



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/22/3292637

50 Sydenham Road, Croydon CR0 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 Ignatius Ebhogiaye against the decision of the Council of the London Borough of Croydon.
 - The application Ref 21/02366/FUL, dated 27 April 2021, was refused by notice dated 3 September 2021.
 - The development proposed is the erection of two dwellings in rear of 50 Sydenham Road and associated works.
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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.

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, overlooking, loss of privacy and additional noise and disturbance; c) the living conditions of future occupiers with particular regard to access arrangements, site security and fire safety; d) issues of site layout with particular regard to delivery and servicing, refuse storage, drainage and parking.

Reasons

Character and Appearance

4. The proposed dwellings would be sited to the rear of No. 50 Sydenham Road, a double fronted three storey over basement building which appears to be in residential use. A notable feature of the area is that some land to the rear of properties in Sydenham Road, and to the rear of properties in Lansdown Road, which runs parallel to it, have been redeveloped for new residential buildings. Indeed, the adjacent site at No.52 is currently in the process of being redeveloped on both the front and rear parts of the site.
5. The proposed dwellings would be of contemporary appearance in terms of their design, materials and use of a set-back upper storey with flat roof. Given the nature of the buildings which have been erected in the vicinity and those which

are in the process of being erected, the proposal would not be significantly out of keeping in terms of appearance. Similarly, whilst the proposed development is on a much smaller scale than that taking place next door, there is a visual relationship between the two sites and the development of a three-storey building on the appeal site would not be entirely out of keeping in terms of overall height and scale of built form.

6. The dwellings would be positioned forward to the rear building currently under construction at No.52, and they would not generally align with other 'backland' developments in the vicinity. The Council refer to the gap between buildings on the front part of these sites and the developments to the rear as being a 'green corridor' although it carries no formal designation. The proposed dwellings would disrupt this evolving alignment of developments. However, the gap appears to be more a consequence of the developments maintaining separation distances from the existing buildings rather than schemes seeking to purposefully create a 'green corridor' as an objective.
7. Part of Plot 1 would be visible from the street in the same way other such developments are glimpsed between frontage buildings. That the houses would be closer to the existing building on site than similar situations in Sydenham Road would not be readily noticeable or disruptive to the wider street scene. I am therefore satisfied that neither the development's height, position nor appearance would be so dominant or imposing as to harm the townscape.
8. Overall, I conclude that the proposal would not materially harm the character and appearance of the area. Accordingly, it would accord with 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.

Living Conditions - Neighbours

9. At their closest, the proposed dwellings would be set just over 15m from the rear of No.50 but much closer to the rear of No.48, which is a children's nursery and so subject to slightly different considerations. Following the revocation of the SPD, there are no guidelines for window-to-window distances in such situations.
10. However, the consideration of the impact of the proposal in relation to living conditions is one of planning judgement based on the merits of the scheme rather than a solely numerical exercise. In this case there would be significant intervisibility between No.50 and the proposed buildings; the garden serving these existing flats would be lost and replaced by a communal garden that would also serve the new dwellings; the new dwellings would have tall windows on the front elevation and balcony areas on their top floor thereby offering intrusive views across the communal garden and towards the existing building. I note that the proposed building does not employ any innovative design solutions to try to avoid or minimise such an intrusive relationship.
11. I accept that there is a degree of mutual overlooking between properties in the area. However, in this case the resultant reduction in privacy and increased sense of overlooking likely to be experienced by existing occupants at No. 50 would be harmful to their living conditions.

12. Whilst the proposed dwellings would be closer to No.48 than No.50, given their positions relative to one another and the use of high-level windows in the side elevation there would not be the same level of intervisibility or adverse effect in terms of overlooking. The proposed building is also sited to the north of No.48 and therefore whilst it would be visible it would not block light to the rear of the building or play area. Overall, I do not find the proposal would be sufficiently imposing or dominant in relation to this neighbour to warrant the scheme's rejection.
13. As noted above, the proposed building would be set forward of the rear building under construction at No.52. Given its position and scale, the proposal would be a visible and dominant structure when viewed from these nearest units. Furthermore, given the fenestration pattern to this neighbouring building and the orientation of the buildings to one another, it seems to me that the proposal is likely to cause harm to the outlook and light for future occupiers of these units. There is no evidence before me such as sunlight or daylight studies nor any indication that the proposal would not breach the 45° guide from the neighbouring windows, to lead me to a different conclusion.
14. Plot 1 would have a balcony area on its top floor. It would provide views back towards windows and balconies on the front of the rear building under construction at No.52. As such, this would contribute to the unneighbourly nature of the development.
15. Access to the dwellings would be via a footpath to the side of No.50. Given the potential occupancy levels of the new houses, residents of the existing building may notice the associated comings and goings. There may also be an increase in the number of delivery vehicles and services coming to the site as a result of the dwelling's position. However, this does not mean that such activity would necessarily generate a level of noise or other disturbance that would harm the living conditions of existing residents. I have no evidence before me to indicate exactly how or why the use of the access would harm existing occupants.
16. Similarly, 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.50 or effect the wider area.
17. Taking all of the above into consideration, I find that the proposal would materially harm the living conditions of some existing and future neighbouring occupiers. Whilst I have not found that the proposal would lead to excessive noise or other disturbance to existing residents or cause harmful overlooking of No.48, this does not alter my overall findings.
18. Accordingly, the proposal is 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, have adequate sunlight/daylight and that their amenity is not harmed.

