



# Appeal Decision

Site visit made on 15 November 2022

by **Stewart Glassar BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 12 DECEMBER 2022**

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**Appeal Ref: APP/L5240/W/22/3293208**

**34 Woodmere Avenue, Croydon CR0 7PB**

- 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 Robb Allen (Clifford Blackmore Investments Ltd) against the decision of the Council of the London Borough of Croydon.
  - The application Ref 21/02212/FUL, dated 23 March 2021, was refused by notice dated 21 January 2022.
  - The development proposed is the demolition of the existing property and the erection of two storey terraced houses with accommodation in the roof space, comprising six dwellings with six off street car parking spaces.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Since its original decision the Council has revoked the Suburban Design Guide Supplementary Planning Document. Accordingly, I make no further reference to it in this appeal.

## Main Issues

3. The main issues are the effect of the proposed development on a) the character and appearance of the area; b) the living conditions of neighbouring occupiers, with particular regard to loss of outlook and overlooking; c) the living conditions of future occupiers, with particular regard to external space, access and fire safety; d) trees; e) biodiversity; and f) sustainable transport.

## Reasons

### *Character and Appearance*

4. The appeal site is a detached bungalow set within a sizeable plot. The front of the property faces towards Piper's Gardens, a cul-de-sac of detached bungalows, although it is accessed from Woodmere Avenue. The immediate vicinity is largely characterised by one and two storey buildings finished in either brick or render with red/brown roof tiles. Properties are generally detached and sit within good sized plots, many of which are landscaped or have boundary planting. Both Woodmere Avenue and Piper's Gardens have verdant and spacious characters, albeit Piper's Gardens is more intimate given the heights of buildings, narrowness of the road itself and the absence of a public footpath.

5. The proposed development would result in two blocks each of three houses. The buildings are ostensibly designed to appear as two storey buildings, with accommodation in the roof space. However, in order to provide each unit with 3 bedrooms, the buildings are just over 10m in depth, use a half hip roof design and are served by dormers to both the front and the rear elevations. All of this contributes to the scale and massing of the buildings.
6. A further consequence of the size and number of units is that the rear gardens are generally much smaller than those which characterise the area. The limited space around the buildings also mean that cycle/bin stores need to be positioned prominently across the front of the site, adding clutter to the prevailing spacious character of the area.
7. Whilst the proposed buildings would be of a similar height to properties in Woodmere Avenue, and No.32 in particular, it is the bungalows in Piper's Gardens, to which they would have the greatest visual relationship. The northern building would be just over a metre from the boundary with No.5 Piper's Gardens which itself is positioned close to this shared boundary. This proximity accentuates the visual conflict between the scale and appearance of the existing and proposed buildings. Although the houses would be set back at least 4.8m from their site frontage, given their scale, massing and design, the buildings would nevertheless present as large and dominant structures that would be disruptive to the established Piper's Gardens street scene.
8. I acknowledge that half hip roofs are not a completely alien feature within the area. I also note that there are other properties in Woodmere Avenue, some of which appear to be recent developments, that have clearly been designed to give the appearance of being two storeys but with further accommodation in the roof. They generally appear as corner plots, set within a more varied setting and with sufficient space around them so as not to dominate neighbouring buildings or the street scene. As such, they appear to assimilate acceptably in terms of their design and do not, based on what I have seen, harm the character and appearance of the street scene in the same way the appeal proposals would. They do not therefore lead me to allowing the appeal.
9. Local Plan policies encourage increased densities and building heights for new housing, in order to ensure land is used efficiently and meets growing demand, which is also encouraged by the National Planning Policy Framework (the Framework). It is accepted that there will be consequential changes on established environments as a result. However, such development must still respect, and have regard to, the prevailing pattern and qualities of the area, in order to ensure such changes are not harmful. In this instance, it appears to me that the scheme does not pay sufficient regard to the prevailing character and appearance of the area, and Piper's Gardens in particular. As a result, I have found the proposed development would appear harmful to the character and appearance of the area.
10. Accordingly, the proposal is contrary to Policies D4 and D8 of the London Plan and SP2, SP4 and DM10 of the Croydon Local Plan (LP) which, amongst other things, seek to ensure new development respects the design and appearance of existing buildings and is sympathetic to the local environment and character.

