



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

Appeal Ref: APP/L5240/W/22/3294658

Land Rear of 48-50 Sydenham Road, Croydon CRO 2EF

- 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 Lovelace Poku (Sterling Rose Homes) against the decision of the Council of the London Borough of Croydon.
 - The application Ref 21/05272/FUL, dated 7 October 2021, was refused by notice dated 12 January 2022.
 - The development proposed is the construction of three storey building accommodating seven self-contained residential homes with associated cycle parking, refuse storage and landscaping (following demolition of existing garages).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the original decision the Council has revoked its Suburban Design Guide Supplementary Planning Document. Accordingly, I make no further reference to it in this appeal.
3. The appellant has produced a Unilateral Undertaking (UU) which seeks to remove future resident's access to parking permits, and thereby ensure the development is car free. I return to this issue below.

Main Issues

4. The main issues are the effect of the proposed development on the character and appearance of the area; b) the living conditions of neighbours including the neighbouring nursery operation, with particular regard to outlook and overlooking; c) the living conditions of future occupants, with particular regard to outlook, private space, access, accessibility, security and fire safety; and d) site layout with particular regard to refuse provision, cycle storage, delivery/servicing and highway improvements.

Reasons

Character and Appearance

5. The proposed building would be sited to the rear of Nos. 48 and 50 Sydenham Road, taking its access to the side of No.48, adjacent to the boundary with No.50. There are a number of other buildings which have similarly been built or are under construction to the rear of existing properties on Sydenham Road.

6. The proposed brick building would be three storeys in height, with the flat roofed upper floor being set back from the front and rear and would be finished in metal cladding. Whilst the proposed development is on a much smaller scale than that taking place at No.52 Sydenham Road, there is a visual relationship between the two sites. As such, the development of a three storey building on the appeal site would not, in principle, appear to be entirely out of keeping given the overall height and scale of neighbouring built form.
7. However, whilst the design of the building itself has sought to take some references from the surrounding context, the composition of the rear elevation in particular is poor. Given the limited depth of the site and proximity to the site's rear boundary, the rear elevation necessarily comprises high level windows. As a result, that elevation would present as a large expanse of brick and metal cladding, with little relief or articulation.
8. The front elevation would contain large expanses of glazing as well as railings. It is more composed and more in keeping with the design and appearance of the newer neighbouring buildings.
9. The building would be visible from the street in the same way other such developments are glimpsed between frontage buildings. Thus, whilst visibility within the street scene would be limited, the building's rear elevation would be visually jarring in views from neighbouring properties. Whilst such views would be private, this would not diminish the harm that would occur and would be a legitimate matter of public interest. Given the scale of the building, the overall result would be harmful to the character and appearance of the area.
10. I therefore find that the design of the building and its appearance would not integrate successfully or make a positive contribution to the character or appearance of the local area. That the building would back onto land which currently contains garages and has no proposals for redevelopment, does not alter my conclusions in this regard.
11. Accordingly, the proposal would be contrary to Policies D4 and D8 of the London Plan (LP) and Policies SP2, SP4 and DM10 of the Croydon Local Plan (CLP) 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.

Neighbours

12. The proposed building would be to the rear of No.48. I acknowledge that this is a children's nursery and therefore it does not have quite the same considerations as a residential property. I also note that the window-to-window distances are in excess of 22m and therefore a loss of privacy to the nursery's internal accommodation is unlikely. Similarly, I have no reason to believe that it would block light to the rear of the building or play area.
13. However, the building's position, height and the extent of glazing on its front façade would directly overlook the play area of the nursery. In this sense the proposal would represent an intrusive structure. Given the intervisibility and overlooking that would arise, I am satisfied that this relationship would have a harmful and unneighbourly effect on the nursery.
14. The appeal site would be accessed via an existing pedestrian path to the side of No.48. From my observations on site, the path did not appear overly narrow or

restricted. Given the potential level of occupancy of the new flats, those within the nursery may notice the associated comings and goings. There may also be an increase in the number of associated deliveries etc. to service the flats. However, this does not mean that such activity would necessarily generate a level of noise or other disturbance that would harm the current nursery operations or those residents of the neighbouring property. I have no substantive evidence before me to demonstrate specifically how such usage would directly lead to adverse effects arising.

15. My overall finding is that the proposal would cause overlooking that would be harmful to the nursery operation at No.48. The proposal would therefore be contrary to Policies D3 and D6 of the LP and Policy DM10 of the CLP which, amongst other things, seek to ensure developments have regard to neighbours and that they are not overlooked and that their amenity is not harmed.

Future Occupants

16. Whilst I would discount much of the area to the side and rear of the building from any calculation of usable garden area, it appears that the balcony areas alone would meet the required space requirements.
17. Whilst the units have all been provided with a balcony type area, the outlook from the recessed balcony area serving Flat 1 would be particularly poor, looking out directly onto the communal bike store and refuse & bulky goods store. The balcony areas of the other ground floor flats would have limited privacy and separation from the footpath in front of the building.
18. Similarly, the communal play area would be positioned somewhat inconveniently as one approaches the building. It would also be sited directly in front of the entrance to Flats 3, 4 and 5, the units least lightly to be occupied by families. An informal communal soft landscaped area is also provided. Notwithstanding the size of these areas, the constraints of the site and the proposed building prevents either of these spaces from being sympathetically integrated into the layout.
19. As noted above, windows on the rear elevation would be at high level. As a result, the flats would generally only be single aspect. Some of the accommodation to the rear would have a sense of enclosure and thus not be attractive environments in which to spend much time.
20. A sunlight and daylight report has been submitted in support of the proposal. Many of the rooms would meet British Research Establishment guidelines. For many of those that do not meet the guidelines, it is said that this is because the windows are shielded by balconies above them. Whilst the inclusion of outdoor space for residents can be a benefit, it would not outweigh the harm caused to the living environment of other occupants through poor levels of natural light.
21. The appellants have indicated that walls would be painted white, and carpets would be light in colour, but these are not matters that could be controlled through the planning process.
22. It has also been suggested that windows could be made larger but obscurely glazed. Notwithstanding the fact that an appeal is not a forum in which to evolve a scheme, there are no details provided and neither the Council nor interested parties have had an opportunity to comment. Therefore, I must

make my decision based on the drawings considered by the Council when they determined the application.

