



Appeal Decision

Hearing held on 23 August 2022

Site visit made on 23 August 2022

by David Nicholson RIBA IHBC

an Inspector appointed by the Secretary of State

Decision date: 6th September 2022

Appeal Ref: APP/L5240/W/22/3296606 550 to 550A Purley Way, Croydon CR0 4RF

- 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 Simmons of Stonegate Homes against the decision of Croydon Council.
 - The application Ref. 21/01280/FUL, dated 9 March 2021, was refused by notice 13 December 2021.
 - The development proposed is: Redevelopment of the site to provide 116 new residential units, including affordable housing and live-work units together with ancillary communal workspace, new public realm, amenity space, car and cycle parking and supporting infrastructure after the demolition of the existing buildings at the site.
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Procedural matters

1. The Council agreed that revised drawings could be accepted without prejudice to any party and I have done so.
2. Further to additional clarification, the Council withdrew its concerns regarding the potential wind conditions on the communal area, subject to the recommended condition being applied.
3. A completed Agreement was submitted under section 106 of the Town and Country Planning Act 1990. Its planning obligations would provide funding in mitigation for a range of local infrastructure matters. I find that these would be necessary in the event that I were to allow the appeal and, while I do not detail them here, I have taken them into account in reaching my Decision.

Decision

4. The appeal is dismissed.

Main issues

5. The main issues in this appeal are:
 - a) the effects of the proposals on the character and appearance of the area with particular regard to development plan policy for height;
 - b) the effects of the proposals on the living conditions for future occupiers with particular regard to aspect;
 - c) whether the quality of design is sufficient to justify the height, massing and scale of the building, including the proposed public realm;

- d) whether the scheme would offer an adequate proportion and mix of market and affordable housing;
- e) the effects of the proposals on light, with particular regard to the living conditions of adjoining neighbours and efficiency of adjacent solar panels;
- f) whether the scheme would sufficiently promote sustainable modes of transport and the impact of this on highway safety and air quality;
- g) the effects of the proposals on potential flooding;
- h) whether the benefits put forward would outweigh any harm in the overall planning balance.

Reasons

Height

6. Purley Way is part of the A23 London to Brighton Road. It runs from the north west of Croydon to Purley. Five Ways junction is close to Waddon railway station and connects Purley Way with the A232 into Croydon town centre. The appeal site comprises 2 out-of-town retail stores around 3 minutes' walk from the junction, a little further from the station, and just beyond the Wing Yip supermarket. Its has a Public Transport Accessibility Level (PTAL) of 3.
7. Policy D9 of the London Plan 2021 expects Development Plans to define what is a tall building and that these should only be developed in locations identified as suitable. It sets out a series of Impacts to be addressed when considering such proposals. The Croydon Local Plan 2018 defines a tall building as in excess of 6 storeys with detailed criteria for specific areas. Tall and large buildings Policy 15 sets 6 criteria, including location, a PTAL of at least 4, exceptional quality design, that height relates positively to any heritage asset, an active ground floor, and inclusive public realm. Policy DM49, for Waddon, follows a vision for a new Local Centre, anticipates a Masterplan, and allocates sites for development including the Wing Yip site, but not the appeal site.
8. The emerging Local Plan, and the draft Masterplan, go into more detail and identify the area around Five Ways for considerable redevelopment. The Vision is to transform Purley Way from a hostile and divisive road into a green city street which integrates communities, including Waddon. The draft Masterplan anticipates development of up to 12 storeys at focal points and up to 8 storeys at gateways. The Council interprets the site as a gateway rather than a focal point. While it was previously hoped that the emerging Local Plan and draft Masterplan would be adopted in 2023, and the Regulation 19 stage has been passed, I was told that as well as objections, there has since been a change in the political affiliation of both the Council and the Mayor, and that the latter has asked for a review of the emerging plan. Added to these, are changes in the economy, the energy crisis, and doubts over funding from Transport for London. For all these reasons, I find that the likely content of, and timetable for, the adopted emerging plan and draft Masterplan, are in considerable doubt. Consequently, while I empathise with the appellant's efforts to accord with the thrust of these documents, I give them limited weight in my Decision.
9. The scheme is to clear the site and redevelop it with two residential blocks, while the floors below the raised podium level would contain live/work units and communal workspace. Ground level car parking would be to the rear. The

larger of the blocks, towards the junction, would rise to 12 storeys on a PTAL3 site. It follows that its compliance with policy, or otherwise, depends on the extent to which it would meet other criteria, and I return to this below.

