



# Appeal Decision

Site visit made on 7 February 2023

**by Martin Allen BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 3<sup>rd</sup> March 2023**

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## **Appeal Ref: APP/L5240/W/22/3296060**

### **37 Welcomes Road, Kenley CR8 5HA**

- 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 Jon Oliver, 37 Welcomes Road Development Ltd against the decision of London Borough of Croydon.
  - The application Ref 21/04059/FUL, dated 30 June 2021, was refused by notice dated 24 March 2022.
  - The development proposed is the demolition of the existing dwelling, erection of a two/three storey building to provide 9 residential units, with associated landscaped areas including parking, cycle and refuse storage.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. The Council's Supplementary Planning Document: Suburban Design Guide is referred to within the reasons for refusal. The Council have advised that this document has now been revoked and as such is no longer a consideration in assessment of the appeal scheme. As such, I have not had regard to this document when making my decision.

### **Main Issues**

3. The main issues raised are:
  - Whether the proposal addresses local housing need, having regard to local policy,
  - The effect of the proposal on the character and appearance of the area, including the effect on trees, as well as the provision of refuse storage,
  - The effect of the proposal on the living conditions of the occupiers of 35 and 39 Welcomes Road, with particular regard to overbearing impact and loss of light,
  - Whether future occupiers would experience satisfactory living conditions, with particular regard to outlook and play space.
  - Whether the proposal is accessible for all users,
  - The effect of the proposal on highway safety,
  - Whether the scheme makes adequate provision in respect of fire safety, and

- Whether the proposal makes adequate contributions in respect of the promotion of sustainable transport options, including the provision of cycle storage.

## **Reasons**

### *Local housing need*

4. Policy SP2 of the Croydon Local Plan 2018 (the Local Plan) sets out that in order to provide a choice of housing for people within socially balanced and inclusive communities, there will be a presumption in favour of new homes where, amongst other things, schemes incorporate a mix of homes by size. In particular, in order to ensure that new homes address the borough's need for homes of varied sizes, there is a strategic target of ensuring that 30% of all new homes, up to 2036, have three or more bedrooms. In addition to this, the Council have set out that its Strategic Market Housing Assessment suggest that approximately 50% of homes should have three or more bedrooms.
5. As such, while noting that the scheme would not result in the net loss of family sized accommodation, it only includes two units that have three bedrooms, out of nine that are provided. This 22% provision falls below the identified need within the borough and as such, notwithstanding that the appellant contends the 30% figure is a target and not a requirement, the scheme would fail to meet a locally arising housing need, in conflict with policy SP2.
6. The reason for refusal refers to policy DM1.1. However, this policy refers specifically to sites of ten or more dwellings and thus is not directly relevant to this proposal. This does not however diminish the conflict in respect of the policy referred to above.

### *Character and appearance*

7. The appeal site lies along Welcomes Road and while there is variety in the scale and design of housing within the wider area, the site itself is most closely related to the single storey dwellings that lie within proximity to it. There is a row of six bungalows along this stretch of the road which allows for a distinct sense of spaciousness, along what is otherwise a generally enclosed road, due to the presence of trees and vegetation. The set back of the bungalows within their respective plots further serves to reinforce the sense of spaciousness.
8. The appeal scheme would result in the construction of a building that is substantially larger in terms of its scale and massing than that which currently exists. While buildings of similar scale are present within the area, including opposite the appeal site, within the context of the row of six bungalows, the proposed building would appear as an overly assertive feature, harmfully out of scale with the buildings with which it would share its closest visual relationship. It would substantially diminish the existing sense of spaciousness, which is a positive feature of development along this side of Welcomes Road at this location.
9. I note that the appellant contends that the third storey of accommodation is provided within the roof space of the building, as advocated by the Council's own supplementary planning document. However, as I set out above, this document is no longer in force. Moreover, notwithstanding this, I am not convinced that this is an appropriate design response for this location, due to the strong context of single storey properties adjoining the appeal site.

