



Appeal Decision

Site visit made on 7 March 2023

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 21 April 2023

Appeal Ref: APP/L5240/W/22/3305588

34 Woodmere Avenue, Croydon CR0 7PB

- 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 planning permission
 - The appeal is made by Mr Rob Allen (Clifford Blackmore Investments Ltd) against the Council of the London Borough of Croydon.
 - The application Ref 22/01806/FUL, is dated 28 April 2022.
 - The development proposed is demolition of the existing property and the erection of two blocks of terraced houses, two storey buildings with accommodation in the roof space for three of the units, comprising of a total of four dwellings with six off street car parking spaces.
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Decision

1. The appeal is dismissed and planning permission for demolition of the existing property and the erection of two blocks of terraced houses, two storey buildings with accommodation in the roof space for three of the units, comprising of a total of four dwellings with six off street car parking spaces is refused.

Background and Main Issues

2. 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.
3. 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 including the effect on existing trees, the effect on the living conditions of the occupiers of neighbouring properties with regard to outlook and privacy, the effect on highway safety with particular regard to parking provision, the absence of a legal agreement securing sustainable highway contributions and insufficient refuse facilities and cycle storage.
4. Having regard to the evidence submitted by all parties, including local residents, I consider that the main issues are the effect of the proposal on:
 - the character and appearance of the area;
 - existing trees;
 - the living conditions of the occupiers of neighbouring properties, with regard to outlook and privacy;

- highway safety with particular regard to parking provision;
- measures to reduce car dependency and improve the highway;
- the provision of cycle storage and refuse facilities.

Reasons

Character and appearance

5. The appeal site comprises a single storey dwelling with accommodation in the roofspace set within a relatively spacious plot. The appeal site is currently accessed from Woodmere Avenue down a relatively long drive which runs alongside a block of flats located at 32 Woodmere Avenue. The upper part of the existing dwelling and outbuildings are viewed above the fence located along the boundary with Pipers Gardens, between vegetation. There is currently no vehicular or pedestrian access to the appeal site from Pipers Gardens. The cul-de-sac, Pipers Gardens, is relatively narrow and does not have a separate footway.
6. The dwellings located on Pipers Gardens, consist of five single storey detached dwellings of a consistent design, scale, massing, and use of materials. Soft landscaping and the limited set back of the single storey dwellings along Pipers Gardens provide a particularly intimate character. Dwellings along Woodmere Avenue are generally two storey with accommodation in the roofspace in some cases and are of varied architectural approaches, scale, massing and materials. The area is verdant and spacious in character. The proposal would replace the existing dwelling with two pairs of semi-detached dwellings. Three of the dwellings would be two storey with accommodation in the roofspace and the fourth would be two storey only.
7. The proposal would result in the new dwellings having frontage onto Pipers Gardens. Due to this new spatial relationship, the proposal would have the most significant visual association with the existing dwellings on Pipers Gardens, rather than Woodmere Avenue. Whilst therefore, the height of the taller three proposed dwellings would be in keeping with the height of the neighbouring block of flats at No 32, the scale of the proposal would not be in keeping with the existing built form on Pipers Gardens which would provide the immediate street scene context for the proposed scheme.
8. The proposed dwelling closest to 5 Pipers Gardens is lower than the other three, providing a step in the height of built form, however, the overall scale of the proposal would appear at odds with the scale of existing dwellings along Pipers Gardens. The gable end of the roof form orientated towards Pipers Gardens with the window detail in the roofspace would accentuate the overall scale and prominence of the proposal.
9. The proposal would be set back from the road by a similar distance to other dwellings along Pipers Gardens. The slight step in the front elevations would not be at odds with the positioning of the existing dwellings given there is a slight variation in the front building line and the front elevations of the existing bungalows have bay windows that provide a stepped appearance. However, the amount of development proposed would alter the spacious pattern of development with more limited rear garden depths that are not in keeping with the prevailing character of the area.

