



Appeal Decision

Site visit made on 6 December 2022

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2023

Appeal Ref: APP/L5240/W/22/3301163

70A Westow Hill, Upper Norwood, London SE19 1SB

- 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 Chiraz Assoula of CD Homes Management LTD against the decision of the Council of the London Borough of Croydon.
 - The application Ref 21/05470/FUL, dated 29 October 2021, was refused by notice dated 23 February 2022.
 - The development proposed is a two storey side/rear extension providing two new dwelling units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council made its decision, the Croydon Suburban Design Guide Supplementary Planning Document (2019) (the SPD) was revoked (25 July 2022) with immediate effect. Therefore, the reference to this SPD in the reason for refusal is no longer relevant and in reaching my decision I have not had regard to it.
3. Whilst on the decision notice the Council refer to the loss of light and outlook for neighbours, the Officer Report states the specific properties and windows considered to be affected by the proposed development. For clarity, I have included the specific properties in the main issues and determined the appeal accordingly.
4. The Council's fourth reason for refusal relates to the lack of consideration to fire safety, referring to Policy D12 of the London Plan (2021). Whilst this policy requires all development proposals to achieve the highest standards of fire safety, it stipulates that fire statements must be submitted with major development applications. As the appeal scheme comprises less than ten dwellings, it is classed as minor development. However, this does not mean that a fire statement would not be needed for the appeal scheme; only that, had the Council reached a positive determination and considered a Fire Statement was required, a condition could reasonably have been imposed requiring one. Therefore, I am satisfied that this reason for refusal does not fall to be considered by me as part of this appeal.

Main Issues

5. The main issues of the appeal are;

- the effect of the proposed development on the character and appearance of the area, taking into account its location within the Upper Norwood Triangle Conservation Area (the UNTCA);
- the effect of the proposed development on living conditions of neighbouring occupiers of 72 Westow Hill (No 72) and 17 St Aubyn's Road (No 17) in respect of outlook and daylight; and
- whether the future occupiers of the proposed development would be likely to experience acceptable living conditions, in respect of external amenity space.

Reasons

Character and appearance

6. Currently comprising a restaurant on the ground floor with three flats above, the appeal property is a four storey building on the corner of Westow Hill and St Aubyn's Road, located within the UNTCA. As a result, I am required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
7. The Upper Norwood Triangle Conservation Area Appraisal and Management Plan (2014) defines the significance of the UNTCA as its "fine urban grain, varied scale of buildings and historic buildings of high architectural quality and detailing". The appeal property is also a Locally Listed Building and is therefore an undesignated heritage asset. Its significance is predominately derived from its architectural quality, fenestration design and decorative features. Together with the other Locally Listed Buildings within the Westow Hill parade, with a consistency of scale and proportions, the appeal property makes a positive contribution to the character and appearance of the area and the UNTCA.
8. The proposed development would provide two additional flats at first and second floor level to the rear of the property, above the existing ground floor restaurant and the staircase to the existing flats. Whilst the proposed built form would be subservient to the existing property, the bulk of the proposed development would extend the Westow Hill parade around the corner into St Aubyn's Road. As a result, it would erode the fine urban grain of this part of the UNTCA.
9. It would also reduce the separation between the existing property and the end of the terrace of Locally Listed Buildings on the eastern side of St Aubyn's Road. Whilst the significance of the properties in this terrace is derived from their feature bay windows, canopied entrances and use of red brick detailing, in the context of the UNTCA the width of this road is also significant as it contrasts with other, much narrower side streets. Located closer to the pavement than the terrace on St Aubyn's Road, the proposed development would partially obscure the view of this terrace from Westow Hill. Consequently, irrespective of the use of sympathetic materials, it would reduce the impact of the wider road and the grand appearance of these Locally Listed Buildings and cause harm to the significance of the UNTCA.

10. Whilst the key architectural features and detailed design of the host property would be retained and the proposed fenestration design reflects the proportions and balance in the upper floors of the existing building, these elements would not alter the overall bulk of the proposed development. Additionally, the proposed second floor mansard roof would not reflect the consistency in the facades of the Westow Hill parade nor the roofscape of the host property. As such, it would not enhance the appearance of the host property and would be an unsympathetic addition in both the Westow Hill and St Aubyn's Road streetscenes.
11. I therefore conclude that, irrespective of the existing developed nature of the appeal site, the proposed development would not preserve or enhance the UNTCA and would cause unacceptable harm to the character and appearance of the area, including Locally Listed Buildings. It would fail to satisfy the requirements of the Act, and conflict with policies HC1 of the London Plan and policies DM10 and DM18 of the Croydon Local Plan (2018) (the Local Plan). These policies, amongst other aspects, require development to respect the local character and preserve, or enhance, the significance of the borough's heritage assets.

