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# 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**

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**Appeal Ref: APP/L5240/W/22/3298553**

**Hallinwood Bungalow, 46 Quail Gardens, South Croydon CR2 8TF**

- 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 Matthew Arnold of The Oakwood Group against the decision of the Council of the London Borough of Croydon.
  - The application Ref 22/00727/FUL, dated 11 February 2022, was refused by notice dated 20 April 2022.
  - The development proposed is described as the demolition of existing property and the erection of 8no. terraced dwellings with shared access from Quail Gardens, along with amenity space, drainage, infrastructure and other associated works.
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## Decision

1. The appeal is dismissed.

## Applications for costs

2. An application for costs was made by Mr Matthew Arnold of The Oakwood Group against the Council of the London Borough of Croydon. This application is the subject of a separate decision.

## Procedural Matters

3. Since the appeal was submitted, the Council have confirmed that the Croydon Suburban Design Guide Supplementary Planning Document has been revoked. It is therefore no longer a material consideration and I have disregarded it accordingly.
4. Within their final comments the appellant submitted further information to clarify elements of the existing case, including a revision to the site and floor plans, reference 6873-6873 PL-02 A, to correct a drafting error. This information does not alter the proposed development nor constitute new evidence. Nevertheless, to ensure adherence with the Wheatcroft principles the main parties have had opportunity to comment. Consequently, I am satisfied no party has been prejudiced by my consideration of this information.

## Background and Main Issues

5. Based on the information submitted at appeal, the Council has withdrawn its objections in relation to highway issues, including cycle storage and a lack of information relating to a tree protected by Tree Preservation Order. On review of the evidence and with no objections over and above those reiterated from the application stage, I am satisfied these issues have been resolved.

6. Although the appellant has submitted a Unilateral Undertaking (UU) including an obligation to provide sustainable highway contributions, they contest whether such a contribution is necessary.
7. Therefore, the main issues are whether the proposed development would a) provide acceptable living conditions for future occupiers with specific regard to daylight, sunlight, and outlook for the rooms within the roof space, and external and internal layout; b) require a sustainable highway contribution; and c) the effect of the proposed development on the character and appearance of the area.

## **Reasons**

### *Living conditions*

8. The proposal would create 8, two-storey, 4 bedroomed properties with accommodation in the roof spaces. The internal layouts of all 8 properties would be similar, notwithstanding the accessible design of proposed house 1.
9. For proposed houses 1, 2, 6, 7, and 8 the plans show private gardens equitable to or larger than those of the existing nearby terraced properties. However, for houses 3, 4 and 5 the gardens would be considerably smaller. Their cramped and enclosed nature would be exacerbated by their northerly aspect, which would mean they would likely be shaded for large portions of the day. As such their small size and layout would provide less functional and oppressive spaces compared to the other proposed gardens, and this would be to the detriment of the living conditions of future occupants.
10. The proposed roof space accommodation would constitute a bathroom and 2 single bedrooms. Each bedroom would have one rooflight. As shown on the plans, the majority of the rooflights would have built-in wardrobes on both sides. This would partially enclose them and limit the diffusion of daylight and sunlight into the associated room. For the proposed rear facing rooms the rooflight would be within the northerly roof slope. This position along with the proximity, density, and height of the trees immediately to the north and east of the site, could likely further reduce the level of sunlight for occupants of those rooms.
11. The appellant has submitted some general information which supports the use of rooflights, as well as an opinion from Consil Limited relating to sunlight and daylight. This gives some clarification to the sizing of the proposed rooflights and sets out technical requirements in terms of light accessibility. However, it falls short of assessing the daylight and sunlight for the roof space bedrooms. Therefore, without a specific technical assessment, I am not satisfied the evidence demonstrates that the proposal would have an acceptable effect on the daylight and sunlight conditions relating to the proposed roof space bedrooms.
12. Although not optimal, the proposed rooflights would be positioned low enough within the roof slope to allow a partial but adequate outlook for those standing within the rooms. Notwithstanding this and due to the potential lack of light, I am not convinced the proposed roof space bedrooms would provide acceptable living conditions for future occupants.
13. Eleven schemes have been identified in the borough, where rooflights have been considered acceptable. 7 show multiple rooflights / windows per room so

are not comparable. Of those remaining only limited details have been submitted, so I am unable to compare them directly with that which is before me.

14. On review of the plans, and notwithstanding the harm found in relation to the rooflights, I am satisfied that the proposed internal floorplans would provide adequately sized rooms in logical and usable layouts for the future occupants.
15. The lack of harm to future occupants in relation to ventilation, daylight for rooms on the ground and first floor, privacy and the avoidance of overheating is noted. However, a lack of harm is a neutral factor so cannot weigh for or against the proposal.
16. Consequently, the proposed development would not be able to provide acceptable living conditions for future occupiers with specific regard to daylight, sunlight, and outlook for the proposed rooms within the roof spaces, and the external layout. It would conflict with Croydon Local Plan 2018 (LP) Policy DM10 and London Plan 2021 Policies D4 and D6 insofar as they seek to protect the living conditions of future occupants of new residential developments.

