



Appeal Decision

Site visit made on 16 January 2023

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 February 2023

Appeal Ref: APP/L5240/W/22/3295388

Rear of 43 & 45 Woodcote Grove Road, Coulsdon CR5 2AJ

- 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 Martin McFadden (Novo Land & Development Ltd) against the decision of the Council of the London Borough of Croydon.
 - The application Ref 21/04534/FUL, dated 31 August 2021, was refused by notice dated 30 November 2021.
 - The development proposed is described as the 'Construction of a new pair of semi-detached houses in rear garden land, fronting a main road.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address is taken from the Council's Decision Notice and Part D of the appeal form. This is in the interest of accuracy.
3. The Council's Supplementary Planning Document 'Suburban Design Guide' referenced in refusal reason 1 has been revoked, as of 25 July 2022. As such, I do not give this document any weight.

Main Issues

4. The main issues in this case are:
 - the effect of the proposal on the living conditions of the occupants of No 43 and 45 Woodcote Grove Road, with respect to outlook and light;
 - the effect of the proposed development on biodiversity;
 - the effect of the development on the character and appearance of the area; and
 - whether the proposal would provide acceptable access and pedestrian safety.

Reasons

Living Conditions

5. Given the location of the appeal site within the existing rear gardens of Nos 43 and 45 Woodcote Grove Road, the rear gardens of these dwellings would be significantly reduced. In addition, built form would be brought substantially

closer than existing, and closer than the general pattern of development within the locality.

6. Given the orientation of No 45, the outlook from the rear of the property would mostly remain over the boundary with No 47. Views to the side of the property would remain unchanged, however, the principal outlook from the rear of No 43 would be over a large part of the side flank wall of the proposed building.
7. Whilst set down within the plot, given the height of the building and the increased land levels of the appeal site, the occupants of No 43 would be faced with a significant and prominent brick elevation in sufficiently close proximity to restrict outlook and which would be visually dominant, even over any side/rear boundary landscaping.
8. It is unclear what rooms the rear facing windows serve, however, even if they were non habitable or served by other windows, the development would result in undue harm to the outlook from the garden space and patio area of No 43. The development would adversely affect the quality of living conditions available to users of the garden area as a result. I understand that the current owners of this property do not object to the proposals, however, the amenities of future occupiers would be compromised by the reduction in garden space and the erection of the proposed dwellings.
9. The Council also raise the issue of loss of light to neighbouring dwellings. The submitted Design & Access statement contains horizontal and vertical 45-degree drawings, however this does not include No 43 or 45 Woodcote Grove Road. Again, due to the position and orientation of No 45, the change in light received by the property would not be significant. However, given the height differences and proximity of the proposed development, the proposal would result in a loss of light and sunlight to the rear facing windows and the garden of No 43 to a degree that would, again, adversely affect the living conditions for users of the outdoor space and rooms served by these windows as a result.
10. Therefore, I conclude that the proposal would harm the living conditions of No 43 Woodcote Grove Road with respect to outlook and light. Accordingly, it would conflict with Policies SP4.2 and DM10.6 of the Croydon Local Plan (CLP) (2018), and Policy D6 of the London Plan (2021 (LP), which, amongst other matters, seeks to protect the amenity of neighbouring occupiers, enhance social well-being.

Biodiversity

11. The appeal site is not subject to any policy designations relating to ecology, and I have not been made aware of any nearby sites designated for their ecological qualities. Nevertheless, a letter from an interested party refers to records of slow worms having been identified on land adjoining the appeal site and in the wider area. Slow Worms are protected under the Wildlife and Countryside Act.
12. Circular 06/2005 states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to say that it "*... is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before*

the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision”

13. CLP Policy DM27 seeks to protect and enhance biodiversity in the borough. It states that development should have no adverse impact on any protected animal, on sites highlighted within a plan, or when the Council is presented with evidence that a protected species would be affected.
14. The supporting text to CLP Policy DM27 states that specially protected species can be found throughout the borough, including back gardens, and are not restricted to designed sites. Standing advice from Natural England also identifies large gardens in suburban areas as being a likely habitat for reptiles. From what I saw on my site visit, the appeal site provides suitable habitat for reptiles. Therefore, on the balance of probabilities, I consider it likely that protected species are present and may be affected by the proposed development. Given the requirements of the Wildlife and Countryside Act and Circular 06/2005, I therefore do not consider that this would set an undesirable precedent.
15. In the absence of any survey information, it is not possible to establish if, or to what extent, protected species would be affected by the proposal. Therefore, it is appropriate to take a precautionary approach. Having regard to the Circular, it would not be appropriate to require surveys or further investigation by planning condition were I be minded to allow the appeal.
16. Accordingly, the proposal would be contrary to the biodiversity protection and enhancement goals of CLP Policies SP7.4 and DM27, LP Policy G6 and the Framework, which states that planning decisions should protect and enhance sites of biodiversity value.
17. The Council also reference CLP Policy DM28 in its refusal reason, however this specifically refers to the trees (and hedgerows) rather than biodiversity. As such, this policy has limited relevance to this main issue and I do not find conflict with it.

