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# 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: 17 August 2022**

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**Appeal Ref: APP/L5240/W/21/3286014**

**5 Smitham Downs Road, Purley CR8 4NH**

- 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 C and H Projects (1A) Ltd against the decision of London Borough of Croydon.
  - The application Ref 20/05370/FUL, dated 16 October 2020, was refused by notice dated 1 September 2021.
  - The development proposed is demolition of existing dwelling and the erection of a part 3.5 part 4.5 storey building to accommodate 20 flats, relocation of existing vehicular accesses on Smitham Downs Road and The Vale, associated vehicle and cycle parking, refuse and recycling facilities, new boundary treatments and hard and soft landscaping.
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## Decision

1. This appeal is dismissed.

## Preliminary Matters

2. An amended second floor plan has been submitted which includes changes to internal layouts to alter the sizes of balconies which was 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, and the fact that the parties would have had the opportunity to respond to the content of this drawing at appeal stage. For these reasons the parties would not be prejudiced if I were to consider these plans. 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 (BRE guidelines) I have taken any comments received into consideration, as set out below.

## Main Issues

4. The main issues are:
  - the effect on the character and appearance of the area,
  - the effect on neighbouring living conditions with particular regard to light to 7 Smitham Downs Road.
  - the quality of living conditions for future occupiers with particular regard to outdoor space.

## Reasons

### *Character and Appearance*

5. Policy D3 of the London Plan (2021) (LP) seeks to optimise site capacity using a design led approach. This approach is generally followed in Policy H2 of the LP which seeks to support well designed homes on small sites. Together, policies DM10, SP4.1 and SP4.2 of the Croydon Local Plan 2018 (CLP) require high quality design which respects the local character whilst seeking to achieve a minimum height of three storeys. The Suburban Design Guide Supplementary Planning Document 2019 (SPD) provides detailed advice as to how a significant number of new homes can be delivered in Croydon with a recognition both that the existing character of suburban streets will need to evolve, but also seeks to limit the negative impact on places.
6. The appeal site is on the corner of Smitham Downs Road and The Vale. In this location, Smitham Downs Road is mainly characterised by two storey detached family dwellings. This results in a modest height, spacious character to the area. This part of the Vale includes rear and side gardens to properties fronting The Drive and Smitham Downs Road which results in a secondary character and appearance.
7. The appeal site is currently occupied by a two storey family dwelling and its scale and separation from neighbouring properties make a positive contribution to these important characteristics of the Smitham Downs Road streetscene. The plot is unusual in its position at a junction and its resultant triangular shape and large side garden. There is also a pronounced change in levels on the site and nearby, with land sloping upwards when travelling in an easterly direction along Smitham Downs Road. As a result the site is highly prominent.
8. The proposed development would introduce a 4-5 storey building on this site across a large footprint which follows the line of the adjoining roads. There is a steep pitch to the upper floors. However, this only marginally reduces their bulk and consequently they appear as additional storeys. Due to the topography of the site and the extent of the proposed basements, the development would appear as 4 storeys adjacent to no. 7 when viewed from Smitham Downs Road. Nevertheless this would result in a pronounced difference in height, particularly when viewed from The Vale.
9. The scale of the proposed development including its 4-5 storey height would be harmfully dominant and visually jarring alongside the modest height and spacious pattern of development in this area and would unacceptably erode these positive characteristics. This harm would be clearly evident in this prominent position.
10. Planning permission has recently been granted for the redevelopment of other sites along Smitham Downs Road<sup>1</sup> and Woodcrest Road<sup>2</sup> for up to 3-4 storeys. However, these developments are lower in height than that before me now and have differing relationships with adjoining plots. As such they are notably different to the scheme before me now. A five storey building is under development at no. 1<sup>3</sup>, however five storey development is unusual and

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<sup>1</sup> No 10: 19/02313/FUL, no. 16: 20/05575/FUL, no. 37: 19/00235/FUL

<sup>2</sup> No. 32 19/02132/FUL, No 57 18/02266/FUL

<sup>3</sup> 19/04500/FUL

buildings of this height do not form part of the overriding character of this area. As such this does not alter my findings.

