



Appeal Decision

Site visit made on 2 August 2022

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2022

Appeal Ref: APP/L5240/W/22/3295657

2 Kearton Close, Kenley CR8 5EN

- 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 Dylan Hopwood (Karla Properties) against the decision of the Council of London Borough of Croydon.
 - The application Ref 21/03707/FUL, dated 12 July 2021, was refused by notice dated 28 October 2021.
 - The development proposed is flatted development within the rear of no. 2 Kearton Close to comprise of three units including landscaping, cycle and refuse store.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the application was decided, the Council has revoked the Croydon Council Suburban Design Guide Supplementary Planning Document adopted April 2019 (SPD). Therefore the reference to this SPD in the first reason for refusal is no longer relevant and in reaching my decision I have not had regard to it.
3. In the second reason for refusal, reference is made to 'minimum drag distances'. The appellant has highlighted that the Council's concern appears to relate to exceedance of maximum, as opposed to minimum, drag distances. I agree this is clear from the Council's evidence and have considered the appeal on that basis.
4. Additional site plans were included in the appellant's Grounds of Appeal dated 26 March 2022, in Appendix 3: Appeal Statement by RGP Consulting Engineers Limited, dated March 2022 (RGP Appeal Statement). The layout shown on those plans differs from the application plans in a number of respects, including the proposed locations of the bin store and cycle store and details of hard and soft landscaping alongside the boundary with 3 Kearton Close. I cannot be confident that interested parties are aware of these amended details, or have had the opportunity to comment upon them. Therefore, there is a risk of prejudice to their interests if the layout shown on the revised plans is relied upon. I have therefore considered the appeal on the basis of the proposed layout as shown on application site plan reference 6742-PL-101 Rev B.

Main Issues

5. The main issues are:

- the effect of the proposed development on the character and appearance of the area, with particular regard to the height, scale and massing of the proposed building and the effect on existing trees;
- the suitability of the proposed access arrangements, with particular regard to pedestrian safety;
- the suitability of the proposed layout in relation to cycle storage, refuse collection and fire safety.

Reasons

Character and Appearance

6. The appeal site is located in an area of mainly detached housing in mature gardens, within a network of tree-lined lanes. The scale and design of dwellings varies, although the existing dwelling on the appeal site is one of several similar chalet bungalows along this section of Kearton Close. Plot sizes are generous and there is a sense of space around and between the existing buildings. Tree cover in rear gardens can be seen from the Close, through gaps between buildings, providing an attractive, leafy backdrop to the street scene.
7. The massing of the proposed building would be markedly greater than that of the existing dwelling and neighbouring chalet bungalows. It would have significantly higher eaves and ridge lines, together with a substantial projecting front gable. The gable would be particularly conspicuous in the gap between the existing buildings, emphasising the bulk of the proposed building.
8. A subservient relationship with the existing building (as required by Policy DM10.1 of the Croydon Local Plan 2018) does not necessarily imply a lower overall height, depending on the design approach taken. However, in this case the proposed development would look out of proportion with the existing chalet bungalows, with their more modest massing. It would dominate the rear part of the site, undermining the existing sense of space around buildings.
9. The trees which it is proposed to remove include larger evergreen specimens, which are visible from the Close and part of the leafy backdrop to the street scene. While these are not currently covered by a Tree Preservation Order or otherwise protected, they are nevertheless of public amenity value, as they make a positive contribution to the character of the area.
10. The replacement planting indicated in the Arboricultural Report¹ and on drawing 6742-PL-101 Rev B would be less extensive and would take time to become established. It would also be largely in a less visible part of the site, screened behind the existing bungalow and the proposed building. Therefore, there would be a net reduction in tree cover which would diminish the verdant character of the area, both in the short term and on a long term basis.

¹ Arboricultural Report and Tree Condition Survey, Ruskins Tree Consultancy, Ref 0920-8168 Rev 2, Revised March 2021

