



Appeal Decision

Site visit made on 25 August 2022

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29/09/2022

Appeal Ref: APP/L5240/W/21/3283863

Garages Rear of 42-50 Chipstead Avenue, Thornton Heath CR7 7DG

- 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 Chipstead Garages Ltd against the decision of London Borough of Croydon.
 - The application Ref 21/00214/FUL, dated 15 January 2021, was refused by notice dated 21 July 2021.
 - The development proposed is the demolition of 10 existing lock up garages and erection of 4 part two storey, part three storey detached houses (1no. 1 bed/2 person, 1no. 2 bed/3 person, 2no. 3 bed/4 person) with associated hard and soft landscaping, boundary treatments, bicycle and bin storage.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Chipstead Garages Ltd against the London Borough of Croydon. This application is the subject of a separate decision.

Main Issue

3. The main issue is the effect of the third storey of the proposed development on the living conditions of the occupants of surrounding residential properties, with specific regard to outlook.

Reasons

4. The appeal site is located to the rear of 42-50 Chipstead Avenue. It is accessed via a gap between nos. 50 and 56 Chipstead Avenue and currently contains a block of 10 garages. The site is sandwiched between the rear gardens of properties on Chipstead Avenue and Quadrant Road. There is a marked level difference with the properties on Quadrant Road sitting higher than the appeal site.
5. There is a relatively generous separation between the existing Quadrant Road properties and those on Chipstead Avenue, the effect of which is that residents currently experience a pleasant degree of openness and spaciousness.
6. The proposed development involves the demolition of the existing garages and the construction of 4 detached dwellings with two of these being of three-storeys and two being of two-storeys. The Council have specifically referred to the harm they perceive is caused by the third storey element of the

development. I have therefore confined my consideration of the appeal to this element of the development.

7. The evidence shows that the proposed development would sit at varying distances from the rear elevations of surrounding properties. For the Quadrant Road properties, their rear elevations would be between 10.3m and 14.2m from the proposed development, and for the Chipstead Avenue properties, these would be 13.9m from the proposed development. The evidence also shows that due to the difference in levels, a large proportion of the ground floor element of the development would be sunken and not visible from the properties on Quadrant Road.
8. In relation to no. 17 Quadrant Road, the proposed development would be 10.3m from its rear elevation. Although most of the ground floor of the proposed development would be situated below this property, there would be two clear storeys of the development above the ground level of the existing property. At the distance that is proposed, the third storey of the proposed development, due to its overall scale and mass, would be hugely dominant and overbearing when viewed from the rear of this property. Despite gaps in the collective form of the development, the third storey would appear imposing and oppressive. There would be a similar, although less harmful impact, caused by the third storey of the development when viewed from the other properties on Quadrant Road and Chipstead Avenue that adjoin the appeal site.
9. I acknowledge that there are other existing developments and permitted schemes to the rear of properties on Chipstead Avenue and Quadrant Road. I observed these on my site visit and have taken these into account in my decision.
10. The site at nos. 30-32 Chipstead Avenue currently contains a pair of semi-detached properties. It has an extant planning permission¹ for the erection of a part 3, part 4 storey building comprising 8 flats. At the time of my site visit the development had not been implemented or commenced. The other development is at 20 Chipstead Avenue where a former care home was demolished and a complex of residential flats over two buildings, one four storey, one three storey, has been constructed.
11. For the site at 30-32 Chipstead Avenue, this development appears to achieve a slightly greater separation from the properties on Quadrant Road than the appeal proposal. It is also for a different building on a different site, and when combined with the fact that it has not been implemented, the weight that can be attributed to the scheme is reduced. Although the merits of this scheme are not before me, the evidence shows, in my view, how the proximity of proposed developments can significantly impact on the outlook from existing residential properties.
12. In terms of the site at 20 Chipstead Avenue, this relates to a site that previously contained a care home and I have not been provided with full details of whether the previous building had a similar relationship with surrounding properties that was a determinative factor. Either way, in my view, the arrangement serves to demonstrate the harmful impact on outlook that can be caused by having a building of this size in such close proximity to existing residential properties.