10. The provision of bin storage facilities within the front landscaped areas would result in clutter and structures in a prominent position to the front of the proposed dwellings that would not be in keeping with the current open and spacious frontages along the cul-de-sac.
11. The provision of car ports to either side would reflect the presence of existing garages to the side of the bungalows along Pipers Gardens. However, the proposed car ports are either flush or have only a limited setback from the front building line. This would not be consistent with the relationship between existing garages and the dwellings that they serve. Existing garages are stepped back more significantly from the front building line and therefore are significantly less prominent in the street scene.
12. Whilst the use of a combination of matching and complementary materials would aid integration into the street scene, the overall scale, massing and pattern of built form would result in an overly dominant form of development that would harm the character and appearance of the area. I therefore find that the proposal is contrary to policies SP2, SP4 and DM10 of the Croydon Local Plan 2018 (LP) and policies D4, D6 and D8 of The London Plan March 2021 (TLP). These policies seek, amongst other things, that development delivers good design which respects local distinctiveness, the development pattern, the scale, height and massing of an area and ensuring that the public realm is enhanced.

Existing trees

13. There are trees located within the appeal site and adjacent that contribute positively to the character of the area. Three of the existing trees within the appeal site are identified as being retained as part of the proposal, including T2 and T3 which are located along the boundary with Pipers Gardens. The existing garage located in closest proximity to tree T2 would be removed and the built form of the proposed dwellings would be brought further forward than the existing dwelling, closer to both trees T2 and T3.
14. The proposed layout does ensure that the existing trees are within the front garden areas and not within or directly adjacent to the proposed parking spaces. However, the position of T3 and its close relationship with the kitchen window of unit 2 means that there could be issues of outlook from that particular window. In addition the presence of the bin storage areas within the front garden areas, in particular for units 2-4 inclusive, situated either entirely or partly beneath the canopies of T2 and T3 mean that there could be pressure in the future to remove these trees or that works are carried out to reduce their impact on the occupiers which would lead to a detrimental effect on the trees in the longer term.
15. No information on the condition of the trees, the extent of the tree roots and whether the proposal would have a detrimental effect on the trees has been submitted. Without substantive evidence, due to the relationship between T2 and T3 and the proposed buildings and associated structures, I am not satisfied that the proposal could be constructed without having an adverse effect on the trees.
16. I therefore find that the proposal is contrary to policy DM28 of the LP and policy G7 of TLP. These policies seek, amongst other things, that development is not permitted which would result in the avoidable loss or the excessive

pruning of retained trees where they make a contribution to the character of the area.

Living conditions

17. Outlooks from the occupiers of the existing bungalows opposite the appeal site at 1, 2 and 3 Pipers Gardens would change as a result of the proposal, with the built form being closer to the road, of greater height and with more prominence in the street scene. However, given the set back from the road and the overall scale of development I am satisfied that the effect on the outlook from neighbouring properties opposite would not be significantly detrimental.
18. With regard to the occupiers of the adjacent bungalow, 5 Pipers Gardens, the effect on outlook would be limited, given the built form would step up from the flat roofed car port which would be closest to the shared boundary, with the two storey element of the proposal beyond. The depth of built form is retained within the front and rear building lines of No 5 further limiting the effect on the outlook from this particular neighbouring property.
19. The proposed side elevation of Block B would be separated from the shared boundary with 32 Woodmere Avenue, which contains 7 flats, by the proposed single storey car port structure. This means that the taller element of the proposal would be set back from the shared boundary. Therefore, whilst the proposal would be clearly visible from the rear windows of the flats in No 32 and from the rear communal garden space, the separation and set back of the taller element of the proposal would result in a development that would not be overly dominant in the outlook to the extent that would warrant rejection of the scheme.
20. Two rooflights are proposed in the side elevation of Block B facing No 32 which would serve a bedroom and a storage area. It appears from the submitted cross section that it would be possible to gain views from these rooflights over the communal garden area of No 32. The rear elevations of the proposal would be located within close proximity to the shared boundary with 30 Woodmere Avenue with rear garden depths identified on the submitted drawings of between 4.23m and 4.31m. Cumulatively, the rear elevations of both blocks would have eleven windows above ground floor level serving bedrooms and four windows, two of which would be high level, serving bath/shower rooms.
21. There is a degree of mutual overlooking of rear garden spaces, given the residential character of the area. However, despite the use of obscure glazing and high level windows in the four bath/shower rooms, the amount of windows, in combination with the limited separation distance from the boundaries with No 30 and No 32 would not be consistent with the prevailing character of the area in this regard. It would result in the occupiers of the adjacent garden spaces being overlooked to an unacceptable level.
22. I therefore find that the proposal would cause harm to the living conditions of neighbouring occupiers with regard to privacy and is contrary to policy DM10 of the LP and policy D3 of TLP. These policies seek, amongst other things, that developments are designed so that the amenity of the occupiers of adjoining buildings are protected.
23. Policy D6 of the TLP is referenced in the Council's Statement in reference to this matter, however, other than the provision of sufficient daylight and

