



Appeal Decision

Site visit made on 2 November 2022

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 DECEMBER 2022

Appeal Ref: APP/L5240/W/21/3289280

2 Beech Avenue, South Croydon CR2 0NL

- 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 Ms Caroline Botsford against the decision of the Council of the London Borough of Croydon.
 - The application Ref 21/02056/FUL, dated 16 April 2021, was refused by notice dated 25 October 2021.
 - The development proposed is described as the erection of a part three- / part four-storey building comprising 31 apartments (Use Class C3) following demolition of existing detached dwellinghouse (Use Class C3), including the widening of the existing access, provision of vehicular parking and hard and soft landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the submission of the appeal, the Council has confirmed that the Croydon Suburban Design Guide Supplementary Planning Document has been revoked. It therefore is no longer a material consideration for this decision.

Background and Main Issues

3. In July 2022 planning permission was approved by appeal, reference APP/L5240/W/20/3257791 (3257791), for a 34 unit residential development on the site, and a new planning application has also been submitted to the Council, reference 21/06145/FUL. No details for either scheme have been submitted for consideration.
4. The Council has withdrawn its objections in relation to a lack of information relating to protected species and sustainable drainage strategies, reasons 9 and 12 on the decision notice. As no objections on these matters over and above those reiterated during the application stage have been raised, I am satisfied these issues have been resolved.
5. Within its statement of case, the Council has sought to include an additional reason for refusal relating to character and appearance. It states it was missed off the decision notice due to an administrative error. Although it is not possible to amend a decision notice once it has been issued, in this instance the Council clearly put forward its case in the officer's report, the appellant has responded on this issue, and other parties have also made comment. As such I consider it is necessary to include it as a main issue and I am satisfied that its

inclusion would not prejudice any party in accordance with the Wheatcroft principles.

6. Therefore, the main issues for this appeal are, whether the proposed development would adequately contribute to a) affordable homes, and b) family sized homes; the effect of the proposed development on c) the character and appearance of the area including the landscape character and trees protected by Tree Preservation Order (TPO), and d) fire safety; and whether the proposed development would provide adequate e) living conditions for future occupants with specific regard to inclusive and accessible accommodation and outdoor space, f) on-site parking, g) refuse storage, and h) cycle storage, and i) constitute net carbon zero development.

Reasons

Affordable homes

7. The proposal was submitted, at application stage, with a view to provide affordable homes in accordance with Policy H5 C, Fast Track Route (FTR), of the London Plan 2021 (LP). The proposal originally sought to provide 35% affordable homes, on site, compliant with the tenure ratio set out in Policy SP2.4b) of the Croydon Local Plan (CLP). However, there is no evidence that the appellant had investigated the option of further grants to support anything other than the minimum 35% provision and so it cannot be considered under the FTR.
8. It is, therefore, necessary to assess the proposal against the Viability Tested Route (VTR) as set out in LP Policy H5 F, a method similar to that in CLP Policy SP2.5. However, a viability assessment has not been undertaken and therefore the proposed 35% affordable home provision has not been justified.
9. Notwithstanding the failure to comply with the VTR, within their appeal submission the appellant has submitted evidence that they are unable to secure a registered provider willing to manage the proposed affordable housing. They have, therefore, proposed a commuted sum to be secured by the submitted Unilateral Undertaking (UU). However, commuted sums should only be considered in exceptional circumstances when on-site and off-site provision options have been exhausted. Although it is plausible that registered providers are not interested in on-site provision in the formats the appellant has suggested, there is nothing to show off-site provision has been considered and as such the test for exceptional circumstances has not been met.
10. The UU seeks to provide a mechanism including a level of viability assessment, to calculate the commuted sum rather than define a specific figure. However, without the afore mentioned evidence it cannot be substantiated that a 35% equivalent contribution is adequate nor that it is the only option available to the appellant. A position further emphasised by an on-site provision for affordable homes having been secured within appeal 3257791.
11. It is appreciated that a provision for some affordable homes is better than none, but the information before me does not justify the amount proposed nor the method of delivery. As that proposed is not substantiated, it cannot be concluded that the proposed development can provide an adequate contribution to affordable homes. It would not comply with CLP Policies SP2.4

and SP2.5, and LP Policy H4 and H5, insofar as they seek to secure affordable housing.

