



Appeal Decision

Site visit made on 17 January 2023

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 23 FEBRUARY 2023

Appeal Ref: APP/L5240/W/22/3304354

Land Adjoining 1-17 Wedgewood Way, Beulah Hill, Upper Norwood, Croydon, London SE19 3ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Zul Virani (Lower Richmond Properties Ltd) against the Council of the London Borough of Croydon.
 - The application Ref 22/00823/OUT, is dated 25 February 2022.
 - The development proposed is the erection of 3x3 bedroom dwellings with appropriate parking.
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Decision

1. The appeal is dismissed and outline planning permission for the erection of 3x3 bedroom dwellings with appropriate parking is refused.

Preliminary Matter

2. The appeal relates to an application for outline planning permission. Approval for appearance, layout and scale is sought at this stage so I have treated the plans showing these elements as a firm part of the proposal. Plans indicating other matters, such as access and landscaping are treated as illustrative.

Background and Main Issues

3. The Council did not issue a decision within the prescribed period or within an agreed extension of time period. The appellant exercised their right to appeal against the failure of the Council, as the local planning authority, to determine the application.
4. A statement has been submitted by the Council in response to the appeal and this concludes that had the Council determined the application, it would have refused it due to concerns regarding the effect of the proposal on the character and appearance of the area, the effect on the living conditions of the occupiers of neighbouring properties to the rear with regard to outlook, daylight and sunlight and the effect of the proposal on trees including one of which is protected. Further reasons include the effect of the proposed layout on highway safety and pedestrian safety, refuse and cycle parking provision and fire safety standards.
5. Having regard to the evidence submitted by all parties, including local residents, I consider that the main issues are:
 - the effect on the character and appearance of the area including the effect on existing trees;

- the effect on the living conditions of the occupiers of dwellings to the rear of the site with particular regard to outlook, daylight and sunlight;
- the effect of the proposed layout on highway and pedestrian safety and parking provision;
- whether the provision of refuse facilities and cycle parking is sufficient; and
- whether the proposal would provide adequate fire safety precautions for future occupiers.

Reasons

Character and appearance

6. The appeal site comprises an area of green space alongside Beulah Hill, in close proximity to the junctions with Wedgewood Way, Convent Hill and Downsview Road. The site is currently overgrown, and a footpath runs alongside, adjacent to the road. A pedestrian refuge is situated in the centre of the road, directly in front of the appeal site. There are a number of mature trees located within the site, on the corner of Convent Hill and Beulah Hill on land adjacent to the appeal site and in adjacent private garden areas which make a positive contribution to the character and appearance of the area. Within the adjacent open space is a public bench, utility cabinets and a telephone kiosk.
7. To the rear of the appeal site are a row of link attached two storey dwellings that front onto Wedgewood Way to the northeast, with the rear gardens backing on to a narrow strip of land adjacent to the appeal site. Along Beulah Hill there are a variety of different dwelling types, mainly large detached or semi-detached suburban properties set back from the road behind grass verges and front garden areas, by a consistent distance, contributing to the spaciousness of the individual plots and in turn the local area.
8. To the southwest of the appeal site on the corner of Downsview Road and Beulah Hill is a four-storey care home complex which is located in closer proximity to the road. Along Beulah Hill to the southeast of the appeal site is a development currently under construction which is formed of a terrace of three storey dwellings, situated a short distance back from the footpath. These developments have introduced variation to the building line and scale of development and therefore the character and appearance of the area along this section of Beulah Hill.
9. Given the modern development situated along Beulah Hill, near to the appeal site, that has a limited setback from the road, the proposed positioning of the dwellings in relation to the road by itself would not be harmful to the character and appearance of the area. However, the ratio of the built form footprint in comparison to the overall site area would be significant, particularly given the prevailing pattern of built form directly to the rear and adjacent which consists of much more spacious plots.
10. I note that the proposed dwellings have been designed in a contemporary way, taking on board the proportions of specific details of other dwellings in the locality, such as the fenestration and that the materials proposed are sympathetic to the local area. However, whilst the height of the proposed

dwelling would be in keeping with the scale of other dwellings nearby, the overall width and depth of the proposed dwellings being located in close proximity to both the front and rear site boundaries would be contrary to the pattern of built form in the surrounding area. In addition, the closeness of the dwellings identified as House 1 and 2 mean that the overall massing and siting of the proposed built form would appear cramped and there would be insufficient external space to integrate the proposed built form into the street scene.

