



Appeal Decision

Site visit made on 7 March 2023

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2023

Appeal Ref: APP/L5240/W/22/3309687

20 Kingsdown Avenue, South Croydon, Croydon CR2 6QF

- 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 A Bambroffe against the Council of the London Borough of Croydon.
 - The application Ref 22/03525/OUT, is dated 22 August 2022.
 - The development proposed is an outline application for demolition of the existing dwelling and erection of a two-storey development with roof accommodation and parking basement comprising five family dwellings.
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Decision

1. The appeal is dismissed and outline planning permission for demolition of the existing dwelling and erection of a two-storey development with roof accommodation and parking basement comprising five family dwellings is refused.

Preliminary Matters

2. The planning application is submitted in outline with all matters other than scale and layout reserved for a subsequent reserved matters application. The plans showing scale and layout that accompany the outline planning application also give indicative details about other aspects of the proposal. I have taken these indicative details into account only in so far as establishing whether it would be possible, in principle, to erect a two-storey development with roof accommodation and parking basement comprising five family dwellings on the site.
3. This appeal was made on the basis of the Council's failure to determine the planning application within the statutory timescale. The Council has provided a statement explaining the reasons why it would have refused planning permission had it been able to do so. The main issues below are therefore taken from the Council's statement.
4. I note that Croydon has an emerging Draft Local Plan. However, I am not aware of the exact stage it has reached, the extent of unresolved objections or whether its policies will be considered as consistent with the National Planning Policy Framework (the Framework). Consequently, in accordance with paragraph 48 of the Framework, I give it very limited weight.

Main Issues

5. The main issues in this appeal are:

- i. The effect of the proposed development on the character and appearance of the area.
- ii. Whether future occupiers would be likely to experience acceptable living conditions in terms of privacy, outlook and external amenity space provision.
- iii. The effect of the proposed parking arrangements on highway safety.

Reasons

Character and appearance

6. The appeal site is in a suburban, residential neighbourhood of mainly detached and semi-detached houses with spacious rear gardens. The hilly topography provides views up to and down from the houses and their gardens. The appeal site itself slopes up markedly from front to back. It is located at the start of a bend in Kingsdown Avenue down towards the busier Brighton Road. Plots on the outside of this bend, including the appeal site, are wider at the rear than at the front.
7. Most houses on Kingsdown Avenue have common front and rear building lines. They are set back from the road behind evenly sized front gardens. The appeal site follows this pattern. However, its downhill neighbours at nos. 18 and 16 have buildings located towards the rear of their plots behind much longer front gardens and driveways.
8. The positioning of the two proposed groups of houses broadly mirrors that of their immediate neighbours on either side. This would provide a transition between the differing positions of the buildings at nos. 22 and 18. The width of the front pair would be comparable to that of other semi-detached houses in the street. Their footprint would be slightly deeper than the prevailing pattern, but the site can accommodate this degree of variation as it turns the corner.
9. The flank of both groups of houses would abut the public footpath that runs up the side of the site. This would be a closer relationship than with the existing house. The side view of the rear group would be a new feature for those using the path. However, this arrangement would not significantly detract from the character of the path in either direction. Other buildings are being erected alongside it. Its steep gradient would also help to maintain views across the valley and mitigate any sense of enclosure. Additional dwellings near the path would add to natural surveillance.
10. In terms of scale, the height of the front pair would be comparable to that of other buildings on either side of it when viewed from the street. The rear terrace further up the site would have the same number of storeys as the front pair. However, its height would be reduced in appearance by significant excavation to lower the ground level of that group. As a result, the top of the rear terrace would not rise significantly above the front pair when viewed from the street.
11. Notwithstanding the points above, the proposed houses would be very densely arranged within the site. The width of the terrace would almost fill the rear of

the site. It would have a very close relationship with the front pair. All front and rear gardens would be small. These features of the proposed layout would be more characteristic of an inner London setting than an outer London suburban neighbourhood. Consequently, they would contrast markedly with the character of the area.

12. I note the site is situated just outside the 'Area for focussed intensification' identified as 'Brighton Road (Sanderstead Road) Local Centre with its setting' under Policy DM10 of the Croydon Local Plan (CLP). It falls instead within an area characterised as suitable for 'Regeneration', which allows for an increase in density within the broad parameters of the existing local character. It has been put to me that the appeal site should benefit from the higher degree of density allowed for by the nearby focussed intensification designation. I consider the site is not close enough to the local centre on Brighton Road to form part of its setting. It has more in common with the suburban character of the centre's hinterland. Consequently, 'focussed intensification' does not provide an appropriate context for increasing density to the extent proposed on the site.
13. I note reference to densification of areas with good access to public transport and high PTAL rating. However, this needs to be balanced with the need to maintain a high-quality character and appearance to the area.
14. For the above reasons, I conclude the effect of the proposed development on the character and appearance of the area would be harmful. This is contrary to Policies D3 and D4 of the London Plan (LP), Policies DM10 and SP4.1 of the CLP and the Framework. These policies seek optimisation of site capacity through good design; incremental densification; layouts and scale that respect and enhance local context and Croydon's varied local character; and subdivision of larger plots with a layout that complements the existing urban pattern.