Family sized homes (FSH)

12. The main parties dispute what constitutes FSH, whether the site is within a suburban area, and whether there are extenuating circumstances to consider the site more accessible than its designated Public Transport Accessibility Level (PTAL) of 1b. All of which are relevant when considering the provision of FSH.
13. Although CLP policies SP2.7 and DM1 do not refer to FSH, only those with 3 or more bedrooms, it is evident from the officer report that the Council consider them one and the same. This is a commonly used definition throughout the London Boroughs.
14. The appellant states that in a previous application the Council allowed 2 bedrooms, 4 person homes to also be considered as FSH. Although CLP Policy DM1.1 b allows for such concessions this was only within the first 3 years of the CLP adoption. After this period a viability assessment would be required to demonstrate 3 or more bedroomed homes were not viable. Again, no such assessment has been submitted.
15. I am therefore satisfied a FSH constitutes 3 or more bedrooms and that there is nothing before me to justify that smaller units should also be considered as such.
16. The appeal site is in a predominantly residential area with a mix of large, detached dwellings and purpose built apartment blocks, generally positioned in reasonably sized gardens. There is space between buildings giving the impression of a low density neighbourhood. From my observations I find that the appeal site is within a suburban area, commensurate with the description in table 4.1 of CLP Policy DM1.1. It is noted that although the appellant has sought to argue that the area could be considered urban, within paragraph 5.23 of their Statement of Case they agree the area is predominantly suburban in character.
17. The appellant argues that the appeal site is a sustainable location in terms of transport and so should be considered within a higher PTAL. The submitted Transport Statement (TS) states the nearest local centre is 30 minutes away by public transport and that the only facilities less than a 10 minute walk are the golf course and church. It does not provide any information on the nearest shop, which is likely one of the more regular local facilities occupants would walk too. Nor why 30 minutes is considered an appropriate time to reach other services, over and above the assertion that people are willing to commute up to 60 minutes. It also does not suggest what PTAL the site should be considered as.
18. As table 4.1 provides only 2 categories, PTAL 0-3 and PTAL 4-6b, and there is nothing to suggest the site is so well located to significantly exceed the Transport for London designation of PTAL 1b, I am satisfied for the purposes of FSH that the site be considered within category PTAL 0-3.
19. Within these parameters the proposal would provide 39% of the proposed dwellings as FSH. However, the policy requirement, as set out within CLP Policy DM1.1 would be 70%, and this is to support the Council's overarching strategic target of 30% for all new homes, as set out in CLP Policy SP2.7. I therefore

find that the proposal would significantly fail to provide an adequate contribution of FSH and there is nothing before me to justify this lower figure.

20. The appellant has referred to Appeal decision 3257791, which would provide 15 FSH out of the proposed 34 dwellings (approximately 44%), stating it would also constitute an undersupply. However, the decision to approve 3257791 turned on character and appearance alone, so family sized housing was not specifically discussed with that decision. Nevertheless, the provision within 3257791 is greater than that which is before me and so it's approval does not overcome or reduce the harm I have identified.
21. Consequently, I find that the proposed development would not provide an adequate contribution to FSH, contrary to CLP Policies SP2.7 and DM1.1.

Character and appearance

22. The appeal site is positioned on the corner between Beech Avenue and Purley Downs Road flanked on each road by a flatted block, Barrards Hall on Beech Avenue and Nos 14-25 along Purely Downs Road. It constitutes a large dwelling positioned broadly centrally along the boundary with Nos 14-25, with the rest of the site, in the main, left to garden with large areas of undergrowth and hedging around the edges.
23. The verdant character of the site is provided not only by the existing site layout, but by the abundant and mature trees along its boundaries, specifically those with Beech Avenue, Purley Downs Road and, to a lesser extent Barrards Hall, as well as those within the northern part of the site. All trees within the site are protected by a group TPO.
24. Although of some age the existing dwelling is not of specific architectural value nor is it visible within the street scene, as such its loss would not harm the character and appearance of the area. A conclusion the Council has also reached.
25. The proposal would constitute a single long and narrow building facing Beech Avenue. In the main it would be 4 storeys high with a pitched roof but would also include a 3 storey flat roofed element closest to Purley Downs Road. The position of the proposed building would be central to the site, and it would be almost completely encircled by a collar of hard standing providing access roads, parking and an external refuse and cycle store. The proposed building and hardstanding would dominate the site and significantly reduce the gap between it and the road facing boundaries and Barrards Hall. This would have a detrimental impact on the spaciousness and openness of the site and require the removal of numerous trees, specifically those along the boundary.
26. The proposed building would not be in proportion to the footprints of the adjacent flatted blocks. It would be of a design which is neither entirely in keeping with the local vernacular, either of the flatted blocks or singular dwellings, nor so different to evoke a complementary relationship with those surrounding buildings. In effect it would represent a large bulky form, with a somewhat languorously repeated design to the front and rear elevations relying on block changes in material and protruding balconies to add interest. An attempt to visually reduce the size of the proposed building by adding flat roofed elements to each end and covering the majority of the fourth storey in hanging tiles simply draws attention to the overbearing size of that proposed.