sunlight, this policy relates to the housing quality standards of proposals rather than existing occupiers of neighbouring properties. Sunlight and daylight are considered later in this decision.

Highway safety with particular regard to parking provision

24. Amongst other matters, Policy DM30 of the LP aims to ensure that highway safety is not compromised by the provision of car parking. It also requires that car parking and cycle parking provision is in compliance with TLP. Policy T6.1 of TLP states that proposals should not exceed the maximum parking standards.
25. The appeal site is located in an area with a Public Transport Accessibility Level (PTAL) of 1b which is considered to be relatively low accessibility to public transport. The maximum level of off street parking of 1.5 spaces per dwelling is proposed in this case, equating to 6 spaces in total. Whilst the number of parking spaces proposed does not exceed the maximum requirement, there are two instances of tandem parking. The tandem arrangement means that both spaces would have to be allocated to a specific dwelling, given that users of the spaces would be able to block one another in and the operation of the spaces would need to be resolved by the occupiers.
26. This tandem parking arrangement therefore limits the use of four spaces for use by two of the dwellings. The Council have suggested that additional visitor parking spaces are also required in this case. However, I have not been provided with the detail of how many additional spaces would be required to make the proposal acceptable in this regard.
27. The swept path analysis submitted shows that the reversing manoeuvre from parking space 2 and 3 and by reason of location, also the car port parking space to the rear, would require movement onto the private drive of the neighbouring properties in order to leave Pipers Gardens in a forward gear. This land is outside of the control of the appellant and therefore could not be relied upon for vehicular movements by any future occupiers of the proposal. Pedestrian sightlines from parking space 2 are also reliant on the use of the neighbouring property. Whilst these issues may be resolved through the provision of amendments to the scheme, I have not been provided with any alternative arrangements. In any case, I must assess the appeal on the evidence before me.
28. I find that the proposal would be harmful to highway safety with regard to the proposed parking provision. It is therefore contrary to policies DM13, DM29 and DM30 of the LP. These policies seek, amongst other things, that development should have a positive impact and must not have a detrimental impact on highway safety for pedestrians, cyclists, public transport users and private vehicles and reduce the impact of car parking.

Measures to reduce car dependency and improve the highway

29. The Council has required a contribution of £1,500/unit towards improvements to sustainable transport measures, with each household required to have car club membership for 3 years. Policy DM29 of the LP promotes sustainable growth in Croydon that reduces the impact of traffic congestion. Policy SP8.13 of the LP states that new development will be required to contribute to the provision of electric vehicle charging infrastructure, car clubs and car sharing schemes. Policy T4 of TLP states that where appropriate, mitigation, either

through direct provision of public transport, walking and cycling facilities and highways improvements or through financial contributions, will be required to address adverse transport impacts that are identified.