10. The scheme also includes a large forward projecting gable element which serves the third storey of accommodation, and this has the effect of highlighting and emphasising the presence of this level of the building, further reinforcing an impression of discontinuity between the proposed and the existing neighbouring buildings. In addition, given the positioning of the building within the site and its overall height, it would have an excessively dominant visual appearance from the street, further serving to erode the openness of the location.
11. The row of bungalows of which the site forms part of are characterised by their green and verdant frontages, behind which car parking is provided. This contributes to the softened appearance of these particular dwellings compared to others in the wider area that are positioned closer to the road. The appeal scheme shows a large amount of the frontage of the site being taken up with the parking provision for the scheme and a relocated vehicular access. As a result, a significant area is taken up by hardstanding, which would be incongruous at this location. It would emphasise the proposal as a more intensive form of residential development than that present on the adjoining sites and would be at odds with the existing form of development with which the appeal site shares its closest affinity. I acknowledge that the amount of parking provision is included in order to try and provide sufficient parking for residents, however this does not diminish my concerns in this respect.
12. The site is subject to a Tree Preservation Order which protects two trees to its frontage. However, these trees have been removed, and it is understood that this was with the agreement of the Council's Tree Officer. Any permission that was to be forthcoming for development on the site could require replacement by planning condition. As such, I find that the scheme would not result in any unacceptable harm in regard to trees. Nonetheless, this does not diminish my findings of harm as outlined above.
13. Policy DM13 of the Local Plan requires that refuse and recycling facilities be, amongst other things, sensitively integrated in the building envelope so as to not be visually intrusive, are adequate for their purpose and conveniently located so are to be easily accessible, including by waste operatives and their vehicles.
14. The Council outlines that the waste provision is inadequate. The appellant comments that the bin store as shown on the plans could have been reconfigured to accommodate the additional requirements. However, there is insufficient space within the bin store to accommodate this. Furthermore, the location of the bin store to the front of the site adds visual clutter to the development and would result in harm to the appearance of the area. Moreover, there is no clear evidence in respect of the gradients of the access to allow for acceptable access by waste operatives.
15. Accordingly, I find that while there would be no harm to protected trees, the scheme would have a harmful effect on the character and appearance of the area, and there would be inadequate and intrusive refuse storage facilities. Thus, the scheme would conflict with policies DM10 and DM13 of the Local Plan, as well as policies D3 and D4 of the London Plan. Together, and amongst other things, these policies seek to ensure that development respects the scale and massing of development, that development enhances local context and that the design quality of new development is high.

*Living conditions - 35 and 39 Welcomes Road*

16. 35 Welcomes Road (No 35) is positioned to the north of the proposed building and lies at a lower level than the appeal site. The appeal scheme would result in a significant new mass of building located in close proximity to the boundary with No 35, near to a rear patio area and conservatory. While I note that the submitted drawings indicate that there would be no encroachment from a 45 degree angle drawn from the corner of No 35, this does not take into account the height to which the appeal scheme would reach. As such, while there may not be an unacceptable effect on the direction of outlook from windows on the rear of No 35, I find that the scheme would have an unacceptable overbearing effect that would be experienced by the occupiers of No 35, particularly when using their outdoor space close to the dwelling and boundary, as well as when using the conservatory.
17. Additionally, given the orientation of the proposed building to the south of No 35, there is likely to be an increased, and unacceptable amount of overshadowing to the rear of No 35. There has been no daylight or sunlight assessment submitted to demonstrate otherwise.
18. In terms of 39 Welcomes Road (No 39), the elevation facing this property would be shorter than that facing No 35 and would be more significantly stepped away from No 39. This, when coupled with the design of the roof hipping away from the property would ensure that there is no unacceptable overbearing effect on No 39. No concern in respect of loss of light to No 39 has been raised by the Council and I have no reason to find otherwise.
19. Therefore, I find that the scheme would result in an unacceptably harmful effect on the living conditions of the occupiers of 35 Welcomes Road, with respect to overbearing effect and loss of light. Accordingly, the proposals conflict with policy DM10 of the Local Plan, insofar as it seeks to ensure that development protects the amenity of the occupiers of adjoining buildings.

*Living conditions - Future occupiers*

20. Unit 2, to the ground floor contains two bedrooms that would be served by windows that are positioned in close proximity to the boundary with No 35 and thus there is likely to be a boundary treatment in close proximity to these. Furthermore, given their positioning at the ground floor, alongside an access way to the rear garden area, occupiers would be likely to keep any window coverings closed in the interests of preventing passing individuals from being able to look into these rooms. As such, notwithstanding that they are single bedrooms, there would be little outlook from these windows, as well as providing little opportunity for light to enter. In my view, these rooms would be dark and gloomy, with unacceptable outlook.
21. Both units 3 and 6 would have master bedrooms that are served by corner windows. This would allow occupants a reasonable outlook and would also allow light to enter the rooms. Thus, I find this arrangement to be acceptable. Unit 6 however would have an obscurely glazed window to its second bedroom, and this would not allow the occupants any outlook, resulting in unacceptable living conditions. There is reference to units 4 and 9 having a single aspect, which would not provide adequate outlook for occupiers. There is also a lack of built in storage within several of the units.

22. The Council highlight that dedicated provision of child play space is required, amounting to 16.7 square metres. While this is not shown on the submitted plans, the rear garden area is large enough to accommodate this provision and this could be secured by planning condition, should permission be forthcoming.
23. In light of the above, I find that the scheme would not provide acceptable living conditions for the future occupiers of Units 2, 4, 6 and 9, with regard to outlook. Accordingly, the proposals conflict with policy D6 of the London Plan, insofar as it seeks to ensure that housing developments should provide rooms with comfortable layouts, as well as dual aspects.

#### *Accessibility*

24. Policy D5 of the London Plan requires, amongst other things, that development proposals be convenient and welcoming, provide independent access, and be able to be entered, used and exited safely and easily. The scheme includes a steep vehicular access, with a stepped pedestrian access alongside. The boundary along the road is currently a grass bank. The scheme includes insufficient information to show that it would be possible for step free access to the site to be achieved, at an acceptable gradient. Moreover, the parking area to the front of the site is constrained in its layout and as such, there is nothing to convince me that appropriate disabled parking can be made available within this area. Thus, the scheme contains insufficient information to show that it can accord with policy D5.