11. During my site visit I noted the presence of a number of mature trees located on the site and within the neighbouring open space and garden areas. The Council confirm that a horse chestnut tree in the rear garden of 3 Wedgewood Way is protected by way of a Tree Preservation Order. Policy DM28 of the Croydon Local Plan 2018 (CLP) states that the Council will seek to protect and enhance the borough's woodlands, trees and hedgerows by, amongst other things, not permitting development that results in the avoidable loss or the excessive pruning of preserved trees or retained trees where they make a contribution to the character of the area.
12. No arboricultural survey has been provided showing the tree canopies and recommended root protection areas to safeguard trees which contribute to the character of the area. Based on the proposed layout before me and following my site visit, I am satisfied that it would be highly likely that the proposal would have a detrimental effect on the existing trees within and adjacent to the site. I have no evidence before me identifying the trees to be removed and the current condition, how any retained trees would be protected during the development and the location of any replacement planting that would provide appropriate mitigation in the street scene.
13. I therefore conclude that the proposal would be harmful to the character and appearance of the area, and I have no evidence before me to confirm that there would not be a detrimental effect on the existing trees located on and adjacent to the appeal site. The proposal conflicts with policies SP4, DM10 and DM28 of the CLP and policies D3 and G7 of The London Plan: The Spatial Development Strategy for Greater London March 2021 (TLP) which, seek amongst other things, that developments respect and enhance local context, character and distinctiveness including the development pattern, layout, siting and massing and protect and enhance the borough's woodlands, trees and hedgerows.
14. Reference is made in the Council's appeal statement to policy SP7 of the CLP, however this relates to designated open spaces and productive landscapes which do not appear, having considered the evidence before me, to apply in this case. With regard to the biodiversity section of policy SP7, I have considered this further in other matters below.

Living conditions

15. Whilst some of the rear boundaries serving the properties on Wedgewood Way consist of more significant vegetative screening, there are gaps where close boarded fences are visible at ground floor level with the first floor part of the existing dwellings being clearly visible across the appeal site. Views of the proposed dwellings will therefore be possible from the first floor windows and the garden areas of the majority of the existing dwellings located to the rear of the appeal site. In any case the presence of vegetative screening can change

over time, meaning that the proposed development could become more visible from the existing dwellings in the future.

16. The proposed dwellings have been designed to have a lower ridge height than the existing neighbouring dwellings located on Wedgewood Way. Whilst the Design and Access Statement states that the separation distance between the existing properties and proposed built form is 18m, the submitted plans are annotated as ranging between 12.407m and 14.719m. Notwithstanding this discrepancy, the relationship between the rear elevations, as shown on the submitted drawings, is such that there would be a significant change in the outlook from the rear windows and even more so from the rear garden areas of 3, 9, 11 and 13 Wedgewood Way, which would face the proposed built form directly.
17. Whilst there would not be any issues of overlooking of existing dwellings from the proposal, given the lack of first floor windows in the rear elevations of the proposed dwellings, there would be an overbearing and oppressive effect in views from the rear of the neighbouring dwellings, particularly in relation to the rear gardens.
18. Given the orientation of the proposed dwellings to the south west of the existing dwellings, the height and width of built form and the siting in close proximity to the rear boundary, means that it is likely there will be an effect on the amount of sunlight and daylight reaching the rear gardens of 3, 9, 11 and 13 Wedgewood Way with a lesser effect on 5 and 7 Wedgewood Way which would be more limited to the end of the day. This would be more acute for the existing dwellings that have more limited rear boundary treatments. Whilst a Daylight Assessment has been provided in relation to the proposed dwellings, no evidence is before me to demonstrate that the effect on the neighbouring dwellings would not be detrimental with regard to sunlight and daylight.
19. I conclude that the proposal would be harmful to the living conditions of the occupiers of dwellings to the rear of the site with regard to outlook. I have no evidence before me to confirm that there would not be a detrimental effect on the sunlight and daylight reaching the rear garden areas of the neighbouring dwellings to the rear. The proposal therefore conflicts with policy DM10 of the CLP and policy D3 of TLP which, seek amongst other things, to protect the amenity of the occupiers of adjoining buildings including outlook and ensure that developments do not result in a significant loss of existing sunlight and daylight levels of adjoining occupiers.
20. The Council also refers to policy D4 of TLP in its appeal statement. Whilst it refers to delivering good design, it focuses on design analysis, design scrutiny and the maintenance of design quality rather than considerations about living conditions. It is not therefore relevant to this main issue.

