofline of the buildings in this area, I do not find harm with regard to the proposed asymmetric roof design, or the mix of brick and metal cladding which would be appropriate in this varied street scene.
30. Consequently, the proposed development would have an acceptable effect on the character and appearance of the area. As such, in this regard, it would be in accordance with Policy D3 of the LP and Policy SP4 of the CLP. Together these seek high quality design and character, and promote a design led approach. It would also be contrary to the advice in the SPD which provides detailed guidance for suburban residential development including with regard to character and appearance.
31. Policy D1 of the LP mainly relates to understanding capacity for growth, Policy D4 sets out how good design should be analysed and scrutinised, Policy DM18 of the CLP refers to Heritage Assets. Therefore, the policies set out above are more relevant to this main issue.

Other Matters

32. The proposed development would provide two, 3 bedroom dwellings in an accessible location. However, given the scale of the development the benefits in this regard are small.
33. As such this would not outweigh the collective harm to the living conditions of existing occupiers, highway safety and the poor quality of accommodation for future occupiers.

Conclusion

34. The proposal would not accord with the development plan and there are no other considerations, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed

H Miles

INSPECTOR