27. Therefore, I do not find the appearance of proposal would be appropriate to its surroundings. Nor do I find its visual and physical impact on the street scene by reason of its size, proposed proximity to the road boundaries and reduction in boundary trees, to be acceptable in terms of the overall character of Beech Avenue and this part of Purley Downs Road.
28. The appellant's Arboricultural Impact Assessment (AIA) states many of the trees proposed for removal are low quality or unsuitable for retention and a significant proportion of them would be along the boundaries of the appeal site. The AIA goes on to differentiate between the trees to be removed as those that would be removed for development purposes, and those which are unsuitable for retention.
29. Although there is some discussion of lost trees being replaced, there is no detailed tree replacement plan, and the proposed landscape plan appears to show only the trees that would be removed for development purposes. The removal of protected trees can be mitigated by appropriate replanting. However, in this case, due to the integral part the tree lined boundaries play in the landscape character of the area, I am not satisfied the proposed tree replanting in the landscaping scheme would be appropriate.
30. The proposal would significantly alter the ratio between built form and hard landscaping to open space and soft landscaping. It is proposed that half of the site would be hard landscaped which would be a significant increase to the current proportions, and out of character with surrounding plots. This would physically and visually reduce the existing verdant appearance of the site which would harm the landscape character of the area. It would also significantly reduce the potential space to incorporate new planting to provide suitable screening and softness to assist with the setting of the proposed building. This high proportion of hard landscaping would also put pressure on many of the trees proposed for retention by encroaching into their root protection areas.
31. I appreciate that conditions are commonly used to protect trees during construction and to secure details relating to hard and soft landscaping materials and installation methods. Nevertheless, in this case, due to the extent of the proposed hard landscaping and the lack of cohesion between the landscape plan and tree removal set out in the AIA, I do not consider conditions appropriate. I appreciate details of external materials could also be conditioned.
32. In relation to appeal 3257791, landscaping and impact on trees did not form part of the main issue, and without details of that scheme before me I am unable to make comparison in light of these matters. In relation to character and appearance, it is evident from my colleague's decision letter that the scheme proposed in 3257791, was similarly located to the existing building on site, retained much of the space between it and road facing boundaries with less impact on the trees within those boundaries and provide articulation in the design, thus taking account of the traditional nature of the site location.
33. My colleague's comments relating to the clear entrance and four storey height as being acceptable. Nevertheless, it is clear from their comments the proposed building of 3257791 would have a flat roof and that the entrance would face Beech Avenue. In the scheme before me the building would have a mainly pitched roof and the entrances would be at the rear. I am therefore satisfied that the scheme proposed in 3257791 is different enough to that

which is before me to warrant my consideration afresh of matters relating to character and appearance.

34. Consequently, the proposed development would significantly harm the character and appearance of area including the landscape character and trees protected by TPO. This would be CLP Policies SP4.1, SP4.2, SP7, DM10 and DM28, and LP Policies D3, G5 and G7, which amongst other things requires development of a high quality that respect and enhance Croydon's varied local character including its landscape and protected trees.

Fire safety

35. The need to ensure any new development, specifically multi-unit residential schemes, can be properly constructed and maintained, and that occupants can escape safely in the event of a fire should not be taken lightly. It should inform design at the earliest opportunity. As such major developments, like that proposed, should be supported by a Fire Statement, as set out in LP Policy D12 B.
36. The appellant has not submitted a Fire Statement, stating that one has been submitted with 21/06145/FUL. Nevertheless, had a copy of this been submitted it is unlikely that I would be able to give it any weight as it would not directly relate to the proposal before me. Consequently, the proposed development cannot demonstrate that any potential fire risk posed has been adequately mitigated.
37. The appellant has stated that because the Council has suggested a condition then this would be an acceptable course of action. However, as a matter which is pertinent to the safety of future occupants, to condition such information would be inappropriate.
38. Therefore, the proposed development could have a detrimental effect on fire safety, contrary to LP Policy D12 insofar as it seeks to ensure the fire safety of developments at the outset.