Living conditions

15. The upper floor front windows of the rear terrace would face the upper floor rear windows of the front pair of houses. Indicative layouts suggest at least some of these rooms would be habitable, notwithstanding the front to rear relationship. The development plan does not prescribe separation distances. Supporting text to Policy DM 10 of the CLP notes 18-21 metres is a best practice 'yardstick' that should be applied flexibly depending on context. However, the separation distance proposed would be significantly less than this yardstick.
16. I note this relationship would be between new buildings so no existing occupants would be affected. Nevertheless, the resulting level of privacy would not be usual within the suburban context of the site. Mitigation through use of curtains or blinds would not be a reasonable expectation to place on future occupants. These would need to be in use frequently to have an effect, reducing outlook. Consequently, I consider the level of privacy would not be acceptable.
17. The rear gardens of the three terraced houses would be formed following the significant excavation referred to above. They would therefore be well below the ground level of the adjacent premises and public footpath. They would be short and surrounded by a very high wall on all sides. Their orientation would not optimise sunlight and they would be overshadowed by the houses to which

they belong. Consequently, they would not be well suited to the normal activities expected of the occupants of a family dwelling, such as children's play. The very limited front gardens of these houses would not provide a suitable alternative.

18. The short back gardens and very high walls would also result in poor rear outlook from the ground floor habitable rooms of these houses. This would not be adequately mitigated by use of full height and width windows or the existence of secondary windows. Whilst these measures would allow more light into the associated rooms, they would not improve the view out of them.
19. The rear gardens of the semi-detached pair would be slightly larger and less enclosed than those in the terrace. However, these spaces would be directly overlooked by the upper floor windows of the three new houses behind them. Given the proximity of the two groups of dwellings, this would not be fully overcome by planting or the gradient of the site.
20. For the above reasons, I conclude future occupiers would not be likely to experience acceptable living conditions in terms of privacy, outlook and external amenity space provision. This is contrary to Policies D3 and D6 of the LP, Policy DM10 of the CLP and the Framework. These policies seek high quality design in new housing, which provides appropriate privacy, outlook and amenity and useable external space.

Highway safety

21. Access is a reserved matter. However, the outline planning application specifies a parking basement. The accompanying plans show a proposed access to this from the highway allowing for retention of a street tree. I note the proposed width of the parking bays. Nevertheless, little evidence has been provided to demonstrate there would be sufficient space within this arrangement to allow cars to enter, park and turn safely. Cars passing the access on Kingsdown Avenue would do so while travelling downhill, negotiating a bend in the road and approaching the junction with Brighton Road. This would limit their ability to slow down or stop safely in an emergency. A change to the layout of the proposal that is before me to determine would therefore be required to mitigate the risks to vehicular and pedestrian safety both within the site and on the highway.
22. For this reason, I conclude the effect of the proposed parking arrangements on highway safety would not be acceptable. This is contrary to Policies T4 and T7 of the LP, Policies DM29 and DM30 of the CLP, and paragraph 111 of the Framework. These policies resist development that would have an unacceptable impact on highway safety, including in relation to servicing and parking arrangements.

Other Matters

23. The proposal would contribute four additional family dwellings to the supply of housing in the Borough of Croydon. I give this benefit moderate weight. I note the importance placed by the LP on increasing housing delivery on small sites and on sites with good access to public transport, like this one. I also note the CLP's strategic objective for family homes and that the Framework seeks to significantly boost the supply of homes. However, Policies D3 and D4 of the LP require optimisation of site capacity through a design-led approach on all sites,

irrespective of size and location. I have identified above a conflict with the design principles set out in those policies. I consider the benefit of four additional family dwellings on a small site would not outweigh that conflict.

24. I note the appellant sought pre-application advice from the Council before submitting the planning application. I also note the evolution of the proposal's design. However, I have considered the appeal proposal on its own merits based on the evidence before me.
25. My attention has been drawn to a suburban design guide SPD. I understand this has been revoked by the Council.
26. The Council has raised concerns about the proposed refuse facilities and cycle parking arrangement. These are matters of detailed design that would be considered at reserved matters stage. There appears to be space for refuse facilities and cycle parking provided within the layout. Consequently, they have not affected my conclusions on the main issues. The Council has also raised the absence of a legal agreement to secure measures to mitigate the impacts of the development. The basis for this concern is not clear. Be that as it may, I have determined this appeal based on the information before me and the absence of a legal agreement has not affected my conclusions.

Conclusion

27. For the above reasons and having considered the development plan policies drawn to my attention, I conclude the conflict with Policies D3, D4, D6, T4 and T7 of the LP and Policies DM10, SP4.1, DM29 and DM30 of the CLP means the proposal conflicts with the development plan as a whole. Taking account of the Framework and all other matters raised, I conclude that conflict means the appeal should be dismissed.

C Carpenter

INSPECTOR