



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: 14 FEBRUARY 2023

Appeal Ref: APP/L5240/W/22/3299832

14 Oakwood Avenue, Purley CR8 1AQ

- 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 Luke Mayle (Mayle Developments Ltd) against the decision of the Council of the London Borough of Croydon.
 - The application Ref 20/01625/FUL, dated 7 April 2020, was refused by notice dated 1 December 2021.
 - The development proposed was originally described as the 'demolition of 1 no. detached family house and erection of 1 no. apartment blocks, comprising of 20 new apartments, with associated hard and soft landscaping etc.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description in the heading above, during the time the application was being considered by the Council the scheme was changed to the 'demolition of existing dwelling; erection of a three-storey residential development over parking basement with roof accommodation comprising 18 flats; provision of modified access, parking spaces, refuse and recycling stores, secure cycle parking and communal landscaped amenity space'. The Council determined the application on that basis and so shall I.
3. The Council's third reason for refusal related to the internal and external quality of accommodation, in addition to fire safety. Revised plans were submitted with the appeal, 19-139-P022 Rev J and P023 Rev J, showing rear facing windows to units 8, 9, 13 and 14 at first and second floor level. Due to these proposed alterations, and the inclusion of a ramp alongside the steps at the rear, the Council are not pursuing reason for refusal 3.
4. I have considered the revised plans under the principles established by the Courts in *Wheatcroft*¹. Given the minor alterations to the scheme, which would not introduce fenestration directly facing any side neighbour, to consider it would not deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore considered the appeal on the basis of these amended plans.
5. The Council's supplementary planning guidance document referred to, 'Suburban Design Guide 2019' (SPD2) has been revoked. As such, I cannot give this document any weight.

¹ *Bernard Wheatcroft Ltd v SSE* [JPL, 1982, P37]

6. Additionally, the appellant makes reference to the appeal site lying within an 'area of moderate intensification', as defined by Policy SP1 of the draft Croydon Local Plan 2021 and expanded upon in draft Policy DM10. As the Draft Local Plan is at a relatively early stage in its preparation, I afford it limited weight.
7. An Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 has been provided (S106 UU) as part of this appeal. It includes obligations relating to air quality, sustainable transport, local employment training strategy and highway works.

Main Issues

8. The main issues in this case are:
 - the effect of the development on the character and appearance of the surrounding area; and
 - the effect of the proposal on the living conditions of the occupants of No 16 Oakwood Avenue, with particular regard to outlook.

Reasons

Character and Appearance

9. Oakwood Avenue is characterised by large, detached dwellings, largely two storey, set back from the road, and set within large plots. This gives the street a spacious, consistent, and open character. The proposal would replace an existing single detached dwelling with a three-four storey building, with additional basement space, comprising of 18 flats
10. The existing property is a substantial dwelling; however, it has a single storey side projection which includes a garage. Therefore, whilst filling much of the site frontage, it at present does so with a significant part being at ground floor level. Whilst the replacement building would only be taller in height and wider in width by a limited degree, the cumulative increase would be significant. In particular, there would be extensive massing above ground floor level and a bulky roof design.
11. Combined with the substantial increase in depth and footprint, which would be glimpsed and apparent from the highway, the built form presented to the street would be overwhelming visually and conspicuously larger than any nearby dwelling.
12. In addition, the building, by virtue of its scale and the amount of fenestration, would also have the obvious appearance of a large apartment building. Even in the context of the large dwellings nearby, the proposal would incongruously and prominently detract from the street's uniform character and appearance.
13. I acknowledge that the scheme would make a more efficient use of the site, that the gabled design and materials proposed would not appear out of context with the mixed design and finish of the surrounding dwellings, and that, as set out in a supporting paragraph to Policy DM10 of the Croydon Local Plan (CLP) (2018), character in most areas of the borough will evolve time. However, the policy also requires development to ensure that it respects the surrounding development pattern and massing, which the appeal scheme fails to do.