*Living Conditions - Neighbours*

11. The proposed buildings would be just over 1m from the rear boundary of No.32 Woodmere Avenue, a recent development of 7 flats. The flank wall of the proposed building would not contain any windows. As such there would be no overlooking or loss of privacy for these existing residents.
12. The side elevation would be some 15m from the rear elevation of No.32. Therefore, whilst the proposed building would clearly be evident from the rear windows of No.32 given its scale, it would not be so close as to harm the outlook from these windows. However, at just over 1m from the boundary with No.32, the nearest proposed building would be a dominant and imposing structure when viewed from the communal gardens. The effect would be to dominate the northern outlook, harming the living conditions of these neighbours when in this communal area.
13. There is said to be 10.8m from the front elevation of the proposed dwellings to the kerb line in front of 1 and 2 Piper's Gardens, with these existing properties set a further 4-5m further back. The new houses would undoubtedly be prominent structures, visible to these neighbours when in their front rooms. The outlook would change and there may be some loss of light given the scale of built form opposite. However, given the distances involved I am satisfied that this would not be so great as to warrant rejection of the scheme.
14. The rear elevations of the new units would be between 4.4m and 5.43m from the site's rear boundary, which forms the side boundary to the rear garden of No.30 Woodmere Avenue. The rear elevation of each new unit would have two windows at first floor level and an obscurely glazed dormer at roof level.
15. The nature of the area indicates that there is a degree of mutual overlooking of rear gardens. However, the orientation and proximity of the proposed buildings relative to the neighbour's garden, as well as the number of windows, would not be reflective of the area. Indeed, these factors would at the very least lead this neighbour to feel that their rear garden was being overlooked. Even allowing for the dormers being obscurely glazed, the overall effect would be unneighbourly and unacceptable.
16. It is suggested that because the first floor rooms are bedrooms, there would be no harmful overlooking of the neighbour's garden. Whilst these rooms would not be the main living area to each house, it is nonetheless a habitable room. Given that this is accommodation that could be occupied by a family, a bedroom might not necessarily be used only at night. Thus, it being bedroom windows on the first floor that would overlook the neighbour's garden does not mitigate the unacceptable harm that would arise. Thus, regardless of the perception of overlooking, the actual overlooking that would occur from the development would be harmful.
17. Overall, I find that the proposal would cause harm to the living conditions of neighbouring occupiers. It would therefore be contrary to Policies D3 and D6 of the London Plan and Policy DM10 of the LP which, amongst other things, seek to ensure developments have regard to neighbours and that they are not overlooked nor that their amenity is harmed.

*Living Conditions – Future Occupants*

18. Each new dwelling would have a small rear garden. Given the nature of the accommodation proposed, it is reasonable to conclude that the rear gardens are likely to be used for a variety of activities including sitting out/dining, play area, drying washing etc.
19. Although the rear gardens provide sufficient area to meet the spatial requirements of Policy D6 of the London Plan and Policy DM10 of the LP, criterion (a) of Policy DM10.4 also requires the space to be of a high quality design that also enhances and respects local character. I have already noted that the amount of rear garden space does not respect the area's character.
20. Furthermore, given the size of each garden and in particular the narrowness compared to the prevailing character, each rear garden would be more intensively overlooked and less private than others in the area. As I have noted elsewhere, the proposed dwellings would potentially be available for family accommodation, but the size and configuration of the gardens would be likely to be insufficient for the range of uses that a family may reasonably require. Therefore, notwithstanding that the development provides more than the minimum amount of space required, that space is not of a high quality and does not enhance or respect the local character.
21. Piper's Gardens is not currently served by a public footpath. Future residents would therefore have to walk in the road if they wished to reach Woodmere Avenue on foot. The proposed development would more than double the number of dwellings using the cul-de-sac. Thus, an increase in both the number of vehicles using the road and the number of people having to walk in it seems likely.
22. I accept that the overall numbers would remain relatively low even with the development and given the nature of the road vehicles speeds would be likely to be low. Therefore, there may not be a highway safety issue. Whilst the lack of footpath is clearly not a positive aspect in favour of the scheme, I am satisfied that given the above and the relatively short distances involved, it would not be so harmful to the living conditions of future occupiers to be contrary to Policies D5 and D7 of the London Plan, which seek to ensure housing is designed to be accessible.
23. Having regard to the fire safety measures that could be incorporated into the construction of the building I am satisfied that, subject to appropriate conditions, the proposal could meet the requirements of Policy D12 of the London Plan in respect of fire safety.
24. In conclusion, my judgement on this matter is that whilst the proposal would not be contrary to development plan policies in respect of accessibility and fire safety, the proposal would not provide suitable garden space for the units. This would harm the living conditions of future occupiers and thus be contrary to Policy DM10 of the LP which, amongst other things, seeks to ensure such space is of high quality design, and enhances and respects the local character.

