



Appeal Decision

Site visit made on 10 October 2022

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 NOVEMBER 2022

Appeal Ref: APP/L5240/W/22/3290589

Land and parking adjoining 2 The Lawns, Upper Norwood, London SE19 3TS

- 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 Kazi Abdul of KKB Properties against the decision of the Council of the London Borough of Croydon.
 - The application Ref 19/02093/FUL, dated 3 May 2019, was refused by notice dated 13 July 2021.
 - The development proposed is the erection of 4 no. 3-bed two storey houses, with associated parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposed development and the address are somewhat unclear on the Application Form. Consequently, I have used the address and description of development from the Council's Decision Notice and the Appeal Form in the banner heading above.
3. The Council's Decision Notice does not list which drawings were considered in refusing planning permission, and the plans listed in the officer report do not include any revisions, of which there have been a considerable number.
4. The appellant provided a list of drawings and documents with revisions, which it considered were before the Council when planning permission was refused, and also how they consider the revision annotations of the submitted drawings should be interpreted. The revision annotations of the appeal drawings are at the very least unconventional and in my view inaccurate and misleading. Furthermore, the titles of some of the documents uploaded with the appeal do not match those stated by the appellant.
5. This is not a satisfactory situation and should have been identified and addressed by both main parties much earlier in the process. However, the Council and the appellant subsequently confirmed, in an agreed statement dated 27 October 2022, the drawings and other documents that were considered by the Council in refusing planning permission. I have had regard to these in determining this appeal.
6. When I visited the site during the agreed time period there was no one there to allow me access. However, I noticed a gap in the boundary fence that was sufficient to allow me to gain access and view the appeal site, including the

area to the rear. I have had regard to my observations in determining this appeal.

Main Issues

7. The main issues are the effect of the proposed development on:
- the character and appearance of the area; and
 - the living conditions of nearby occupiers, with particular regard to overlooking.

Reasons

8. The appeal site is partly backland, to the rear of dwellings on Beauchamp Road and Spa Hill and is accessed from The Lawns. The site is generally flat although the rearmost section is at a lower level than the front. The front section is a hard-surfaced former car park, with the rear part somewhat overgrown with scrub, small trees and bushes, much of which is used as part of the rear garden of 142 Beauchamp Road.
9. The surrounding streets reflect the sloping terrain of the area, with both The Lawns and Beauchamp Road rising away from Spa Hill, which itself has a gentle slope down from the northeast to the southwest near to the site.
10. The buildings on Beauchamp Road are traditional early 20th century houses located in short terraces; the dwellings on Spa Hill and The Lawns are somewhat smaller in scale and date from the mid/late 20th century and are also located in short terraces. The dwellings have a traditional, dual-pitched roof design, with front and rear gardens. There is also a large domestic-scaled garage with a shallow dual-pitched roof to the west of the former car park on The Lawns.

Character and appearance

11. This is a residential area with a mix of dwelling types, constructed at different times, and with a number of backland developments nearby. Nevertheless, there is a visual coherence to the area, with the dwellings being of a generally traditional design with front and rear gardens, and with the ridgelines of the dual-pitched roofs generally parallel to the streets.
12. The proposed development would entail the provision of four car parking spaces by The Lawns, with a landscaped pedestrian access to a short terrace of four contemporary, flat-roofed dwellings to the rear. The four dwellings would have relatively small, walled rear gardens along the western edge of the site. The pedestrian access to the east, would contain raised planters, with a wall along the boundary. The end dwelling, House 4, would be set back a short distance from the walled southern boundary, whilst the front elevation of House 1 would be set back a short distance from the front elevation of Nos 2-6 The Lawns.
13. This is a constrained site and I accept that the appellant has undertaken a design process that considered different options for development. The flat-roofed design and the scale and massing of the proposed 2-storey dwellings is intended to minimise their visual impact when seen from the rear of the dwellings on The Lawns, Spa Hill and Beauchamp Road.

14. I note that the Council considers that a higher residential density for suburban areas will be needed in the future¹, and that backland housing can contribute towards achieving this aim. However, this site also has a street frontage and in views from The Lawns, near the entrance to the site, the design, scale and massing of the flat-roofed House 1, and to a lesser extent the other dwellings, would appear incongruous.
15. Whilst the design of the proposal would limit its visual impact as backland housing, it would also result in a weak frontage to The Lawns. Nos 2-6 The Lawns and the nearby dwellings on Spa Hill are of traditional designs and have a significantly greater scale and massing. Furthermore, the proximity of proposed House 1 to 2 The Lawns, means that the significant differences in the design and scale of the proposed dwelling would be highly noticeable.
16. The proposed development would, therefore, be out of keeping with the prevailing design, scale and massing of dwellings in the area and would be detrimental to the streetscene of The Lawns.
17. For these reasons the proposed development would detract from the character and appearance of the area. It would, therefore, conflict with Policies SP4 (urban design and local character) and DM10 (design and character) of the Croydon Local Plan 2018 (CLP), with policy D3 (optimising site capacity through the design-led approach) of the London Plan 2021² (LP), and with the SDG.