¹ Planning application ref 19/05225/FUL

13. The appellant has also referred to a housing development on Chessell Close. Although several photographs have been submitted, I do not have full details of this development to give it significant weight in the appeal.
14. Although these examples have been permitted by the Council, I am not bound by these decisions, and I have reached my own conclusions on the appeal proposal. I therefore do not consider that they should be used as a precedent to permit further schemes or justify the harm I have identified. I have also, in any event, determined the appeal proposal on its own individual planning merits.
15. The appellant has referred to the compliance of the scheme with the '45-degree rule' as contained within the Council's Suburban Design Guide (2019) Supplementary Planning Document (SPD). This is, however, applicable to form of projections extending beyond rear building lines which is not the nature of the proposed development. I acknowledge that the proposed development responds to the relevant section of the SPD in relation to form of developments on back land sites, insofar that it adopts a stepped height approach as per the example. The guidance does not, however, refer to a distance which should be maintained.
16. I therefore conclude that the proposed development, by reason of its third storey, would cause significant harm to the living conditions of occupants of surrounding residential properties in terms of outlook. It would be contrary to Policies SP4 and DM10 of the Croydon Local Plan (2018) and Policies D3 and D4 of The London Plan (2021). These policies require, amongst other things, that the amenity of occupiers of adjoining buildings are protected and that developments deliver appropriate outlook.
17. The proposed development would also be contrary to the guidance contained within the SPD that acknowledges careful design can help to mitigate the impact on outlook from neighbouring properties.

Other Matters

18. The appellant has referred to the requirement of the proposed development to comply with development plan policy requiring a mix of housing. This is in relation to Policy SP2.7 of the Local Plan which sets a strategic target for 30% of all new homes to have three or more bedrooms. I acknowledge that the scheme would go a small way to contributing to the provision of family sized homes in the borough, however the policy does not appear to be a requirement on each specific site. Site specific requirements are referred to in SP2.7(B) however this is for sites in the Croydon Local Plan's Detailed Policies and Proposals, applicable to sites of ten or more homes across the borough including sites within Croydon Opportunity Area. Even if I were to agree that the requirement is necessary for this development, it does not justify causing the harm I have identified.
19. Similarly, I am referred to Policy DM10 which outlines that proposals should seek to achieve a minimum height of 3 storeys. My reading of the policy, as it relates to 3 storeys, is that this is something that should be sought or aimed for, as opposed to an absolute requirement. This would suggest a recognition that there may be situations where other factors mean three storeys is not always appropriate.

20. I appreciate that Council officers recommended approval of the application to the planning committee and that this followed positive pre-application discussions with Council officers. It is understandable that the appellant may feel aggrieved in such circumstances. However, it is within the committee's gift or within the power of a delegated officer, to find differently to the officer recommendation. Thus, this consideration has had no bearing on my decision.
21. The appellant has also referred to the proceedings leading to the determination of the application, including suggested amendments being made to the scheme. These matters are, however, not within the confines of the appeal decision.
22. The appellant has made detailed reference to several factors of the proposed development that are not pertinent to the main issue. I do not doubt that careful consideration has been given to aspects such as the overall appearance, privacy and living conditions for future occupants, however these matters are not pertinent to the main issue.

Planning Balance and Conclusion

23. The Government's objective as set out in the National Planning Policy Framework (2021) (the Framework) is to support sustainable housing growth. The proposed development would result in a small increase in the Council's overall housing number, including two family sized units, and would be in a sustainable location. It would also bring a number of additional residents to the area who would contribute to the local economy. It would also improve the appearance of the site and be located on previously developed land. Collectively, I give these matters moderate weight in favour of the proposed development.
24. However, the significant harm that the proposed development would have on the living conditions of the occupants of surrounding residential properties attracts significant weight that outweighs the benefits associated with the proposed development. Furthermore, I am not presented with any substantial evidence that the scheme before me is the sole means of achieving the benefits referred to above.
25. The proposed development would therefore conflict with the development plan and there are no identified other considerations, including the Framework, that outweigh this conflict.
26. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR