



Appeal Decision

Site visit made on 13 July 2022

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th August 2022

Appeal Ref: APP/L5240/W/21/3281238
98 & 100 Windmill Road, Croydon CR0 2XQ

- 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 P Graham against the decision of the Council of the London Borough of Croydon.
 - The application Ref 21/00928/FUL, dated 23 February 2021, was refused by notice dated 15 April 2021.
 - The development proposed is described as the demolition of single storey rear extensions and garage, part removal and alterations to the rear return, alterations to shopfronts and use of ground floor of both properties for residential purposes in the form of 1 no. studio flat and 1 no. one bed flat. Erection of an attached two and three storey building fronting Union Road to provide 2 no. one bed flats, 1 no, one bed duplex flat and 1 no. two bed duplex flat, together with associated refuse and cycle storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters and Main Issues

2. Addendum landscaping drawing number 6846 – PA01 was submitted with the appeal. With regard to the 'Wheatcroft Principles' established under *Bernard Wheatcroft Ltd v SSE 1982*, the addendum drawing provides more details on cycle parking and to my mind does not fundamentally change the development. The Council has also considered the addendum drawing and state they are satisfied that a policy compliant amount of cycle storage would be provided. The Council also confirm they no longer wish to contest refusal reason 4 relating to cycle storage.
3. I am content the information provided does not fundamentally alter the scheme and I also conclude that no parties would be unfairly disadvantaged by my acceptance of this drawing.
4. Accordingly, the main issues are the effect of the proposed development on:
 - The character and appearance of the area;
 - The living conditions of the neighbouring occupants with particular reference to outlook, light and privacy;
 - The living conditions of the future occupants with particular reference to accessibility of the flats, refuse provision and communal amenity space; and
 - Sustainable transport in the area and its parking impact.

Reasons

Character and Appearance

5. The appeal site sits at a corner junction where Windmill Road and Union Road meet. It comprises a two-storey building of mixed brick and render construction. The building has a pitched tiled roof, and the plans show further basement and loft space accommodation. It also features a two-storey rear outrigger and rear single storey extensions, there are yard areas to the rear and a single storey garage / store to the end of the yard.
6. The surrounding area is mixed in character. Windmill Road features modern and more traditional buildings of varying material and designs. Buildings are typically of similar height although some three storey buildings do exist within the Windmill Road street scene. Union Road is also mixed in character however buildings are broadly of similar two storey height and there are significantly fewer modern influences within the building types.
7. Policy DM10.1 of the Croydon Local Plan 2018 (the Local Plan) encourages 3 storey development and the Croydon Suburban Design Guide Supplementary Planning Document 2019 (the Design Guide) encourages even taller development at corner sites. However, the proposed development would be primarily to the rear of an existing building and would be perceived, in the main, within the Union Road street scene.
8. At broadly three storeys in height, with a flat roof, the height of the development would also not be subservient or sympathetic to the two storey, pitched roof, scale of the host building or the smaller scale of the two storey neighbouring buildings in Union Road. This would create a jarring structure out of character with the host building and its surroundings. The stepped setbacks of the upper floors, while adding some interest, would not reduce the visual harm of the proposal.
9. Other flat roofed buildings exist on Windmill Road. The appellant has also drawn my attention to examples elsewhere that have been accepted by the Council. However, I have assessed this appeal in relation to its projection off a smaller scaled building and in the immediate street scene. I have found the design and massing would not be subservient to the host dwelling or its immediate neighbours. The examples provided by the appellant do not appear to be extensions off a smaller scaled building and their surroundings are not identical to this appeal. As such, they do not weigh in favour of the development.
10. Section 2.19 of the Design Guide suggests that flat roof forms can be acceptable with a change in material used to add interest and break down the mass. While this can work in the right contexts, in this case and as the Design Guide also points out, roof forms should be proportionate to the mass of the associated building. The harm set out above would occur by the lack of a subservient relationship with the existing host building.
11. Render and brick feature predominantly in both the Union Road and the Windmill Road street scenes and the proposed development seeks to incorporate these two materials into its design. This nods to the existing use of materials while also incorporating its own individuality. Given the predominance of these materials within the local area, I do not find that the

proposed development features excessive use of render nor that it would be randomly placed.

12. The use of zinc would introduce a new material within the Union Road street scene and would reference the original grey slate roofs of the area. Given the limited scale of the porches above the ground floor front doors, these elements would not be harmful. In addition, the use of zinc elsewhere on the proposal could be acceptable. However, given the harm I have found in respect to the height and massing of the proposed development, the use of zinc would not mitigate this harm.
13. There is limited detail in respect to the existing framing to the shopfronts including the stallrisers, pilasters and decorative console brackets. Had this appeal been acceptable in all other regards, a condition agreeing their detailing and retention could have been imposed.
14. I therefore find that the development would result in unacceptable harm to the character and appearance of the area. Accordingly, there would be conflict with the relevant provisions of Policies DM10.1, SP4.1 and SP4.2 of the Local Plan, Policies D3 and D4 of the London Plan 2021 and the Design Guide, all of which, amongst other things, seek to ensure that development is sympathetic to the character and appearance of the area. The development would also conflict with section 12 of the National Planning Policy Framework which includes the requirement to achieve well-designed places.