23. No accessibility details were provided with the application. However, the route to the dwellings would be flat and access would appear to be step-free from Sydenham Road. The applicant has indicated that the dwellings would be constructed in accordance with Building Regulation and there is no evidence to indicate that the proposal would not be able to meet these requirements or M4(2) in particular. Given that such matters could be controlled by condition, I accept on balance that the building could be made to be accessible and thus comply with Policy D7 of the LP
24. Having regard to the fire safety and building/site security measures that could be incorporated into the construction of the building I am satisfied that subject to appropriate conditions the proposal could meet the necessary policy requirements in respect of these matters. As such, in respect of fire safety the proposal would not be contrary to Policy D12 of the LP.
25. Whilst some aspects of the proposed development would be acceptable, these do not outweigh the overall harm that would result to the living conditions of future occupants. As such, I find the proposal contrary to Policies D5 and D6 of the LP and Policy DM10 of the CLP which, amongst other things seek to ensure that developments are of a high-quality design and provide spaces that respond to the needs of future occupiers.

Site Layout

26. The access through to the building would be via the existing forecourt to the nursery at No.48. This land is within the appeal site and therefore could be subject to conditions for it to be maintained and protected as a footpath. There has been no indication as to what, if any, the consequential adverse effects would be on the nursery parking. Similarly, I am not aware that the provision of a dedicated footpath would be counter to any prevailing planning conditions on the nursery site.
27. I acknowledge that the access to the flats is long and that part of it would be enclosed, where it runs adjacent to the side elevation of No.48. However, if it were to be formally laid out with paving as shown on the submitted drawings and if low level lighting were installed, the environment and route would not necessarily be unattractive or unsafe, particularly if the existing security gate were retained. Such matters could be controlled through conditions.
28. The proposed cycle storage would be partially enclosed although open at the front. If the existing security gate is retained, then this could provide sufficient security for the cycles. Alternatively, a revised cycle store with closed front could be secured through a condition. As the proposed level of cycle parking exceeds what is required, it seems to me that some of this could be replaced with provision for ambient cycle users and secured through a condition if deemed necessary.
29. Whilst the appeal site does not have a dedicated area for matters such as deliveries, there are other properties in Sydenham Road which also lack such facilities. The Council has not indicated in what practical way this might harm the existing residents at No.48 or effect the wider area.

30. The main parties disagree on whether refuse being collected via No.52 could form part of the proposal. I note that the Council do not appear to consider this an unacceptable solution in principle, and I see no reason to disagree in this respect. Similarly, I have no reason to doubt the appellant's claim that they have a right of access across No.52, which suggests that there is a real prospect of them being able to bring this option to fruition. In such circumstances a negatively worded condition could potentially address the matter regardless of the land being outside the appeal site.
31. The Council has referred to an absence of sustainable highway improvements. It is not clear on what basis this request is made nor what exactly it would entail. I therefore have no basis on which to conclude that the absence of such improvements would be harmful to the site or wider area.
32. Therefore, with regard to access, cycle storage, delivery and servicing, refuse provision and highway improvements I do not find the proposal harmful. Accordingly, it would not be contrary to Policies T2, T4 and T7 of the LP or Policies SP8, DM13, DM29 and DM30 of CLP insofar as they seek to control and ensure these issues are adequately addressed in any new scheme.

Other Matters

33. Given that the site is highly accessible by other, sustainable means of transport and within a Controlled Parking Zone, the Council would support the development as being car-free. Having visited the local area and considered the proposal's potential to generate additional on-street parking demand, in the interests of highway safety and promoting sustainable travel choices, I have no reason to disagree.
34. Accordingly, the appellant has provided a completed Unilateral Undertaking (UU) which seeks to restrict future residents from applying for a parking permit. However, as I am dismissing the appeal for other reasons, over which the UU would have no direct effect and so would not lead me to allowing the appeal, it is not necessary for me to consider this matter further.
35. I acknowledge that this is a resubmission designed to overcome previous objections to a 9 unit scheme. I acknowledge that the appellant has made changes and reduced the scale of development. However, for the reasons outlined above, I have not found the current proposal to be acceptable.

Conclusion

36. The Government's objective is to significantly boost the supply of housing. The proposal would also accord with the National Planning Policy Framework's (the Framework) support for windfall sites and provide seven new units with adequate access to services and facilities. The scheme would also lead to some, albeit time-limited, economic benefit during the construction phase, such as extra local employment. Given the scale of the development, the benefits arising from it would be moderate.
37. Conversely, I have found harm in relation to the effect on the character and appearance of the area and the living conditions of neighbours and future occupants. These harms would be long lasting and unlikely to diminish over time and as a consequence worthy of substantial weight that would outweigh the benefits associated with the proposed development.

38. Notwithstanding that there is compliance with some development plan policies, it is my finding that there is conflict with the development plan taken as a whole. There are no other considerations, including the provisions of the Framework, that outweigh this conflict.

39. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Stewart Glassar

INSPECTOR