*Trees*

25. Whilst the trees on the site are not formally protected, they provide some visual amenity and contribute towards the character of the area. It would

therefore be appropriate to ensure as best as possible that any redevelopment safeguards their long-term health and retention.

26. The proposal would result in the loss of a yew tree (T2) on the site's boundary with Piper's Gardens. A pine tree (T3) further along this boundary would be retained. The proposed houses would not be within the root protection zone of T3.
27. There is dispute between the main parties as to the condition and value of both T2 and T3. Nevertheless, they currently make a positive contribution to the character of the area although I accept that they might benefit from some active management. Even allowing for some pruning, T3 would still be a prominent and positive feature within the street scene. Indeed, given this and its proximity to the only window serving the kitchen area of unit 3, it is likely to cause some interference with both outlook and light to this window. The tree's canopy would also be likely to encompass the bin stores of Units 3 and 4 and the parking space of unit 3. Any leaf or twig fall is likely to affect with these areas.
28. It therefore seems to me that there would be a real prospect of pressure from future residents for the removal of T3 given how the scheme would be laid out around it. Although the landscaping details suggest other trees would be planted on the site's frontage, these too appear to be positioned in close proximity to bin stores, cycle storage and parking spaces. Therefore, notwithstanding any planning condition, it is not clear that these trees would be retained or thrive in the medium or longer term.
29. Given the loss of T2, the likely pressure on T3 and the absence of reasonable alternative tree planting, the proposal would not protect or enhance the site's arboricultural character or its contribution to the wider area. In this respect the proposal would be contrary to Policy DM28 of the LP.

#### *Biodiversity*

30. The planning application was accompanied by a Preliminary Ecological Assessment (PEA). The PEA notes that it was not undertaken within the bird breeding season and no internal inspections of buildings were possible.
31. The timing of the survey reduced the likelihood of breeding birds being recorded. However, the PEA notes that the nature of the habitat on site would potentially be attractive to breeding birds, which in turn could affect the timing of any construction on site.
32. Similarly, given that building 1 (the existing bungalow) was identified as having moderate suitability for bat roosts, but no internal inspection was possible, bats being on site was not discounted. Indeed, despite the absence of evidence of previous bat activity, further survey work was recommended.
33. It is suggested that the PEA does not specifically state that the surveys should be undertaken prior to determination. Furthermore, given the findings of the PEA it is suggested by the appellant that there is not a reasonable likelihood of the species being present.
34. However, it seems to me, based on the findings of the PEA above, plus the fact that the PEA noted the site to have moderate suitability for foraging and commuting bats, that there is as reasonable likelihood of the species being

present as not being present. That the planning application was submitted prior to any further work being undertaken does not invalidate the need for any additional surveys. The PEA does not appear to me to be sufficiently detailed or definitive to make the likelihood of bats on site an unreasonable prospect.

35. Clearly delay and expense should be avoided in requiring unnecessary surveys. However, in this instance, without such further survey information prior to a substantive decision, it is not possible to know whether there is a reasonable prospect of bats being on site. If there are bats on site, this survey work would also help to inform what, if any, mitigation and/or compensation measures might be proportionate and need to be incorporated into any conditions, were the appeal to be allowed.
36. I am therefore unable to conclude that the proposal would not adversely affect the biodiversity of the site. Accordingly, the proposal would be contrary to Policy DM27 of the LP which, amongst other things, requires proposals to not have an adverse impact on species or their habitat.

#### *Sustainable Transport*

##### Electric Vehicle Charging

37. Four of the six houses would have a parking space immediately adjacent to the front elevation of the house. As such it would be practicable for there to be electric vehicle charging points incorporated within the construction of these units. This matter could be secured through a planning condition.
38. However, the remaining two spaces would not be in front of the units they serve, and it is not clear that cables running from the units to these spaces would be a practicable solution. It is similarly unclear whether there is room for free-standing charging points to be installed for these spaces. I must therefore conclude that the proposal would not enable the future provision of electric charging points for all units and would therefore be contrary to Local Plan policy DM30 which, amongst other things, requires such provision.