Living Conditions - Neighbouring Occupiers

15. The proposed development would be sited close to 55 Union Road. There are several windows in the facing elevation of No 55 and the appellant suggests that one serves a kitchen. While one other window is obscure glazed, another is only partially obscure glazed.
16. I have not been provided with persuasive evidence that all of these facing windows are not habitable rooms. Additionally, there is no evidence before me that there are any planning conditions or other mechanisms which require this obscure glazing to be retained in perpetuity. On this basis, and in the absence of contradictory evidence, it is appropriate to treat all these facing windows as potentially being habitable room windows for the purposes of this appeal.
17. There is some disagreement, between the main parties, about the use of either a 45-degree line or 25 degree line taken from the middle of the facing windows when assessing outlook. While the Council suggest that a 25-degree line is more relevant to outlook, they do not explain where in policy or guidance they have obtained this figure from.
18. However, even if I apply the 45-degree line, as the appellant suggests, it is apparent that the line would still be broken by the proposed building in respect to the ground floor facing windows at No 55. Additionally, even though a service road would intersect the proposed development from No 55, the proximity, height and width of the proposed development would result in an unacceptable loss of outlook to the occupiers of No 55.
19. Given this proximity, width and height of the proposed development in relation to the facing windows at No 55, this would also create an adverse loss of daylight and sunlight to these windows and consequently the occupiers of No 55. While the side elevation of the new building would be finished in a lightly

coloured render and this may reflect some light, I do not consider it sufficient to mitigate this harm given the limited spacing.

20. The proposed floorplans show the window serving bedroom 3 of flat 6 would also look onto these facing windows at No 55 including the clear glazed window and partially glazed window. Consequently, an unacceptable loss of privacy would also occur to the occupiers of No 55. The appellant suggests, however, this proposed window could be positioned at a higher level, or the glazing frame inset into the window or angled to further prevent any perception of overlooking. However, I am not convinced, on the evidence before me, that the window could be moved to an acceptable location or whether the suggested measures would mitigate the loss of privacy.
21. While the occupiers of No 55 did not object to the proposal, this does not absolve me from assessing the proposed development on its merits and coming to a planning judgment. I am also mindful that there could be a reduction in vehicular movements through the removal of the garage and vehicular access. The new building and residential use would also afford improvements to safety and security through surveillance arising in the vicinity of the access. However, these limited benefits would not overcome the harm identified above.
22. The proposed development would consequently have an unacceptably harmful effect upon the living conditions of the occupiers of 55 Union Road with particular reference to outlook, light and privacy. The proposal is therefore contrary to the relevant provisions of Policies SP4.2 and DM10.6 of the Local Plan, Policies D3 of the London Plan and the Suburban Design Guide. These, amongst other things, address the need for high quality design therefore respecting the living conditions of neighbouring occupiers.

Living Conditions – Future Occupiers

23. Policy 10.5 of the Local Plan requires high quality communal outdoor amenity space for new flatted development and major housing schemes. The policy makes a distinction between major housing and flatted development. Thus, in my view, the requirement for communal space applies to all new flatted development. New flats are proposed as part of the proposal. Accordingly, as no communal outdoor space is proposed, it would be in conflict with this policy.
24. The development would generate a requirement for 5.7 sqm of play space. However, no formal play space is provided. The front garden would not meet the requirement. Given its proximity to the road, it would not be an appropriate or safe arrangement for use by children or young people. Policy 10.4(d) of the Local Plan also specifically excludes front gardens from any calculation of space provision.
25. The larger flat would have a reasonably generous private amenity space and the smaller flats also have private amenity space. However, the need for play space and communal space is in addition to private space, particularly as Policy D5 of the London Plan seeks to provide people focused spaces that are designed to facilitate social interaction and inclusion. Although individually the smaller flats generate a modest requirement for new play space, the aggregate total of floorspace requirements over all the flats would not be met. This absence of communal floorspace would not meet the requirement and thus would be harmful to future occupiers' living conditions. While there is a public

park nearby, this does not negate the need to provide communal facilities for the occupiers of the proposed development.