#### *Highway safety*

25. The submitted details show the provision of 9 parking spaces within the appeal site. The Council sets out that London Plan policy T6.1 "outlines the required provision." However, this policy sets out maximum standards, rather than minimums. The policy sets out that a maximum of 1.5 spaces per unit should be provided, i.e., 13.5 spaces. However, despite the low Public Transport Accessibility Level (PTAL) rating of the location, there is a railway station and bus routes within a walkable distance. As such, occupiers would have a choice of transport options that they could use. In these circumstances, I find that 9 spaces, one per unit, would be an acceptable level of on-site parking.
26. Notwithstanding this, the layout of the parking within the site is somewhat contrived. The extent of the hardstanding to the front of the building is constrained which would make the manoeuvring of vehicles challenging. Some vehicles would be required to reverse for long distances within the parking area in order to enter or exit the space. In my view, this may lead to occupiers choosing to park on the road, rather than undertake such manoeuvres. Given the narrowness of Welcomes Road, this would have the potential to block visibility for vehicles exiting other nearby properties. Moreover, parking space 9 is accessed directly from the road, rather than the new vehicular access. This, in my view, is likely to result in cars reversing directly out of this space, without sufficient visibility of on-coming traffic, resulting in a further risk to highway safety.
27. The Transport Statement submitted with the planning application contains a plan showing the provision of vehicular visibility splays at the point of access. However, they have not been incorporated into the scheme, they are shown as an overlay over the proposed site layout. They cross the pedestrian access steps and it's not clear if or how these steps would interfere with visibility. The

appellant suggests that a planning condition could address this, however it is not clear how the provision of the splays would affect the pedestrian access and so I do not consider it appropriate to address this matter by condition. As such, insufficient information has been provided to demonstrate that safe and appropriate visibility can be achieved.

28. Accordingly, I find that the proposal would result in a detrimental effect on highway safety at this location. Thus, it conflicts with policy DM29 of the Local Plan, insofar as it seeks to ensure that development must not have a detrimental impact on highway safety.

#### *Fire safety*

29. Policy D12 of the London Plan requires that all developments address matters of fire safety. However, a Fire Statement is only a requirement for major development proposals, which the appeal scheme is not.
30. While I note the topics that are referred to by the Council, there is nothing before me that convinces me that this matter is not capable of being dealt with by way of a planning condition. Subject to such a condition, the scheme would, in my view, accord with policy D12.

#### *Sustainable transport*

31. Cycle parking is provided as part of the scheme, which is shown to be provided to the front of the site, adjacent to the parking area. While the Council raise concern over the location and amount of provision, there is scope within the site to accommodate sufficient cycle parking, further details of which could be secured by condition if planning permission was forthcoming. I do not consider it necessary that cycle parking is located within the building and nothing has been submitted to show that this is a requirement.
32. The Council's officer report outlines that a financial contribution is required in respect of mitigations identified within the Kenley Transport study, or to improvements in sustainable transport. However, no information has been submitted in respect of specific mitigations that are required. Nor is there any information in regard to what improvements are sought in terms of sustainable transport.
33. Any planning obligation is required to meet the tests as set out within Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, which states that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is:
- (a) necessary to make the development acceptable in planning terms;
  - (b) directly related to the development; and
  - (c) fairly and reasonably related in scale and kind to the development.

These tests are also reflected in paragraph 57 of the National Planning Policy Framework (the Framework).

34. In the absence of more detailed information in this regard, I am unable to conclude that the stated financial contribution would meet these tests. As such, I find that this matter does not weigh against the appeal scheme.

35. Accordingly, in the absence of detailed evidence justifying a contribution, I find that the scheme could make adequate provision in respect of sustainable transport options, including the provision of cycle storage. Thus, there would be no conflict with policies T4, T5 and T9 of the London Plan.
36. Together, and amongst other things, these policies seek to ensure that any adverse transport impacts are identified, that adequate cycle parking is provided and transport impacts from development are mitigated.

### **Other Matters**

37. I note that there has been a previous scheme on the site which was refused planning permission. However, that scheme is not before me, and I have made my decision on the basis of the current scheme as proposed.
38. Additionally, there is reference throughout the appellants statement to the lack of communication from the Council, as well as numerous attempts to seek feedback on the scheme. While this is noted, it is a matter between the appellant and the Council and has little bearing on my decision.

### **Conclusion**

39. While I have found no harm in respect of fire safety and sustainable transport, the scheme would result in harm in respect of failing to address local housing need, having a detrimental effect on the character and appearance of the area, being harmful to the living conditions of neighbouring occupiers, as well as not providing acceptable living conditions for future occupiers, not being accessible for all users and resulting in harm to highway safety.
40. While the scheme would result in the provision of additional housing, the benefits of this would be limited and not sufficient to outweigh the identified harms.
41. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding.
42. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

*Martin Allen*

INSPECTOR