##### Disabled parking

39. London Plan Policy T6.1 states disabled persons parking should be provided for new residential developments (only setting a minimum quantum of provision for developments of 10 or more units). I am therefore satisfied that some consideration of disabled persons parking would be required for the proposed scheme that is before me.
40. It appears that spaces 1-5 would offer a 1.2m wide area to the side of each space. Space 6 would not benefit from such an area extending along the full length of the space. The submitted drawings indicate a 1.2m wide path across the front of the appeal site but not all of it appears to be within the red line. Even if I were to conclude that this issue could be addressed by a Grampian condition, such that the path might provide a zone for boot access, it would not assist spaces 1, 3 and 5. These spaces would require a disabled person to reverse park in order for there to be a usable 1.2m area to the side of the parking space. However, this would not then appear to allow for boot access, unless the car were parked across the footpath at the front of the site.
41. Therefore, it does not appear evident to me that the layout and arrangement of parking spaces has had particular regard to the design guidance for disabled

persons parking. However, provided the path at the front of the site were constructed, it appears that spaces 2 and 4 would be suitable for disabled persons. Given the scale of development, I am satisfied that this level of provision would be acceptable in this instance. On this basis the proposal would accord with the provision of disabled persons parking under Policy T6 of the London Plan.

#### Cycle parking

42. Policy DM30 of the Local Plan seeks to ensure that cycle parking is designed so that it is secure but can also be used for parking mobility scooters and motorcycles. Policy DM29 of the LP seeks to promote sustainable growth and therefore promote measures to increase amongst other things, cycling. London Plan Policies T5 and T6 similarly seek to promote sustainable transport and ensure appropriate levels of secure and well-located cycle parking are provided.
43. Unit 5 would have its cycle storage set in front of the dwelling. Unit 2 is shown as having its cycle storage within the rear garden but the only access to the rear garden is through the house.
44. I have already noted a concern in regard to the storage for unit 5 having an adverse visual effect on the area. Its position as the furthest forward structure within the site and where it could be seen from close to the junction with Woodmere Avenue, suggests it is in something of a vulnerable position.
45. Whilst the storage provision for unit 2 only being accessible via the internal accommodation reduces its attractiveness for securing cycles, it would seem to make it very unlikely that it would be used for motorcycle storage.
46. In neither case does it appear that the provision of these facilities has been undertaken with a view to seeking to promote sustainable growth or transport, which is the overall policy objective. Instead, it appears that they have been provided to meet a threshold regardless of whether they are a practical solution. In this respect the layout and provision does not accord with the objectives of Policies DM29 and DM30 of the LP.

#### Legal Agreement

47. The Council has required a contribution of £1,500/unit towards improvements to sustainable transport measures, with each household required to have membership of a car club for 3 years.
48. It is not clear on what basis this request is made nor how the figures have been determined. Whilst I have found the cycle parking and EV charging to be deficient it is not clear to me that the provision of a financial contribution or car club membership would overcome these concerns. Based on the evidence before me, I am not satisfied that the need for a legal agreement securing a financial contribution and car club membership has been demonstrated and would be appropriate in this instance.
49. In this specific respect, I do not therefore find the proposal contrary to Policies SP8 and DM29 of the Local Plan or Policy T4 of the London Plan.

### Findings

50. Overall, I do not find that the proposal would provide suitable electric vehicle charging or appropriate cycle parking provision for future occupiers such that the development as a whole would accord with the development plan's objectives of promoting sustainable transport. Accordingly, the proposal is contrary to Policies T5 and T6 of the London Plan and Policies DM29 and DM30 of the LP.

### **Other Matters**

51. I note the Council's concerns regarding the unknown ownership of a strip of land that is outside the site edged red but necessary for the site to connect to the highway. As I am dismissing the appeal for other reasons it is not necessary for me to consider whether a Grampian condition would sufficiently address this matter.
52. It is said that there are a number of issues on which there is common ground between the main parties. These include matters of fact, as well as the development meeting particular aspects of policy, guidance or advice. However, such matters do not mean that the current scheme is acceptable and does not in any event absolve me from making an assessment as to its effects in regard to the main issues of the case.

### **Conclusion**

53. The Government's objective is to significantly boost the supply of housing and the proposal would provide a net increase of five dwellings with adequate access to services. The proposal would also accord with the Framework's support for windfall sites. Given the scale of the proposal, the provision of these additional houses and their social benefits would attract moderate weight. The scheme would also lead to some, albeit time-limited, economic benefit during the construction phase, such as extra local employment.
54. Conversely, I have found harm in relation to the effect of the proposed development on the character and appearance of the area, on the living conditions of neighbours and future occupiers, as well as the trees on site. The development would also fail to secure suitable EV charging, cycle storage or take sufficient account of the possibility of protected species on site. These harms would be considerable, long lasting and unlikely to diminish over time. As a consequence, they are worthy of substantial weight that would outweigh the benefits associated with the proposed development.
55. The proposal would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

*Stewart Glassar*

INSPECTOR