Character and Appearance

18. The appeal site comprises part of the rear gardens of Nos 43 and 45 Woodcote Grove Road. No 43 is sited on the corner of Woodcote Grove Road and Bramley Avenue, and the appeal site is located on, and read as part of the northern side of Bramley Avenue.
19. The character of built development on the north side of Bramley Avenue is derived from the dwellings being situated typically within relatively large plots, elevated above the street, and its verdant quality arising from mature street trees and soft landscaping to the front of dwelling.
20. The proposed semi-detached units would sit next to the existing semi-detached units at Nos 2 and 4 Bramley Avenue and so would not appear out of context in this respect. Although the proposed ridgeline would be higher than No 43 Woodcote Grove Road, it would sit below that of Nos 2 and 4 Bromley Avenue and given the increase in land levels extending up Bromley Avenue from the junction, this height difference and relationship is common along this street scene. The flank wall visible from the junction would not visually appear out of scale with nearby dwellings from the road due to the building being set down into the plot.

21. Due to the land levels being lowered to provide the ground floor at road level, the built form presented to the road would be visibly more substantial than the neighbouring dwellings in terms of height and massing, given that the dwelling would be 3.5 storeys. However, again, suitable planting would reduce this impact and given the appropriate ridge height as proposed, the dwellings would not appear incongruous in terms of scale.
22. There would remain an adequate separation gap between the proposed dwellings and their adjacent neighbours and as such, the development would sit comfortably within the existing pattern of development and would respect the exiting spacious character of the street.
23. The existing site contains a number of trees. The development would require several trees to be removed. The submitted Tree Survey sets out that these are category C or U trees, which are low quality or should be removed in any case. From what I have read and seen on my site visit, given the low quality of these particular trees, I am satisfied that they do not contribute positively to the character of the street.
24. Two category B trees were identified, a Lime Tree sited at the frontage of the site and a Silver Birch at the rear. As high quality, and in the case of the Lime Tree, prominent trees, these trees do contribute positively to the character of the street and, as trees of value, in accordance with the requirements of LP Policy G7 they would be retained, in addition to a further existing category C Ash tree at the rear of the site. The retained trees, along with suitable landscaping and planting would retain the existing verdant character of Bramley Avenue.
25. The proposal would involve hardstanding to the frontage to provide off street parking. However, there are numerous examples of similar arrangements nearby, for example next door at No 2 and 4 and opposite, and there would remain areas of landscaping to soften the frontage. Similarly, the retaining walls, required due to the land levels, would not look incongruous given the examples of front boundary walls and side boundary fences and walls located to the front of numerous properties along the northern side of Bramley Avenue.
26. Were I minded to approve the scheme, a condition to secure appropriate frontage materials and landscaping would ensure that these elements would not detract from the character of the street in this respect. Similarly, I am satisfied that, bin storage could be provided.
27. I therefore conclude that the proposed development would maintain the character and appearance of the surrounding area. The proposal would therefore comply with CLP Policy SP4 and in part, DM10, and LP Policies D3 and D4. Amongst other things, these policies seek high quality design with due regard to existing and emerging street hierarchy, building types, forms and proportions. The proposal would also comply with the aims of CLP Policies DM10 and DM28 and LP Policy G7 that seek to retain of trees of value that contribute to the character of the area.

Access

28. Given the sloping nature of the site, the access to the dwellings, including access to the internal cycle spaces and car parking spaces, would not be level. This would be similar to the other dwellings on Bramley Avenue, due to the

land levels and position of the dwellings in relation to the highway. Whilst the proposed gradient is not detailed, the elevation plans show that it would be shallow compared to neighbouring properties. I therefore see no reason that appropriate levels could not be secured through a condition that would allow suitable and safe vehicular and pedestrian access, were I minded to allow the appeal. In addition, I see no reason why this would compromise pedestrian safety outside the site

29. Whilst the parking spaces may need to be increased in width, there remains sufficient space within the frontage to ensure any subsequent impact on landscaping would be limited and should not result in harm to the character and appearance of the street scene. Again, this could be dealt with by way of a planning condition were I minded to approve the scheme.
30. I therefore conclude that the proposal would not conflict with the sustainable travel, highway safety and cycle and car parking standard goals of CLP Policies DM29 and DM30 and LP Policy T6.
31. The Council also reference CLP Policies SP8.4, SP8.14, however these refer to major developments and the Croydon Opportunity Area and District Centres respectively. I find no conflict with these Policies.

Other Matters

32. The proposal would represent an efficient use of a windfall site and through providing family sized units, would contribute positively to the housing mix and supply and would be supported by the Governments objective of significantly boosting the supply of homes. However, the provision of 2 units would be a minor social benefit attracting limited weight in favour of the scheme.
33. The lack of objection from the current occupiers of the host properties does not alter my conclusions on the main issues above and conflict with the development plan. I note that the Council has no objection to issues such as architectural detailing, living conditions for future occupants and fire safety, however these are neutral factors which do not weigh in favour of the proposal.

Conclusion

34. The benefits of the development attract limited weight in favour of the scheme, which do not outweigh the harm to the living conditions of the occupants of No 43 Woodcote Grove Road and to biodiversity, which are matters that attract significant weight against the scheme.
35. The proposal is contrary to the development plan as a whole and there are no other material considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

B Phillips

INSPECTOR