14. The appellant also refers to part DM10.11 of CLP Policy DM10. However, this refers specifically to areas of focussed intensification, and there is no information before me to suggest that the appeal site is designated as such. Policy DM10.11 sets out that proposals should be of high quality and, whilst seeking to achieve a minimum height of 3 storeys should amongst other things respect the development pattern, layout and siting and the scale, height, massing and density. For the reasons set out above, whilst the appeal scheme meets the minimum requirement of 3 storeys, it nevertheless conflicts with Policy DM10.11 for the reasons set out above.
15. I acknowledge that the scheme has been reduced in scale from the original submission, and that extant permission exists to extend the existing property². However, the extended single dwelling would remain smaller in scale and massing than the proposal and these matters do not lead me to a different conclusion.
16. I therefore conclude that that the proposed development would detract from the character and appearance of the surrounding area. The proposal would conflict with CLP Policies SP4 and DM10 and Policy D3 of the London Plan (LP) (2021). Amongst other things, these policies seek high quality design with due regard to existing and emerging street hierarchy, building types, forms and proportions.

Living Conditions

17. The proposed building would extend substantially further to the rear than the existing property and would more than double the depth into the site of the northern neighbour, No 16.
18. The principal outlook from the rear of No 16 is over the rear garden. Its rear elevation sits approximately in line with that of the existing appeal property. The garden is a good size and views over it to the rear would remain.
19. However, whilst the rear projection of the proposed development would be partly set in from the side boundaries and No 16 is set on a higher level than the appeal site, the proposed building would introduce built form occupying much of the rear garden's depth and would extend built development closer to the side boundary than the existing property on the appeal site. Given the proposed height and depth of the apartment building, the occupants of No 16 would be faced with a significant and prominent brick elevation which would restrict outlook and would be visually dominant, even over the existing boundary fence and established and proposed boundary vegetation and trees.
20. Whilst the massing of the proposed building would be somewhat reduced by the stepped design away from the side boundary and reduction in height of building form nearest to the side boundary, it would remain substantial and there would be a sense of unacceptable enclosure along a significant part of the side boundary. Whilst the nearest habitable room of 16, a lounge area, is served by other windows, the development would result in undue harm to the outlook from the garden space of No 16. The development would adversely affect the quality of living conditions available to users of the garden area as a result.

² Application reference 19/00296/HSE

21. I acknowledge that the stepped design results in no conflict with a 45 degree line when drawn from the nearest habitable room window, however, this would not prevent a harmful effect on the living conditions of the occupants of No 16.
22. Therefore, I conclude that the proposal would harm the living conditions of No 16 Oakwood Avenue with respect to outlook. Accordingly, it would conflict with CLP Policy DM10.6, which, amongst other matters, seeks to protect the amenity of neighbouring occupiers.

Planning obligation

23. Whilst the submitted S106 UU includes obligations relating to air quality, local employment training strategy and highway works, it does not include provisions regarding affordable housing. There is a dispute between the parties as to the requirements for such a provision, though I note that the lack of such a provision was not a reason for refusal.
24. Notwithstanding this, the S106 is not completed as it is not dated and as such, I cannot take it into account. Given that I am dismissing the appeal for other reasons, I shall not consider this matter further.

Other Matters

25. I note the appellants comments regarding the consistency of the Council's decision making process, however that these issues are matters for local government accountability.
26. I acknowledge the amendments the appellant made during the application process, which addressed issues raised by the Council and extended the time it took for the Council to make their decision; however, this does not lead me to a different decision.
27. The proposal would represent an efficient use of a windfall site and through providing a variety of unit sizes, including a number of 3 bed 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 18 units would be a modest social benefit attracting limited weight in favour of the scheme.
28. Whilst the appellant has set out that the development would comply with other policies and various paragraphs of the National Planning Policy Framework, meet standards such as internal space, and not cause harm with regards to matters such as, amongst others, impact upon trees, light, CO2 emissions and internal space, this to be expected in any development and does not weigh in favour of the proposal.
29. Finally, I note that letters of support were received during the application process relating to issues such as the boost to housing options in the area. However again, this does not alter my conclusions on the main issues above.

Conclusion

30. The proposal conflicts with the development plan taken as a whole and there are no material considerations which indicate that the proposal should be determined other than in accordance with the development plan. Accordingly, for the reasons given above and having had regard to all other matters raised, the appeal is therefore dismissed.

B Phillips

INSPECTOR