



Appeal Decision

Site visit made on 19 October 2022

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 NOVEMBER 2022

Appeal Ref: APP/L5240/W/21/3287968

109 Waddington Avenue, Coulsdon CR5 1QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Ronald Davies - Red Banksia against the Council of the London Borough of Croydon.
 - The application Ref 21/04134/FUL, is dated 3 August 2021.
 - The development proposed is the demolition of 109 Waddington Avenue and redevelopment of the site to provide five houses within two buildings, associated landscaping works and re-configuration of the cross-over access.
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Decision

1. The appeal is dismissed and planning permission for the demolition of 109 Waddington Avenue and redevelopment of the site to provide five houses within two buildings, associated landscaping works and re-configuration of the cross-over access is refused.

Preliminary Matters

2. The Council advise that its Suburban Design Guide SPG (2019) was revoked on 25th July 2022, and I have therefore had no regard to it.

Background and Main Issues

3. The appeal was made prior to the Council's determination of the application. In its appeal statement, the Council states that it would have refused planning permission.
4. The main issues are the effect of the development on:
 - (i) the living conditions of neighbouring occupiers at 111 Waddington Avenue (No 111), with particular regard to outlook and privacy;
 - (ii) the character and appearance of the area, with particular regard to trees and proposed dwellings 4-5;
 - (iii) highway and pedestrian safety;
 - (iv) flood risk; and
 - (v) fire safety.

Reasons

Living conditions

5. The Council's concerns relate to effects from the elevated position of proposed dwellings 4-5, and on the side-facing ground floor windows of the adjacent bungalow, No 111. The occupier of No.111 is also concerned about overlooking

from the proposed garden terraces, and the massing effects of proposed boundary fencing. As the Council's Suburban Design Guide SPG (2019) has been withdrawn, I have considered effects on the garden as a whole, not just the area within 10m of the dwelling.

6. At the rear of No 111's garden the tall gable wall of 101 Taunton Lane is a substantial existing feature on higher ground. Proposed dwellings 4-5 would also be higher than No 111's garden, but not to the same extent. There would be some loss of light resulting in the rear of No 111's garden, but not to an unacceptable degree, given the open aspect and fall in land levels towards the south-east.
7. Proposed dwellings 4-5 would nevertheless be substantial features, rising above, and in close proximity to, No 111's garden. Although at the far end of No 111's garden the difference in land levels would be moderate, at the south-eastern end of proposed dwelling 4 it would be significantly greater. The proposed boundary timber fence and planting area would be sunken into the ground, standing above a retaining wall. However, the cumulative height of the proposed boundary structures would be substantial, and overly dominant features from No 111's garden. Even then, the proposed boundary fencing would not be sufficient in height to prevent an unacceptable degree of overlooking from the ground floor and gardens of proposed dwellings 4-5. Planting exceeding the height of the fence to prevent overlooking would result in an oppressive boundary feature, further harming outlook from No 111's garden. The proposed dwellings would be higher still, contributing further to overbearing development.
8. The existing dwelling on the appeal site is located south of No 111, with only a small gap between them. At present, a low boundary fence allows light into the gap between the dwellings, where No 111 has its sole window to a living room and a half-glazed kitchen door.
9. Proposed dwellings 1-3 would be sited on a similar alignment to the existing building, although it stands at a higher level than its neighbour, No 111. The lean-to roof across the full depth of the building, and at an eaves height of 1.5 storeys, would result in some loss of light to No 111's living room and kitchen. However, given the moderate increase in height proposed, and the absence of external guttering, the development would not be oppressive in terms of light or outlook. Furthermore, taller fencing, which could be erected as permitted development along the boundary, would have greater effects on light to and outlook from these windows than the proposed development.
10. The stepped garden terraces of proposed dwellings 1-3 would be cut into the ground, and land levels would therefore be lower than those of the existing garden, and closer to those of No 111's garden. The stepped nature of the proposed boundary fencing would make them prominent from No 111's garden, but they would not be significantly higher than a boundary fence which could be erected in any case as permitted development.
11. Overall, proposed dwellings 4-5 would be unduly prominent in terms of height, scale and massing and, in combination with 101 Taunton Lane, would create a significant sense of enclosure of No 111's garden, unacceptably harming outlook. Although proposed planting along the boundary contributes to that harm, without it there would also be unacceptably harmful loss of privacy to users of the garden of No 111.