Living Conditions

18. In suburban residential areas such as this one, there is inevitably a degree of reciprocal overlooking, particularly of gardens. The proposed development would significantly increase such overlooking, and the appellant has endeavoured to address the issue of harmful overlooking of neighbouring properties through the design of the proposed dwellings and boundary treatments.
19. The proposed 1.8 metre high boundary wall would satisfactorily address any overlooking issues from the appeal site at ground level. Furthermore, in a number of the neighbouring properties on Spa Hill there are also single storey out-buildings and some screening vegetation.
20. The western elevations of the proposed dwellings include angled bedroom windows at first floor level, to reduce the scope for overlooking of the rear gardens and dwellings along Spa Hill. This would be most effective in proposed House 1, which is closest to The Lawns. However, even there it is not clear that there would not be scope for some overlooking of the rear of 73 Spa Hill.
21. Notwithstanding the timber outbuildings near the boundary, the siting of the other proposed houses means that the first floor angled windows would afford great scope for overlooking of the rear gardens of Nos 73 - 79 Spa Hill, including areas within 10 metres of the rear elevations of the dwellings; this would be particularly intrusive with regard to Nos 73 - 77.
22. Of direct concern in this regard is the sloping terrain. From the drawings submitted by the appellant³ the tops of the proposed first floor windows would

¹ Suburban Design Guide Supplementary Planning Document 2019 (SDG)

² Spatial Development Strategy for Greater London March 2021

³ Including drawings 002, 301, 302, 303 and 304

- be positioned well above eaves level of the dwellings on Spa Hill, significantly increasing the scope for overlooking of those properties. The perception of being overlooked would also be increased by the elevated position of the proposed development.
23. On the eastern elevation, the ground floor of 2 The Lawns is positioned around a metre above the proposed ground floor level at the appeal site, again using the appellant's drawings. However, this would not remove the problem of overlooking from first floor windows of habitable rooms at the appeal development.
24. Proposed House 2 would contain an angled bedroom window at first floor level, similar to those on the western elevation of the proposed development. Whilst this would face towards the corner of the rear elevation and the blank gable elevation of 2 The Lawns, across a proposed landscaped area, I am not satisfied that harmful overlooking of the rear elevation of the existing dwelling, as well as the first few metres of the rear garden, and to a lesser extent of 4 The Lawns, would not occur.
25. The design of proposed Houses 3 and 4 is very similar, with a first floor window positioned just over 3 metres from the boundary with the rear garden of 140 Beauchamp Road, and a set-back first floor window some 4.4 metres from the boundary. None of these windows are angled in the way the first floor windows to the west are.
26. The position of the first floor eastern windows in proposed House 3 would allow for harmful overlooking of large parts of the rear gardens of Nos 138 and 140 Beauchamp Road. The eastern windows in House 4, at the southern end of the proposed development, would also allow for harmful overlooking of large parts of the rear gardens of Nos 138 and 140, including parts within 10 metres of the rear elevations of these dwellings. The perception of being overlooked in the rear garden of No 140 in particular would be considerable, given its proximity to the appeal development.
27. I also note that the terrain slopes down from the appeal site towards Beauchamp Road and that notwithstanding the slope of Beauchamp Road itself, the rear ground level at these dwellings would be somewhat lower than the ground level of the appeal site, increasing the scope for overlooking.
28. Whilst I note the proposed screening vegetation may in time mitigate some of the harm caused by overlooking, this would be at the expense of a reduced outlook from these windows. I also note the proposed use of raised planters for screening vegetation. However, no substantive evidence has been put forward that the proposed tall screening vegetation, including trees, would be successful in such planters. Given the planters would limit the space for the vegetation to grow, in contrast to the ground, I am not satisfied that they would be. Consequently, I do not consider that screening vegetation is something that could be satisfactorily addressed by way of a condition.
29. I note the content of the SDG, including in terms of overlooking, back-to-back distances, angled windows and oblique or constrained overlooking. In this case, the terrain, the proximity of the properties and the design of the proposed development means that I am not content the standards and guidance in the SDG would be sufficient to overcome the harm I have identified.

30. For these reasons the proposed development would adversely affect the living conditions of nearby occupiers, with particular regard to overlooking. Consequently, it would conflict with Policies SP4 and DM10 of the CLP, and with policy D3 of the LP.

Conclusion

31. For the reasons given above, and taking into account all matters raised, I conclude the appeal is dismissed.

Andrew Parkin

INSPECTOR