26. The Council has referred to Policy D7 of the London Plan in its reason for refusal. This requires development to meet the Part M4(2) of the Building Regulations ('accessible and adaptable dwellings'). However, the supporting text to this policy establishes that, at the time of publication, the policy is generally limited to new build dwellings. There is nothing before me to suggest the situation has changed.
27. On this basis, it appears to me that Policy D7 does not apply to proposed flats 1 and 2, which would be created through the conversion of existing floorspace. Therefore, the fact that these flats would not have level access is not in itself contrary to the development plan. Moreover, there appears to be nothing inherently harmful in the access arrangements to these flats. I therefore find the accessibility to flats 1 and 2 would be acceptable.
28. Flat 1 would be a studio flat and there is limited evidence as to why the proposed refuse arrangements would be cramped or would not function as intended. The existing upper floor flat also has established arrangements for refuse collection and again there is limited evidence to suggest these arrangements would change. Therefore, I find no harm in regard to the lobby refuse storage.
29. The rear refuse store doors could open onto the access road and impede vehicles using the access to the industrial site behind the houses on Union Road. However, these could be sliding doors and had the appeal been acceptable in all other regards a condition to agree these details through a Waste Management Plan could have been imposed.
30. While I have found the access and refuse arrangements to be acceptable, this does not alter the fact I have found unacceptable harm in relation to the absence of communal space or children's play space. The proposal is therefore contrary to the relevant provisions of Policies SP4.1, SP4.2 and DM10 of the Local Plan, Policy D5 of the London Plan and the Suburban Design Guide. These, amongst other things, address the need for high quality design therefore respecting the living conditions of residential occupiers.

Sustainable Transport and Parking Impact

31. Since the Council made its decision, the appellant has provided a signed Unilateral Undertaking (UU) which secures the sustainable transport contributions sought by the Council. However, and notwithstanding this, the appellant questions the necessity for sustainable transport initiatives.
32. The contributions are required to mitigate the effects of the development on local transport conditions by contributing towards a car club and improvement of walking and cycling routes in the local area. It also seeks to prevent future occupiers from obtaining residents' car parking permits within the Controlled Parking Zone (CPZ). These contributions have their basis in the development plan, including Policy SP8 of the Local Plan. I therefore find that the contributions are reasonable and necessary.
33. The proposal would provide no on-site car parking spaces. There is no dispute between the main parties that the appeal site is well located regarding access to public transport and local services nor is there dispute regarding the

proposed parking provision. However, it would be reasonable to expect pressure from an increase in the number of future occupiers potentially wishing to park on the surrounding streets. These pressures would also be different to the previous ground floor commercial uses.

34. The surrounding streets are within a CPZ and while a snapshot in time, I also noted a high parking demand during my site visit and that does provide an indication of any stress that may exist. In these circumstances, further parking pressure would be likely to lead to an unacceptable conflict with existing residents and the highway network. Therefore, it is necessary to prevent future occupiers from obtaining residents' car parking permits within the CPZ.
35. I have considered whether the UU meets the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010. Given the submissions before me and my findings above, I am satisfied that the UU is necessary to make the development acceptable in planning terms, directly related to the development and fairly related in scale and kind to the development.
36. The proposal would offer a contribution towards sustainable transport in the area and would make appropriate provision to control its parking impact. It would therefore comply with the relevant provisions of Policies DM29 and DM30 of the Local Plan and Policies T4, T5, T6, T6.1, and T9 of the London Plan. These policies seek, amongst other things, to ensure that development makes appropriate contributions towards sustainable travel, walking and cycling routes and networks.

Other Matters

37. An objection from interested parties about rights to light was received with the original application. However, as I am dismissing this appeal there is no need for me to consider this matter further. Additionally, while there has been limited objection from the residential occupiers of surrounding properties, this does not absolve me from considering the proposed development on its own merits.
38. The development would offer potential benefits in terms of providing an effective use of land adding 6 new dwellings to the housing stock. The dwellings would incorporate both smaller and family sized dwellings, delivered on a brownfield site which is also a small windfall site. There would be economic benefits from the construction and occupation of the flats, and they would be suitably connected to public transport and local services. Given the limited scale of the development proposed, the weight attributable to these benefits is modest.
39. I have found that the development proposed would not be harmful to highway safety, sustainable transport or the living conditions of future occupiers in respect to refuse and access to the dwelling. Additionally, there is no objection in respect to internal or private amenity space standards. Nonetheless, these are neutral matters which neither weigh for or against the development proposal.
40. However, I have found that the proposal would have unacceptable effects on the character and appearance of the area, the living conditions of the neighbouring occupants with particular regard to outlook, light and privacy and the living conditions of the future occupants with particular reference to

communal amenity space and children's play space. The modest benefits associated with the proposed development are not sufficient to outweigh the harm I have identified and the conflict with the policies I have referred to above.

Conclusion

41. As such, the proposal is contrary to the development plan as a whole and there are no other material considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

N Praine

INSPECTOR