Living conditions

39. The proposal would provide 8 flats at ground floor level which would meet Building Regulation requirement M4(3) and be a mix of both affordable and market tenures. The appellant also confirms that the internal layouts of all the other proposed flats would be compliant with Building Regulation requirement M4(2).
40. The Planning Policy Guidance, Housing: optional technical standards¹, states that Councils cannot specify market houses to be wheelchair accessible under M4(2), only wheelchair adaptable. To that effect the appellant's position that the stairwells could be adapted to include lifts and ensure full compliance with Building Regulation requirement M4(2) is noted. However, they have confirmed affordable housing units would also be provided on the upper floors and as such these would need a lift to access them. Nevertheless, looking at the submitted plans, all 4 stairwells are set out with switch-back stairways with half landings, and it is not obvious how these could be adapted in the future to incorporate a lift without expanding the footprint of the building.

¹ Paragraph: 009 Reference ID: 56-009-20150327 Revision date: 27 03 2015

41. The supporting text for LP D7 also provides, at paragraph 3.7.6, some exceptional circumstances where in blocks of 4 storeys or less a lift may not be achievable. However, the proposal as a purpose built, large scale residential development would not meet those circumstances.
42. Turning to open space, the proposed communal open space would be provided around the edges of the site with the majority concentrated toward the Purley Downs Road boundary. That proposed around the other edges of the site would be relatively narrow and further constrained by the boundary trees, the proposed retaining wall, car parking, waste, and cycle storage. All of which would significantly reduce the useability of those areas to such an extent as to not be constitute viable, functional communal open space.
43. The section toward Purley Downs Road, notwithstanding the impact on trees as discussed previously, could provide a high-quality outdoor space. Albeit a reasonably small one for a development of the physical size and occupancy of that proposed.
44. However, the plans do not show the location of the play space required by CLP Policy DM10.4. Although such provision could be conditioned, the play space required would likely be considerable for a scheme of this size and I am not convinced that its inclusion could be achieved successfully without dominating the proposed communal outdoor space. Therefore, considering the mix of potential future occupants, both those with and without children, and taking a precautionous approach, I am not convinced that the amount of communal space proposed would be adequate to serve the needs of all future occupants.
45. The proposal would provide 31 flats all with either a private balcony, terrace, or garden. Private outdoor space is important allowing occupants the opportunity to access and enjoy the benefits of being outdoors securely and conveniently. To achieve such purposes private outdoor space needs to be of a reasonable size commensurate to the number of occupants likely to use it, as such CLP Policy DM10.4 sets out specific sizes for private outdoor space and this is reiterated within LP Policy D6.
46. The proposal would constitute a significant undersupply for 4 of the 6 largest flats and to a lesser extent an undersupply for a further 3 flats. On review of the plans, there does not appear to be a physical reason why the proposed balconies for the 7 flats are so small, and there is no justification as to why the majority of the flats with highest occupancies have such a significant undersupply of private outdoor space. I therefore find the small amount of private amenity space proposed for the 7 flats would be detrimental to the living conditions of future occupants.
47. The Council also has concerns relating to the proximity of the 8 ground floor private gardens to the parking and access roads through the site. Nevertheless, in all cases the size of those gardens would significantly exceed the minimum sizes in CLP Policy 10.4, and I am satisfied that any boundary treatments to ensure their privacy, whilst retaining an acceptably sized useable space, could be conditioned without impinging on the wider site layout.
48. Consequently, I find that the proposal would not be able to provide acceptable living conditions for all future occupants with specific regard to M4(2) standard accommodation, communal open space for the whole development or private open space for 7 flats. It would not comply with CLP Policy SP2.8 and LP Policy

D7 in relation to accessible housing, and CLP Policies DM10.4 and 10.5 and LP Policy D6 insofar as they relate to outdoor space provision.