Highway and pedestrian safety and parking provision

21. Whilst access is a reserved matter, the proposed layout which identifies the position of the access into the development forms a consideration in this appeal. Therefore, I have not assessed the technical compliance of the access but have taken into account the effect of the proposed layout on highway and pedestrian safety. Beulah Hill is identified in the Transport Statement (TS) as a primary distributor road subject to a 30mph speed limit. The proposed access

- is located between the Wedgewood Way and Convent Hill junctions and is in close proximity to the Downsview Road junction opposite.
22. Whilst I note it is only a snapshot in time, during my site visit the road was busy with vehicular traffic and a number of pedestrians used the footpaths on both sides of Beulah Hill adjacent to the appeal site. When approaching Beulah Hill from Wedgewood Way, visibility to the right would be affected due to the limited set back of proposed built form from the footpath. No evidence is before me that demonstrates that visibility from Wedgewood Way would be maintained in order to ensure highway and pedestrian safety.
23. Whilst on site, I viewed the pedestrian refuge in the centre of the road and the dropped tactile paving within the footpaths on either side of the road, directly in front of the appeal site. This provides a safer place for pedestrians to cross the busy road. This pedestrian crossing route and refuge is not shown on any of the submitted drawings and is not referenced or discussed in the TS. It appears likely that the position of the access identified on the proposed layout would be in very close proximity to the pedestrian refuge and crossing area which would affect the turning movements into and out of the proposed access point. As a result, pedestrians using that refuge and crossing would also be impacted upon in a detrimental way making it a more dangerous place to cross Beulah Hill.
24. Three parking spaces are identified on the proposed layout, which complies with the quantitative requirements of policy T6 of TLP. However, the Council note that the width of the parking space (annotated as P3) closest to the rear boundary treatment is not wide enough to allow doors to be opened sufficiently to enable passengers to get in and out of vehicles easily and it would also not allow cars to sweep into the parking space, making manoeuvring into and out of the parking space more difficult. Based on the evidence before me parking space P3 would be difficult to access easily both in terms of getting in and out of a vehicle and accessing the space to park.
25. Given the proximity of the location of the access shown on the proposed layout to the three junctions, the proposed siting of dwellings in relation to the Wedgewood Way junction and the relative location of the existing pedestrian refuge and crossing point, I consider it highly likely that the proposed layout would be harmful to highway and pedestrian safety. Parking space P3 is insufficient in its width to allow for practical use, given its location, directly adjacent the boundary.
26. I conclude that the proposed layout conflicts with policies DM29 and DM30 of the CLP and policy T4 of TLP, which seek amongst other things, to ensure developments do not have a detrimental impact on highway safety for pedestrians, cyclists, public transport users and private vehicles, reduce the impact of car parking in new development and will not increase road danger.

Refuse facilities and cycle parking provision

27. Policy DM13 of the CLP seeks to ensure refuse and recycling facilities are integral to the overall design of a development. Refuse and recycling storage areas are located to the front of each of the dwellings, however concerns are identified by the Council about the size of these, the lack of storage area for bulky goods and the lack of a collection point identified closer to the public highway.