11. Therefore, the proposed development would be notably harmful to the character and appearance of the area. As such, in this respect, it would be contrary to Policies D3 of the LP, SP4.1, SP4.2 and DM10 of the CLP and the SPD, the aims of which are set out above.
12. Policy D4 of the LP mainly relates to the analysis and scrutiny of design and therefore the policies set out above are more relevant to this main issue.

#### *Living Conditions*

13. The windows that are most affected are those on the side elevation of 7 Smitham Downs Road. This property is in use as a care home. The evidence before me does not satisfy me that these windows serve non-habitable rooms or are secondary windows. Therefore, I have followed the approach of the submitted Daylight and Sunlight Report (August 2020) which considers that these windows all serve habitable rooms.
14. The BRE guidelines provide a number of tests which indicate whether the loss of daylight and sunlight as a result of a proposed development would be harmful. These tests generally apply to rooms where light is required. Therefore they provide a reasonable indicator as to whether loss of light to habitable rooms in a care home would be noticeable.
15. The daylight and sunlight report sets out that three windows would fail both the Vertical Sky Component (VSC) and No Sky Line tests. It appears that one of these openings is the only window to a room. These side windows currently have an open outlook with a high proportion of the room able to see the sky in the current condition, and therefore the percentage loss relative to the former value is high. Nevertheless, this does not alter the fact that these windows would have low VSC values. As such they would be noticeably dark and gloomy as a result of the proposed development. Consequently, this would result in unacceptable living conditions for the neighbouring occupiers.
16. All other windows nearby would receive adequate levels of light, however the lack of harm in this regard is a neutral factor that does not outweigh the harm to the occupants of these rooms.
17. As such, the proposed development would be contrary to Policy SP2.8 SP4.2, DM10.6 of the CLP and Policies D3 and D6 of the LP which, in part, seek to avoid a significant loss of light to adjoining occupiers, achieve comfortable and inviting indoor environments and enhance well-being. As well as the advice in the SPD which advises that there should not be an unreasonable loss of light for neighbours.

#### *Quality of Accommodation*

18. The amended plans show unit 20 has a 5sqm private balcony. The occupier would also have access to the communal amenity space. This would provide a range of outdoor space which would be adequate for this occupier.
19. There are also parking spaces close to the private amenity area of units 6, 9, 3 and 4, which would reduce the quality of this outdoor space. However, these serve a maximum of 5 cars and therefore comings and goings are likely to be

limited. Furthermore, the occupiers would be able to use the landscaped communal gardens. As such these units would have access to appropriate outdoor space.

20. The design of the communal garden is stepped, creating a number of small more private areas as well as a larger terrace and soft landscaped children's play space. Level access would be provided from the lower ground floor to the terrace area. This variety of spaces would be appropriate to serve a number of different occupiers.
21. There are a number of units at lower ground level, as well as irregularly shaped triangular layouts due to the proposed footprint. Albeit, I am not provided with any detailed evidence that leads me to conclude that these features would result in unacceptable living conditions for future occupiers.
22. Therefore, the proposed development would be in accordance with Policies SP2.8 SP4.2, DM10.6 of the CLP and Policies D3 and D6 of the LP which require high quality and functional private amenity space, comfortable outdoor environments and promote well being.

### **Other Matters**

23. I have been provided with a S106 agreement that includes a Carbon Offset Contribution, Air Quality Monitoring Contribution, Sustainable Transport Contribution, and a Local Employment Training Strategy Contribution. However, I am provided with limited information as to how these are reasonably related in scale and kind to this development. As such I am not satisfied that they are justified.
24. The proposed development would provide 20 new dwellings, 11 of which would be family sized and 3 of which would be affordable housing. This is in excess of the 0 units which the viability assessment concludes could be delivered, and I have no reason to disagree with these findings. Taking into account the scale of the proposed development this would be a moderate benefit of the appeal scheme.
25. On the other hand I have identified notable public and permanent harm to the character and appearance of the area, as well as the resultant unacceptable living conditions for adjoining occupiers contrary to the development plan. Collectively these would outweigh the moderate benefits outlined above.

### **Conclusion**

26. 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