On-site parking

49. The proposal would comprise 31 parking bays at a ratio of 1 space per proposed flat. Beech Avenue is a wide, straight road and there are no controlled parking zones within the vicinity of the site with on-street parking permitted except at road junctions.
50. For new developments CLP Policy DM30 requires that car parking levels do not exceed those set out in the LP and that existing on-street parking stress is not exacerbated. The maximum on-site parking requirement is 46.5 spaces according to the LP, and this is not exceeded by the proposal.
51. Due to the relatively limited access to services, as discussed previously, which would require multiple modes of public transport to access, and the lack of a proactive alternative to the private car, such as car club provision, it is likely the proposal would create some over-spill parking. This would take the form of future residents with additional vehicles and visitors.
52. Although my observations on site would suggest that Beech Avenue does not suffer from significant on-street parking stress to the detriment of highway safety, this is only a snapshot in time, so does not provide a definitive reflection of the on-street parking stress of the area. The appellant's TS does not include a parking stress test nor go as far as to consider what the potential over-spill parking would be for the proposal. Therefore, lacking any technical assessment, and taking a precautionary approach in relation to the amount of over-spill parking for a development of this size, I find that the proposal could have a detrimental effect on highway safety due increased on-street parking created by a lack of on-site parking provision.
53. I am however satisfied that suitable disabled parking and electric vehicle charging points could be included within the proposal and dealt with by condition. The UU also proposes to prevent parking permit application by future occupants; however, the nearby roads do not require parking permits for on-street parking. These would not therefore overcome the potential harm the proposal could cause to highways safety.
54. The proposal would not therefore provide adequate on-site parking. This would be contrary to CLP Policies DM29 and DM30, insofar as they seek to ensure the provision of on-site parking and highway safety.

Refuse storage

55. The proposal would include an external refuse storage area and the main parties agree the proposed quantum of provision would be adequate.
56. It would be located a significant distance from most of the proposed flats, requiring navigation around the outside of the building and across the main access road into the site. This would be a considerable distance for those in the southern part of the building, however for those on upper floors or in the northern part of the building this distance would be unacceptably long, akin to walking nearly the whole length of the site. The inconvenience this would cause for all occupants is unnecessary and could potentially make the regular use of these facilities untenable for those who are less able.

57. Although it is appreciated the proposed position would be more convenient for the refuse collection operatives, this does not mitigate the inadequacy of the location for future occupants. I therefore find the proposed refuse storage inappropriate, contrary to CLP Policy DM13, insofar as refuse storage should be treated as an integral element of a new development.

Cycle storage

58. The proposed cycle storage would also be positioned externally. It would, however, be centrally located and convenient for all future occupiers. There are discrepancies in the detailing of the internal layout of the proposed store to ensure all types of cycles could be stored, and a lack of visitor storage. I am satisfied there is enough scope within the site layout for this to be dealt with by condition. This part of the proposal would therefore comply with CLP Policy DM30, insofar as it relates to appropriate cycle storage.
59. The Council have also referred to CLP Policy DM29, which deals with sustainable travel and highway safety, which is not relevant to this issue.

Carbon zero

60. As with fire safety the environmental impact of a development proposal should be considered at an early stage and LP Policy SI 2 states major proposals should include an energy strategy to show how the carbon zero target would be met.
61. Within the planning application covering letter, the appellant states an Energy and Sustainability Statement by SRE would be submitted to support the proposal. The Council state it was not submitted, and the appellant has not submitted it at appeal, suggesting it could be conditioned.
62. Nevertheless, the appellant has set out a list of mechanisms, that would achieve a more than 35% reduction beyond those required by Building Regulations, and that it would include a communal heating system. In this instance appropriate information and implementation methods, including the feasibility of enabling for a district energy connection for that proposal, could be secured by condition.
63. Consequently, the proposal could provide sufficient information in relation to net carbon zero development in compliance with CLP Policy SP6.2 and LP Policy SI 2, insofar as they seek to minimise greenhouse gas emissions.

Other Matters

64. The submitted UU covers a series of other obligations broadly in accordance with the Council's Head of Terms, however the Council contests the detail of the obligations proposed. As I have found harm on the main issues, I have not considered these further. Nevertheless, they would be neutrally weighted as they are policy requirements for all major developments of this nature.
65. A lack of harm in relation to the demolition of the existing property, internal sizes of the proposed flats, neighbouring occupant's living conditions and air quality are neutral factors and so do not weigh for or against the proposal.

Planning Balance

66. It is noted that the Framework seeks to boost the supply of homes and make more efficient use of land in accessible locations. The proposal would provide a net increase of 30 homes in a reasonably accessible location. Along with the associated financial, economic, and social benefits, this contribution to the windfall element of the Council's five-year housing land supply attracts moderate weight, based on the number of houses involved. Limited weight is also given to the fact the proposal would provide some affordable housing.
67. Whilst I have found that the proposal could provide suitable cycle storage and constitute carbon neutral development. I have found harm regarding the number of affordable homes and FSH proposed, character and appearance, fire safety, living conditions of future occupants, on-site parking, and refuse storage. A general increase in housing provision should not come at the cost of these issues, a position supported by paragraph 130 of the Framework.

Conclusion

68. For the reasons above the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, that would indicate a decision otherwise. The appeal is, therefore, dismissed.

RJ Redford

INSPECTOR