12. The proposed development would therefore harm the living conditions of neighbouring occupiers of No 111, with regard to outlook. It would therefore conflict with Croydon Local Plan 2018 (CLP) Policies DM10.1 and SP4.1, which together seek high quality design which respects local character considering, among other things, siting, scale, height, massing, natural features, and cumulative impacts.

Character and appearance

13. As set out in its Statement of Case, the Council's objection on this issue relates primarily to proposed dwellings 4-5, which would face Taunton Lane, and to the contribution trees make to the character of the area.
14. The appeal site is located in a prominent location on the corner of Waddington Avenue and Taunton Close. It is an area of suburban housing of various styles and significant topographical variation.
15. At the time of my visit no trees on the appeal site made a particularly notable contribution to the character of the area, but the substantially planted verge on Taunton Lane provides a semi-rural character. Trees close to the road and the appeal site boundary in the grounds of 97-101 Taunton Lane (Nos 97-101) also contribute to a semi-rural character at that point in the lane. Large trees in the garden of 111 Waddington Avenue further contribute to the greening of the area. Tree planting is also proposed between the gardens of proposed dwellings 1-3 and 4-5, and adjacent to the verge. Together, these measures would soften views of the gable wall of proposed dwelling 4, and retain much of the character of Taunton Lane.
16. Proposed dwellings 4-5, facing Taunton Lane, would introduce built development into the northern side of the lane, currently characterised by the heavily planted verge. They take design references from Nos 97-101, with tile hanging on the frontage and asymmetrical roofs, although visibility of Nos 97-101 from the lane is very limited. At the same time, the proposed design is distinctly contemporary, incorporating features such as recessed guttering and flat-roofed dormer windows.
17. Proposed dwellings 4-5 would be largely set down at a level lower than the road, and would not appear unduly tall, with their design emphasis on the roof, with a low eaves level and tile hanging. Despite being sited closer to the road than the existing garage building, and other houses in the area, the relatively small plot sizes would not be apparent from the street. With retention of the boundary hedgerow the dwellings and their bin and cycle storage behind the planted verge, would be assimilated into the street scene. Even if the planting in the verge is removed, they would not be unduly prominent features in the lane. The gable end would be visible from the junction of Warrington Avenue and Taunton Lane, but no more than the gable end of Nos 97-101. Proposed dwellings 4-5 would therefore not be harmful to the character and appearance of the area.
18. In conclusion, the development would not harm the character and appearance of the area, with particular regard to trees and proposed dwellings 4-5. The proposed development would therefore accord with The London Plan 2021 (TLP) Policy D3, and CLP Policies SP4.1, DM10.1, which together seek high quality design which respects local character.

19. The Council also referred to other policies with which I have found no conflict. TLP Policy D4 relates to delivery of good design, and there is sufficient detail before me in relation to design matters. TLP Policy G6 and CLP DM27 relate to biodiversity and access to nature, rather than character and appearance, and I have seen no evidence of harm to biodiversity. TLP Policy G7 and CLP Policy DM28 seek to ensure that existing trees of value are retained wherever possible, but I have not found such trees on the appeal site and expect adequate replacement tree planting following the removal of trees, which I consider the proposal does.