Living conditions for future occupiers

10. The aspect from many of the proposed flats would be in a single direction or predominantly so. Of these a significant proportion would be mostly north facing, and so receive relatively low levels of sunlight, although all would receive some. Others would be limited to facing just onto Purley Way or onto a car park. On the other hand, some poor outlooks are to be expected in any large block of flats and all fully residential units would be on at least the second floor or above. Consequently, this concern alone should not prevent development. However, it is an indicator that the design of the scheme would be less than optimum.

Design quality

11. The Croydon Place Review Panel considered the scheme twice prior to application. While it noted improvements on earlier proposals, and supported the emerging architectural expression, it felt that there was still a long way to go. In particular, while it did not object to a 12-storey development it felt that there was work to be done to justify it within its wider context and raised concern at views of the building approach from the North, where the broader side of each block might appear to merge together. It encouraged the Applicant to look at how the mass could be better articulated here to introduce sky gaps and give relief to the form. It expressed further reservations over the site layout, access road, movement patterns, parking design, landscaping, amenity areas and live/work units.
12. Following the submission of long range views, and my site visit, I consider that the appearance of the tall blocks in these would be generally acceptable. However, from the mid-distance the mass and height of the scheme would be very much at odds with the prevailing pattern of development, even allowing for recent construction opposite. Looking towards Five Ways, the scheme would be uncomfortably prominent at a significant distance from the junction with no confidence that the intervening sites will be developed in the near future. Moreover, while the break between the blocks would be visible from further down Purley Way, from at and around Five Ways, the two blocks would tend to read as one, leading to a rather oppressive mass of building when viewed from Purley Way. Even if I gave more weight to emerging plans, I find that the Five Ways/Waddon station area would have a greater claim to be a focal point and that the site is at best a gateway where building heights should be lower by comparison.
13. Further criticisms were made of the rather generic landscaping and the missed opportunities to celebrate the corner and create a sense of place. Also, that the proposed rill would provide opportunities that would not be taken up, and that the scheme would only achieve an Urban greening factor of 0.32 compared with a policy requirement of 0.4. While I find that the design would be adequate in each of these regards, and while of themselves none of these should prevent development, they are further signs that the overall scheme design falls below the exceptional standard required by adopted policy for a tall building in this location.

14. The Council found fault with the choice of materials, especially when seen from a distance, and that the same choice, and lack of hierarchy, would lead to a bland monotony across its frontage. While I found that there would be some nice details, and that the designers have worked hard on its architectural expression, I find that from the middle distance these would be too subtle to overcome the uniformity of the blocks. I acknowledge that a condition could require alternative choices, but such changes might have other, unforeseen ramifications, and relying on such a condition would not be an indicator of exceptional quality design.
15. For all these reasons, I find that the tall blocks would result in an uncomfortable transition from the much lower residential and commercial buildings nearby. With little confidence that the latter will be redeveloped in the near future, I find that this elevation, in the current context, would not amount to good design.

Mix of market and affordable housing

16. The scheme would offer 35% affordable housing but would not provide 60% of these as 3-bed units as sought by the Local Plan for larger residential units. The Appellant argued that to do so would render the project unviable. It also pointed to the London Plan, which is more recent than the LP, where Policy H10 acknowledges that a higher proportion of one and two bed units is generally more appropriate in locations which are closer to a town centre or station or with higher public transport access and connectivity. While the viability evidence is dated, and circumstances have changed that might make the scheme both more and less viable, no updated evidence was presented and none was sought. On the evidence before me, I accept that viability is related to the quantum of affordable housing which would outweigh the shortfall in 3-bed units and that this should not count against the scheme.

Light to neighbours and to solar panels

17. The longer, 12 storey element of the scheme would stand directly opposite Block C of the Waddon residential development on the other side of Purley Way. Some of the flats here, particularly those on the second floor, would be affected by a noticeable loss of sunlight, particularly in their main living spaces and in the late afternoon and evening when the flats are likely to be occupied and sunlight is at a premium. While I acknowledge that the BRE guide expects some flexibility in decision making, and I find that of itself the harm should not be an impediment to development, I acknowledge that it is another pointer against the scheme amounting to a design of exceptional quality.
18. While there would be a fractional reduction in sunlight to the solar panels on the adjacent Wing Yip building, expert evidence showed that this would be minimal. I give this concern limited weight.

Parking and highway safety

19. Amended plans, as above, which could be enforced by conditions, would improve the cycle parking provision such that the Council no longer objected to this. A car club would be subject to a planning obligation. Similarly, concerns over the level and safety of the access have been resolved between the main parties. The Council was not in agreement with regard to the extent of, and

impact from, any overspill parking, or whether parking in London is on the increase or decrease.