30. No adverse transport impacts have been identified or how the contribution would mitigate for those impacts. It is also not clear how the figure has been calculated and there is insufficient detail as to why those contributions are sought. Whilst there are some indications on the various options that the contribution may be spent on, the specific details are limited. Accordingly, I cannot be certain that the contributions sought would be necessary to make the development acceptable or that they would be directly related to the development or reasonable.
31. I therefore find that a planning obligation seeking to provide these contributions would not comply with paragraph 57 of the National Planning Policy Framework (the Framework). In these circumstances, the absence of a planning obligation does not weigh against the development. The proposal therefore complies with policies DM29 and SP8 of the LP and policy T4 of TLP in this regard. These policies seek, amongst other things, to promote sustainable travel, reduce congestion and mitigate transport impacts.

Cycle storage and refuse facility provision

32. Policy DM29 of the LP promotes measures to increase, amongst other things, cycling. Cycle parking spaces that can also be used for the parking of mobility scooters and motorcycles is required by criteria f. set out under Policy DM30 of the LP. Whilst details of the type of cycle storage could be required by condition, the accessibility of the cycle storage within the plots is required at the outset to ensure that they are usable and will promote cycling.
33. The width of the path alongside units 2 and 3 is identified on the drawings as 1.2m. The Council have concerns that when taking into account the gate posts, the width of the entrances into the rear gardens would be less. However, I have not been referred to where the 1.2m width requirement is set out in policy. Given the gate posts would only reduce the width by a limited amount and access would still be provided to a space for cycle storage to the rear of the dwellings I consider, based on the evidence before me, that appropriate cycle storage would be provided in this case, should the appeal be allowed.
34. I have raised concerns about the presence of the refuse storage facilities located within the landscaped areas to the front of the proposed dwellings in close proximity to the road, in terms of the effect on the character and appearance of the area. However, I find, based on the drawings submitted that there would be space for refuse storage in a less prominent position as part of the development. Further details of the refuse storage facilities could be subject to a condition, should the appeal be allowed.
35. I therefore find that, subject to conditions, the proposal would provide sufficient cycle storage and refuse facility provision. It would therefore comply with policies DM13 and DM30 of the LP. These policies seek, amongst other things, to provide appropriate cycle parking spaces and refuse and recycling facilities that are integral to the overall design of a development.

Other Matters

36. The appellant has provided a Daylight and Sunlight Assessment prepared by Herrington Consulting Limited which found that the overall impact on daylight and sunlight would be negligible. I have no substantive evidence before me that leads me to a different conclusion on this matter, however negligible harm in this regard does not weigh in favour of the proposal.
37. I note the appellant's comments about the consideration of proposals based on the effect on the character and appearance of an area, rather than utilising density calculations to guide development and the support for the delivery of small sites through the development plan. However, these considerations do not outweigh the harm I have found above.
38. The proposal would provide an additional three dwellings to the housing supply, with 75% of the scheme having 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 appellants assertions about the principle of development, that the proposal would optimise the use of the site, provide quality contemporary open plan living accommodation in line with national standards and provide appropriate front and rear garden spaces. Even if I were to agree, none of these considerations outweigh the harm I have found above.
39. I note that the Council failed to determine the application within the prescribed period or within an agreed extension of time period and that the appellant considers that the Council have not provided appropriate feedback. Be that as it may and whilst this is unfortunate, it is not something that weighs in favour of the proposal.
40. I recognise that the appellant has sought to resolve issues raised in a previously refused scheme that has been subject to appeal and that pre-application discussions have been entered into with the Council. Be that as it may, I must consider the appeal on its individual merits.
41. Interested parties have raised an issue about the strip of land alongside the boundary with Pipers Gardens and question the ownership. This area of land is included within the red line boundary on the site location plan submitted by the appellant. Ownership matters are a private matter between the relevant parties and not within my jurisdiction.

Conclusion

42. The proposal would conflict with the development plan as a whole. Material considerations, including the Framework, do not indicate that a decision should be taken other than in accordance with the plan. Having considered all other matters raised I therefore conclude that the appeal should be dismissed.

G Dring

INSPECTOR