Living conditions – neighbouring occupiers

12. The proposed development would be sited directly on the side boundary with No 72, above the existing single storey part of the host property. No 72 comprises a restaurant/bar on the ground floor with residential use above with three windows, located at ground, first and second floor level, positioned on its rear elevation. Whilst the outlook from these windows is already partially restricted by a large metal duct on the rear, the proximity and height of the proposed extension would further constrain this outlook. This restriction on the outlook would be significant and would also increase sense of enclosure, to the detriment of the living conditions of the occupiers of No 72.
13. The rear of the proposed development would also be positioned on the boundary with No 17. Whilst the appeal property extends to this boundary and is sited forward of the frontage of No 17, its height is limited to a single storey with a flat roof. Although the use of the rooms served by these windows has not been confirmed by either main party, during my site visit I observed them being used for living purposes. Combined the raised ground floor level of No 17, the restricted height of the existing rear built form of the appeal property, means occupiers currently experience an acceptable outlook from the windows in the front elevation. The additional two floors proposed above the existing single storey with the blank side elevation would, therefore, significantly reduce the outlook likely to be experienced by occupiers of No 17.
14. The Sunlight and Daylight Report (SDR) submitted with the application concludes that, should the proposed development be constructed, the upper ground floor front window at No 17 would not meet one of the British Standard BS EN 17037 daylight tests. Although the Vertical Sky Component (VSC)¹ provided in the SDR for this window would be marginally below BRE's recommended ratio, the reduction would be likely to require special measures to be implemented to provide adequate daylight to the room. Whilst the guidance and tests provided by the Building Research Establishment (BRE)² has

¹ The representation of how bright a particular window feels.

² Site Layout Planning for Daylight and Sunlight: a guide to good practice, 2nd Edition 2011.

updated its guidance since the assessment in the SDR was undertaken, the tests contained within the SDR remain relevant.

15. I therefore conclude that the proposed development would cause unacceptable harm to the living conditions of occupiers of No 72 with particular regard to outlook and No 17 in respect of outlook and daylight, contrary to Policy D3 of the London Plan and Policy DM10 of the Local Plan. Amongst other provisions, these policies require new development to ensure no significant loss of existing daylight levels to adjoining occupiers and appropriate outlook is delivered.

Living conditions – future occupiers

16. Policy D6 of the London Plan requires the provision of a minimum of 5sqm of private outdoor space per one or two person dwelling, with a further 1sqm per additional occupant, irrespective of urban location or heritage status. This standard is reiterated in Policy DM10 of the Local Plan. The proposed flats comprise a two bedroom dwelling to the first floor and a one bedroom unit on the second (labelled Flat 4 and Flat 5 on the plans, respectively).
17. Although an external terrace area is shown on the plans for Flat 4, no private outdoor space is proposed for Flat 5. In the absence of any communal external amenity space within the proposed development, future occupiers of Flat 5, therefore, would not experience an acceptable standard of living conditions, even if the internal space provided meets or exceeds the relevant standards.
18. I conclude that the amount of external amenity space proposed for future occupiers would be unacceptable and would therefore conflict with policies D3 and D6 of the London Plan and Policy DM10 of the Local Plan which seek to deliver an appropriate standard and minimum area of external amenity space.

Other Matters

19. The appellant refers to the presumption in favour of sustainable development set out in the Framework and that the proposed development would contribute to the Borough's housing need. However, there is no substantive evidence before me that indicates that the Council is unable to demonstrate a five year supply of housing or that relevant development plan policies are out-of-date for other reasons. Consequently, there is no reason to conclude that paragraph 11d of the Framework is engaged and that the presumption in favour of sustainable development should be applied in this decision.

Planning Balance and Conclusion

20. I have found harm to the living conditions of existing neighbouring occupiers in respect of daylight and outlook and that future occupiers would not experience acceptable living conditions, with particular regard to outdoor amenity space. Additionally, I have found that the proposed development would fail to preserve the character and appearance of the UNTCA and give this harm considerable importance and weight in the planning balance of this appeal.
21. Having regard to the advice in the Framework, I find the proposed development would result in less than substantial harm to the character and appearance of the UNTCA. As advised by paragraph 202 of the Framework, less than substantial harm should be weighed against the public benefits of the development. Whilst the provision of two additional dwellings would contribute to the supply of housing, such a benefit would be small and, consequently,

would not amount to a public benefit that outweighs the harm I have identified above.

22. For the above reasons, and having regard to all other matters raised, I conclude that that appeal should be dismissed.

Juliet Rogers

INSPECTOR