20. Without mitigation, the scheme would be likely to increase the extent of parking both on and off the site. This would run counter to policy aimed at tackling climate change and could lead to traffic stress and highway safety issues elsewhere. Increased car use would also damage air quality. In response to these concerns, the scheme would offer a high level of cycle parking and a car club, both of which are likely to encourage modal shift away from the private car and reduce both their use and the need for parking. There is already a good bus service near the site, which is also close to Waddon station, both resulting in its PTAL of level 3.
21. I acknowledge that the combination of a car club, good cycle storage and a PTAL of 3 is likely to lead to modal shift. A Travel Plan, also covered by a planning obligation, would require even further improvements after the first year. Nevertheless, an increase in demand for parking spaces in the area might lead to parking stress as already experienced on some neighbouring roads. While surveys indicate that this should not exacerbate any existing problems, I accept that parking stress leading to poor parking, such as obstructing crossovers, and searching for unavailable spaces, can pose a risk to highway safety. For these reasons, the Appellant has also offered funding for a Controlled Parking Zone. Taken together, I find that the combination of evidence, mitigation and further measures mean that parking would not lead to a severe risk to highway safety or damage air quality and that this concern should not count against the scheme.

Flooding

22. The appeal site lies within an Environment Agency Flood Zone 1 but is designated as being at risk of surface water flooding. Following a Flood Risk Assessment, it was common ground that any residual flooding or drainage risks could be mitigated by conditions. Nevertheless, the requirements of Chapter 14 of the National Planning Policy Framework (NPPF) require an Exception test to demonstrate (paragraph 160a) that: the development would provide wider sustainability benefits to the community that outweigh the flood risk. The acceptability or otherwise, and any conflict with *Croydon Local Plan (2018) SP6 and DM25 and London Plan (2021) policy SL12* therefore depends on the balance of other factors which I return to below.

Benefits

23. It was common ground that the delivery of 75 open market homes and 41 affordable homes on a brownfield site would be a public benefit, as would employment in construction. The Appellant also asked for weight to be given to the quality of the scheme and the accommodation that would be provided, including the delivery of shared communal work space, the delivery of housing in a sustainable location, enhancement to the public realm, urban greening, employment in the live/work units, benefits to the local economy through increased spending, a community infrastructure contribution, and kick-starting the Council's planned regeneration of the area. The parties disagreed on the weight to be given to these.
24. While I give substantial weight to affordable housing, for the reasons given above, and notwithstanding the architects' demonstrable efforts, I find that the

quality of the scheme would have substantial shortcomings with regard to height (in advance of adoption of the emerging local plan and masterplan), massing, public realm, landscaping (including urban greening) and living conditions for future and neighbouring residents. These flaws also count against the scheme meeting the flooding exception test or achieving exceptional design with regard to the tall buildings test. I give some additional weight to the benefits of a shared work space, and the novelty of providing this in one block, and note the provision 4 of live/work units and CIL contributions.

Other matters

Heritage

25. The Old Tithe Barn, Waddon, stands approximately 100m to north of the site and is now in use as a place of worship. It is listed at Grade II. It was built in the 18th century and its special interest/significance lies in its surviving fabric and unusual structure of two parallel ranges with an M-shaped roof. Its former setting is now dominated by the major thoroughfare that is Purley Way and by retail stores close to both sides. As such, the contribution that setting makes to its significance has already been severely eroded. While the proposed scheme would be 12 storeys high, I agree with the main parties that there would be no further damage to the setting and so no additional harm to the listed building.
26. The site lies within the Tier II Mere Bank Archaeological Priority Area. It was common ground that, subject to a pre-commencement condition requiring investigation and subsequent analysis, the impact on the archaeological interest of the site would be acceptable, and I agree.

Planning balance

27. The scheme would include a 12 storey block which would meet the definition of a tall building. It would therefore conflict with London Plan Policy D9 unless it would be of exemplary design. For the above reasons, and notwithstanding the architects' significant efforts with many detailed aspects, the combination of less than favourable impacts, as identified by the Croydon Place Review Panel and otherwise, means that in my judgement, it would not attain the high bar of exemplary design. Other benefits, including the provision of much needed housing and affordable housing in particular, would not outweigh this conflict with policy. Consequently, the scheme would also fail the Exception test for flood risk. On balance, the scheme would be contrary to the development plan. This would not be outweighed by material considerations, including the NPPF.

Conclusion

28. For the reasons given above, and having regard to all matters raised, including overlooking and loss of privacy, I conclude that the appeal should be dismissed.

David Nicholson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Katherine Barnes of Counsel	instructed by Gateley Legal
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Paul Fender RIBA, BA(Hons), BArch	Design Director at ECE Architecture
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FOR THE LOCAL PLANNING AUTHORITY:

Barry Valentine	Senior Planning Officer, Croydon Council
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Hannah Martin	Placemaking/Design Officer, Croydon
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