28. With regard to cycle parking, policy T5 of TLP states that development proposals should help remove barriers to cycling and create a healthy environment in which people choose to cycle. To achieve this, an appropriate amount of cycle parking should be provided that is fit for purpose. The policy requires 2 cycle parking spaces per dwelling. Only one space for each proposed dwelling is shown on the proposed layout.
29. The proposal is therefore deficient with regard to refuse facilities and cycle parking provision when reviewing the submitted information and considering the policy requirements. However, given the scale of the proposal, the presence of additional external space and the location of the appeal site alongside the road, I am satisfied that these two issues could be addressed by way of suitably worded conditions requiring a refuse facility and cycle parking scheme to be submitted, approved and implemented prior to the occupation of the proposed dwellings, should the appeal be allowed.
30. I therefore conclude, subject to suitable conditions, the proposal would comply with the requirements of policies DM13 and DM30 of the CLP and policy T5 of TLP, which seek amongst other things to ensure that refuse facilities are an integral element, and that appropriate cycle parking is provided.

Fire safety

31. The Council cites conflict with Policy D12 of the TLP, which requires that all development proposals achieve the highest standards of fire safety. The Council sets out that no Fire Statement was provided in support of the proposal. Policy D12 only requires a Fire Statement in support of major development proposals and as such it was not a requirement for the appeal proposal. However, I recognise that part A of the policy still requires that certain features are taken into account in the design of all developments to ensure fire safety.
32. Given the scale of the proposal, details of fire safety measures for the proposal could potentially be addressed by way of a suitably worded condition, and I note that it is a recommended condition set out in Appendix 2 of the Council's Appeal Statement. Providing that such a condition was worded to preclude occupation of the development until this matter was appropriately addressed, I conclude that this would make the development acceptable in terms of fire safety for future occupiers of the development, should the appeal be allowed.
33. I therefore conclude, subject to a suitable condition, the proposal would comply with policy D12 of TLP, which seeks amongst other things, to achieve the highest standards of fire safety.

Other Matters

34. Policy SP7 of the CLP, amongst other things, seeks to enhance biodiversity across the borough. I note that there is no disagreement between the parties regarding the Preliminary Ecological Risk Assessment which sets out recommendations for further survey work in relation to protected and invasive species and that the Council consider that this additional survey work could be adequately conditioned, should the appeal be allowed.
35. If I were allowing the appeal, I would have to consider whether the Preliminary Ecological Risk Assessment is sufficient. The copy I have been provided with states it is draft and not for distribution and therefore I do query the status of

the document. I also have concerns about the lack of a site walkover and that those carrying out the assessment had not visited the site. As I have found harm in relation to the main issues set out above, I have not considered this other matter further.

36. The appellant asserts that the proposed dwellings would comply with the Nationally described technical housing standards, that the development would be of high-quality design utilising sustainable construction technologies and that in addition to the proposed external amenity space, the appeal site is located in relatively close proximity to public recreational areas. Even if I were to agree with the appellant, these considerations would not outweigh the harm I have found above.
37. The proposal would add three new dwellings to the housing supply each with three bedrooms which would contribute to the housing mix for the area, however, given the scale of the scheme, the contribution to the housing supply would be small. I also note the appellant's assertion that the proposal would result in the efficient use of land and that this would be in accordance with the aims of the National Planning Policy Framework (the Framework). None of these considerations outweigh the harm I have found above. Limited weight is afforded to the modest economic benefits for local contractors from the construction phase, and from occupants of the dwellings spending money in the local economy, due to the scale of the proposal.
38. I note that the Council failed to determine the application within the prescribed period or within an agreed extension of time period and that this has resulted in delays for the appellant with regard to receiving a decision. Be that as it may and whilst this is unfortunate, it is not something that weighs in favour of the proposal.

Conclusion

39. The proposal is contrary to the development plan as a whole and there are no other considerations, including the Framework, which outweigh the harm. The appeal is therefore dismissed, and planning permission is refused.

G Dring

INSPECTOR