11. While the Arboricultural Report assesses all the existing trees on the appeal site as falling within Category C as set out in BS 5837:2012², the report also notes that the purpose of the categories is not to determine whether retention of trees is desirable. Although a small number of the existing trees are reported as being in poor health, this does not apply to all the trees which are proposed for removal. Therefore, although I have noted this arboricultural classification, it does not outweigh my assessment of the harm to the character of the area that would result from the net reduction in tree cover.
12. The planning permission granted for nine dwellings at 1 Kearton Close relates to a more comprehensive form of development, on a larger site, and not retaining the existing dwelling. The approved dwellings would form a coherent group, fronting their own access road and not introducing development behind the existing chalet bungalows. Since two storey housing is already present within the locality, the anticipated introduction of further two storey development on an adjacent site does not, of itself, amount to justification for the scale of the proposed building. Nor would it overcome the harm associated with the disproportionate massing of the proposed building in relation to the existing chalet bungalow, as set out above.
13. While I note that the approved scheme at 1 Kearton Close would also involve the removal of category C trees, a higher level of replacement tree planting is proposed in that case. The Council concluded that the uplift in tree planting would provide an acceptable level of mitigation in terms of the character and appearance of the area. For reasons explained above, I have reached a different view in relation to the effect on tree cover at the appeal site.
14. For the above reasons, while I have taken account of the permitted scheme at 1 Kearton Close, this permission does not overcome the harm I have identified as a result of the proposed development. I therefore attach limited weight to it.
15. I conclude that the proposed development would adversely affect the character and appearance of the area, as a result of the height, scale and massing of the proposed building and the effect on existing trees. It would not accord with policies SP4, DM10 and DM28 of the Croydon Local Plan 2018 (CLP). These policies, amongst other things, require that proposed development should respect the character of the area in relation to scale, height and massing, should be subservient to any existing building on the site which is to be retained and should avoid the loss of trees which contribute to the character of the area.
16. Policy DM27 of the CLP is also referred to in the third reason for refusal. This policy focuses on protection and enhancement of biodiversity. While recognising that tree cover has a general role in maintaining ecological networks, I have been provided with little evidence about the specific ecological value of the trees which it is proposed to remove. In the absence of further such evidence, policy DM27 appears to be of limited relevance. However, this does not overcome the conflict with other policies in the development plan, as set out above.

² British Standard 5837:2021, Trees in Relation to Design, Demolition and Construction – Recommendations

Access Arrangements

17. The proposed flats would be accessed via a private access road between the existing dwelling and the site boundary. The plans do not specify the width of the proposed access road, but the Council's Officer Report states that it does not achieve the minimum width required to separate pedestrian and vehicle movements. The absence of separate pedestrian provision is not disputed in the appellant's evidence.
18. I noted on site that there is a pinch point where the front corner of the existing dwelling is closest to the site boundary. At this point, the gap is only just wide enough for vehicular access to the existing single garage on site. Although the available width would increase beyond that point, the plans indicate that this area would also be used for cycle and bin storage. As such, it is an area where future residents are likely to be present, both when entering and leaving the site on foot and while making use of these on-site facilities.
19. Some aspects of the layout could be improved by relatively minor alterations, but the area as a whole would remain physically constrained and the pinch point at the corner of the existing dwelling is fixed. The narrow area would extend alongside the full depth of the existing dwelling, making it more difficult for residents on foot to move out of the way of moving vehicles. This would be particularly the case for residents who are less mobile, or who are transporting refuse, parking bicycles or using a pushchair.
20. Estimated traffic flows provided in the RGP Appeal Statement are based partly on edge of town centre trip generation rates, although the nearest town centre is a considerable distance away. In addition, trips by public transport are treated as vehicle movements, although in reality residents intending to use public transport would walk through the site. Trips by bicycle have also not been assessed, although cycle parking is proposed.
21. Given the above, pedestrian and vehicle movements suggested in the RGP Appeal Statement appear somewhat under-estimated. I accept that the total number of vehicle movements per day would be limited as a result of the small number of proposed flats. Vehicles are also likely to be moving slowly. However, having considered the proposed layout and uses in this part of the site, I do not consider that the risk of conflict between vehicles and pedestrians can be described as negligible.
22. I note that many of the surrounding streets lack pavements and there are existing signs highlighting that drivers should be alert to pedestrians in the road. While the appellant suggests this means drivers will be mindful of pedestrians, these signs could also be viewed as evidence that not all drivers exhibit the required level of awareness.
23. The RGP Appeal Statement includes additional information demonstrating that pedestrian and vehicle visibility splays can be achieved at the point of access to Kearton Close and also that smaller delivery vehicles would be able to access the site. However, this is a separate matter from the safety issue outlined above.
24. The appellant has highlighted that the National Planning Policy Framework July 2021 (the Framework) states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on

highway safety, or the residual cumulative impacts on the road network would be severe (Framework paragraph 111). In this paragraph of the Framework, the reference to 'severe' impacts on the wider road network is a separate issue from consideration of highway safety. Both should be considered.