Living Conditions – Future Occupiers

19. As noted above, access to the dwellings would be by footpath to the side of No.50. Such an arrangement is a necessary consequence of the proposal. The path would be approximately 1.5m wide. Whilst it is some 36m from the site entrance to the dwellings, only part of it would be enclosed by the existing

building. 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 be unattractive. Such matters could be controlled through conditions.

20. There would be some surveillance of the path, most significantly from the dwelling at Plot 1. Although there would be some form of boundary enclosure between Nos. 50 and 52, it is not necessarily the case that this would create a more oppressive environment or reduce surveillance from the adjacent site.
21. The appellant has indicated a number of measures that are said to improve site security. Whilst many of them appear to be a consequence of the site and the proposed layout/type of development being proposed, rather than a specific attempt to address security, they would nevertheless assist with the issue.
22. Although no accessibility details were provided with the application, the route to the dwellings would be flat and step-free from Sydenham Road. The applicant has indicated that the dwellings would be accessible and adaptable in accordance with Building Regulation M4(2). There is no evidence before me to indicate that the houses would not be able to meet these requirements or that they could not be controlled through a planning condition.
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 necessary policy requirements in respect of fire safety.
24. For the above reasons I am satisfied that in regard to these matters, and subject to appropriate conditions, the living conditions of future occupants would not be harmed. As such, the proposal would not be contrary to Policies D5, D7 and D12 of the LP or Policy DM10.6 of the CLP insofar as they relate to matters of accessibility, security and fire safety.

Site Layout

Servicing and Deliveries

25. As noted above, the site does not have specific arrangements for deliveries and servicing. However, there is no indication as to how this would directly harm future occupiers or the wider area or result in an inefficient movement of vehicles. From the evidence before me and my own observations of the site and area, I saw that the site would not be dissimilar to other properties in the area in this respect. I also saw deliveries being made to these other properties without there appearing to be undue harm to residents or the wider area. Based on the information before me, I am satisfied that this matter would not materially harm the site, occupants or the wider area.

Refuse Storage

26. The appellant indicates that the refuse store could be moved closer to the dwellings but remain close enough to Sydenham Road to be accessible on collection days. The area set aside for bin storage and the number of bins illustrated on the submitted drawings are significantly less than what currently appears to exist on site. In reality, the storage area for the new dwellings would have to be much closer to the existing building, reducing the level of planting that would be possible along the boundary with No.52. However, if I

were allowing the appeal, I am satisfied that such matters could be addressed by suitably worded conditions.

Drainage

27. The appeal site, which is not within Flood Zones 2 or 3, is an undeveloped piece of land. The proposal would include some porous surfaces across parts of the site, as well as providing an opportunity to provide some sustainable drainage measures and thus manage run-off rates. However, the inclusion of this reason for refusal appears due to the absence of any substantive information from the appellant in seeking to address this matter.
28. I understand what the relevant policies set out and the Council's wish to assess these matters upfront. It would therefore have been helpful if the appellant had provided some substantive evidence to address this issue. However, the Council has not provided more detailed evidence of site-specific harm that would result from the proposal. Therefore, were I minded to allow the appeal, I am satisfied that the issue could be considered at a later point by conditions without materially prejudicing the Council's position.

Parking

29. The scheme would not provide any car parking provision. Given that the site is located within an area with a PTAL level of 6b, it is highly accessible by other, sustainable means of transport. The site is located within a Controlled Parking Zone and the Council has indicated that the absence of on-site parking would be acceptable if the development could be secured 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.
30. To deliver a car-free development a mechanism is required to ensure that anyone living there, other than a Blue Badge holder, would not be eligible to apply for a residents parking permit. This would also necessitate an amendment to the Traffic Management Order (TMO) which controls on-street parking in the vicinity of the development. Thus, access to parking permits is not something that can be completely controlled through planning legislation.
31. I do not therefore consider that the precision and enforceability required to secure the development as car-free could be achieved by a planning condition. In the interests of certainty, a planning obligation would need to be in place before planning permission is granted. However, no drafted or completed legal document is before me and, as such, an appropriate mechanism to ensure the development remains car-free has not been demonstrated.

Findings

32. I find that the proposal would accord with Policy T7 of the LP and Policies SP8 and DM29 of the CLP in respect of servicing and deliveries; would be able to provide appropriate refuse storage facilities and so would comply with Policy DM13 of the CLP. Similarly, there would be no conflict with Policies SI 12 and SI 13 of the LP, Policies SP6 and DM29 of the CLP, nor the National Planning Policy Framework (the Framework) which all seek to ensure developments address sustainable drainage and do not exacerbate flood risk.

33. However, I find that the proposal would not adequately address the issue of parking provision. The proposal would therefore be contrary to Policy T4 of the LP and Policies SP8 and DM29 of the CLP which, amongst other things promote the provision of sustainable travel and car-free development in locations that are highly accessible by public transport.

Other Matters

34. It is said that there are a number of matters on which there is common ground between the main parties. These include the units meeting the Nationally Described Space Standards and the sustainability criteria for new developments. However, compliance with these matters would generally be expected in order for a development to be considered acceptable and therefore are not factors that should weigh positively in the scheme's favour.
35. It is also pointed out that there would be no protected trees affected by the development nor an objection to the principle of the development. However, this does 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

36. The Government's objective is to significantly boost the supply of housing. The proposal would also accord with the Framework's support for windfall sites and provide two new dwellings with adequate access to services and facilities. Given the scale of the proposal, the provision of these additional houses and their social benefits would attract limited weight. 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, these benefits would be limited.
37. Conversely, I have found harm in relation to the effect on the living conditions of neighbours. The development would also fail to secure the development as car-free. 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 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