#### *Sustainable highway contributions*

17. The Council have stated that it would be necessary to secure £1500 per unit toward improvements in sustainable transport.
18. LP Policy SP8 seeks to strategically broaden sustainable travel choices, requiring developers to provide new and improved cycle infrastructure and appropriate cycle storage within new developments, as well as contribute to the provision of electrical vehicle charging infrastructure, car clubs and car sharing scheme. LP Policy DM29 promotes sustainable travel to reduce congestion, with the supporting text stating new development should include measures to ensure good access to public transport and the main pedestrian and cycle routes through the borough. London Plan Policy T4 states where appropriate mitigation either through direct provision or financial contribution will be required to address adverse transport impacts that have been identified.
19. The proposal would provide adequate provision for cycle use, on-site electrical vehicle charging infrastructure could be conditioned, and no adverse transport impacts have been identified which would not be mitigated for by the Community Infrastructure Levy. It is appreciated there is no proposed provision for car clubs or car sharing schemes for future occupants, but equally there is nothing before which states this cannot be provided on site and must be provided for by financial contribution.
20. On the information before me, I find that the requirement to pay a sustainable highway contribution is not adequately justified and the proposal would comply with LP Policy DM29 and London Plan Policy T4. Nevertheless, as the proposal does not address the provision of car clubs or car sharing for future occupants, I cannot find the proposal compliant with this element of LP Policy SP8.

#### *Character and appearance*

21. As part of a large suburban residential estate which follows the undulations of the land, Quail Gardens sits at the bottom of a hollow. It has mainly two-storey, semi-detached dwellings along one side and a largely tree planted buffer sloping up toward Selsdon Wood on the other. This part of Selsdon Wood

- is dense and follows a steep slope up and away from the estate creating a verdant backdrop and a defined edge to the area.
22. The appeal site sits within the buffer and is situated at a higher level to the adjacent buildings, sloping up and back toward Selsdon Wood. It constitutes a single storey detached dwelling set back from the road with only limited landscaping, which is at odds to the pattern of development surrounding it. Adjacent to the site, also within the original buffer area are 2 terraced rows of two-storey dwellings. These follow the slope of the land but are clearly at a lower level to the woodland beyond.
  23. Public footpaths run along the 2 sides of the appeal site providing access into and through Selsdon Wood. Although the existing boundary fencing reduces view over the appeal site to glimpsed views of roof tops. This emphasises the defined edge of the estate, dividing it visually and physically from Selsdon Wood.
  24. The proposal would introduce a third terrace, positioned broadly in line with the adjacent property, 44 Quail Gardens. The proposed terrace would be broadly parallel to the existing 2 terraces, providing dwellings of a similar footprint, size, density, and layout. As such, although they would be different in design to much of the associated residential estate, they would be commensurate to a form and composition of properties already considered appropriate to the area. Thus, the proposal would represent an existing and accepted development pattern and layout.
  25. The choice of proposed materials would relate well to those used in the area. Whilst their configuration may be less traditional and the detailing not identical to the immediate properties it would represent a modern interpretation of the surrounding suburban vernacular.
  26. No finished site or floor levels have been submitted. However, I am satisfied from the evidence before me that the intention is for the height of the proposed building to be in line with the height of the existing terraces, and site conditions would allow appropriate ground works to achieve this. As such levels and heights, in this case, could be conditioned.
  27. The existing boundary fencing means there are only limited views across of the site from Selsdon Wood. Due to the site levels, proposed boundary treatments and location of the building, the similarity in height to the existing terraces, the proposal would not significantly alter these limited views. Similarly, in wider views from the higher parts of the estate toward Selsdon Wood, the steepness of the slope beyond the site would ensure the mature verdant character of the woodland would still be visible above and around the proposal. This would retain the natural and wooded context this part of the residential estate enjoys.
  28. The position of the proposed development behind the existing terraces would remove any significant impact on views along Quails Garden. For the properties closest to the appeal site, the proposal would be visible. However, as it would broadly follow the building line created by No 44, views of Selsdon Wood would still be available along the proposed access road.
  29. Consequently, I find that the proposal would not represent a form of development uncharacteristic to its surroundings or the context of the appeal site. Nor would it harmfully impact the visual amenity of the immediate or

wider area. The fact the proposal would be visible does not in itself mean the development is inappropriate to its location. The bulk of the proposal would not be more apparent than the existing terraces. It would create a clear and defined conclusion to the development along this part of Quail Gardens within the distinct boundaries already created with the woodland.

30. The proposed development would not, therefore, have a harmful effect on the character and appearance of the area. It would comply with LP Policies SP2 and DM10, and London Plan Policy D4 insofar as they seek to ensure residential developments respect local distinctiveness and design quality.
31. The Council has also referred to London Plan Policy D8 which deals with the provision of new public realm. Although there is potential the proposed parking area to the front of the proposal could constitute publicly accessible space, I find this policy to have little bearing and so is not determinative in my decision.

#### *Other Matters*

32. The main parties refer to a section 52 agreement which may or may not be extant and need varying if permission were to be approved. Either way, they agree that if necessary, and not already done, it likely could be discharged appropriately.
33. The lack of harm to the occupants of neighbouring properties does not weigh for or against the proposal as it is a neutral factor.

#### *Planning Balance*

34. It is noted that the National Planning Policy Framework (the Framework) seeks to boost the supply of homes and make more efficient use of land in accessible locations. The proposal would provide 8 homes on a site suitable for residential use and in a reasonably accessible location. This along with associated economic and social benefits contributing to the windfall element of the Council's five year housing land supply would attract modest weight based on the number of houses involved. The proposal would also not harm the character and appearance of the surrounding area. However, an absence of harm is neutral in the planning balance.
35. Nevertheless, I have found harm regarding the living conditions of future occupants and a lack of alternative transport options, housing provision should not come at the cost of such matters, a position supported by paragraphs 110 and 130 of the Framework.

#### **Conclusion**

36. For the reasons given 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