25. The Framework also requires that safe and suitable access to development sites should be achieved for all users (Framework paragraph 110). In this case, since the proposed flats would be located at the rear of the site, it is relevant to consider whether their proposed layout would create a safe environment within the site as a whole and not just at the point of access to the Close. I therefore attribute significant weight to this issue which affects the safety of future residents.
26. While permission in principle was granted in 2020 for 2-4 dwellings on the site (LB Croydon ref 20/02159/PIP), the scope of an application for permission in principle is limited to location, land use and the amount of development permitted. The Council's Officer Report on the permission in principle application considered the location of development in fairly broad terms. It also recommended an Informative which specifically highlighted that the access location, design and width would require careful consideration at Technical Details Stage. This suggests that this potential constraint on development had been identified, but was considered by the Council to fall outside the scope of the permission in principle process.
27. I conclude that the proposed access arrangements would be unsuitable with regard to pedestrian safety. As such, the proposed development would be contrary to Policy DM29 of the CLP which states, amongst other things, that development should not have a detrimental impact on highway safety for pedestrians. It would also conflict with relevant paragraphs in the Framework, as outlined above.

Site Layout

28. For reasons explained above, I have considered the appeal on the basis of the layout shown on site plan reference 6742-PL-101 Rev B. This indicates that a refuse store would be provided alongside the existing dwelling, with a kerbside collection point in the far corner of the site. The implication is that residents would move bins to that point for collection.
29. The parties have quoted a variety of standards for acceptable drag distances. I note that no specific standards are included in Policy DM13 of the CLP, to which the appellant has drawn my attention and which relates to refuse and recycling. The main parties agree that the distance from the front door of the proposed flats to the bin store is acceptable. The main point of disagreement relates to the arrangements for collection; in particular, the cumulative distance from the proposed flats to the collection area indicated at the front of the site.
30. Since residents may combine the process of taking refuse out to the bin store and then moving bins to the collection point, the total distance from front door to kerbside collection point is a factor in the suitability of the proposed layout. This combined distance would be significantly in excess of any of the standards quoted, indicating that it would be both inconvenient and potentially physically challenging for some residents.

31. However, it appears that a satisfactory alternative layout could realistically be devised. Therefore, had the proposed development been otherwise acceptable, this issue could have been resolved by means of a condition requiring submission of alternative arrangements for refuse storage, including a collection point closer to the proposed flats.
32. With regard to cycle storage, the Council's concern relates to a lack of design information and potential lack of space to meet the required standards. Neither party has suggested there is a shortfall in the number of required cycle spaces. Therefore, had the proposed development been otherwise acceptable, this issue could have been resolved by means of a condition requiring submission of further details of the location and design of cycle storage, to confirm that sufficient space would be made available.
33. With regard to fire safety, additional evidence has been provided by the appellant, in the form of a Planning Fire Statement by Howard Fairbairn MHK, dated March 2022. This addresses each of the criteria in London Plan Policy D12 part A. The Council has confirmed that this additional evidence satisfactorily overcomes the fourth reason for refusal and based on the evidence before me I have no reason to reach a different conclusion.
34. I conclude that the proposed layout is capable of meeting requirements for refuse collection, cycle parking and fire safety, subject to the imposition of appropriate conditions. As such, the proposed development complies with Policy DM30 of the CLP and with Policy D12 of the London Plan, which require compliance with relevant standards for cycle parking and fire safety respectively. It also complies with Policy DM13 of the CLP, which was not mentioned in the second reason for refusal, but which has been drawn to my attention as outlined above. This policy requires, amongst other things, that site layouts ensure refuse facilities are safe, conveniently located and easily accessible.

Other Matters

35. While the existence of permission in principle indicates that the site may be capable of contributing to the supply of housing, subject to the consideration of technical details, this does not outweigh the harm I have identified as a result of this specific proposed development.
36. I have noted the appellant's comments highlighting the absence of identified conflict with development plan policies relating to flood risk, neighbours' living conditions, residential mix, noise levels and a variety of design standards. Even if I were to agree that there would be no unacceptable effects on these issues, this is a neutral factor which is not capable of overcoming the conflict with other aspects of the development plan.
37. The Council has highlighted that the appeal site is close to a Site of Nature Conservation Importance and also to a locally listed building known as Morven House. However, the reasons for refusal did not identify any harm to the biodiversity or heritage significance of these nearby sites. Since I am dismissing the appeal for other reasons, there is no need for me to consider these issues further.

Conclusion

38. For the reasons given above, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Jane Smith

INSPECTOR