Highway safety

20. The appellant has submitted a s106 planning obligation with the appeal, relating to a contribution towards a public scheme for car sharing facilities. As a result, the Council have no ongoing objection in relation to the amount of car parking proposed, and I agree it would adequately compensate for the absence of on-site parking. The Council's remaining objection therefore relates to the effects of vehicle movements to and from the site on highway and pedestrian safety, with particular reference to pedestrian sightlines.
21. The existing dwelling has two driveways in similar locations to those proposed. It also has a boundary wall with pillars, which restrict visibility to some degree. A vehicle crossover crosses a grass verge, but there is no footway on this side of the road.
22. The visibility splays serving the car parking space outside proposed dwelling 3 would cross low level walls and planting, which would not obscure visibility, but those for dwelling 1 cross the site boundary by a small margin. However, the existing boundary walls are to be removed, and the grass verge provides additional space which means that drivers exiting the proposed parking spaces would have greater visibility before entering the carriageway. Furthermore, pedestrian safety is unlikely to be compromised by the development, as there is no footway between the appeal site and the carriageway edge.
23. In conclusion, the proposed development would not harm highway and pedestrian safety and would accord with TLP Policies T4 and T6 and CLP Policies SP8, DM29 and DM30, which together relate to sustainable travel choice, car parking, and mitigating transport impacts.

Flood risk

24. The appeal site is located in Environment Agency Flood Zone 1, but the appellant and the Council agree that the site is at high risk of surface water flooding.
25. The Council refers to the absence of a detailed assessment, sufficient to establish that measures would be undertaken to mitigate flood risk through the use of Sustainable Drainage Systems and to safeguard any potential future flooding of the area.
26. The appellant's Flood Risk Assessment and Surface Water Drainage Strategy (FRA&SWDS) appears to be such an assessment. I have seen no specific criticism of it, or technical response to it, from the Council or any other party. It finds the risk of groundwater flooding to be moderate, and flooding from all other sources to be low, or relatively low. It also states that there would be

likely to be negligible change in flooding patterns in the vicinity of the site as a result of the proposed development.

27. The FRA&SWDS includes a surface water drainage strategy which incorporates permeable surfaces with water channelled to a soakaway at the front of the site. These measures appear to be an appropriate response to the identified risks and could be required by planning condition.
28. In conclusion, with the information before me, and subject to a suitable planning condition, the proposed development would not increase flood risk, and would accord with TLP Policy SI13 and CLP Policies SP6.4 and DM25, which relate to sustainable drainage systems and reducing flood risk.

Fire Safety

29. The proposal is a relatively small-scale development for two and three storey houses in a suburban area abutting the highway. Although the intention of the policy is to ensure fire safety matters are considered sufficiently early in the design process, I have seen no particular reason why this development could not meet the policy requirements. This matter could therefore be addressed by a planning condition.
30. In conclusion, with the information before me, and subject to a suitable planning condition, the proposed development would accord with TLP Policy 12, which requires all development proposals to achieve the highest standards of fire safety.

Other Matters

31. The proposed development would result in a net increase of 4 dwellings designed to modern standards but is located in an area of poor transport accessibility¹. The appeal site is a challenging site in design terms, considering its topography, the variety of local house types and sizes, and the site's prominence, and although I have found the proposed development would not harm the character and appearance of the area, neither would it make a substantial positive contribution. Together these benefits therefore attract limited weight in favour of the proposal.
32. Interested parties have expressed other concerns in relation to the development. As I am dismissing the appeal for other reasons, they would not change my decision, and I have therefore not considered these matters further.
33. I also note the appellant's concerns about the way the Council handled the planning application, but my decision has been made on the planning merits of the proposal.

Conclusion

34. I have not found harm in relation to the character and appearance of the area, highway safety, flood risk or fire safety. However, the harm I identify to the living conditions of neighbouring occupiers, and the consequential conflict with policies of the development plan, carry significant weight against the development, and outweigh the limited benefits.

¹ The Council record that the site has a PTAL 1a/1b rating.

35. For the reasons above, I conclude the development would conflict with the development plan as a whole and the approach in the Framework. There are no other material considerations that would suggest a decision other than in accordance with the development plan would be appropriate, and the appeal should therefore be dismissed.

Peter White

INSPECTOR