



Appeal Decision

Site visit made on 18 April 2023

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th May 2023

Appeal Ref: APP/L5240/W/22/3305329

61 St. Saviours Road, Croydon CR0 2XF

- 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 Conor O'Donoghue against the Council of the London Borough of Croydon.
 - The application Ref 22/00207/FUL, is dated 18 February 2022.
 - The development proposed is described as the conversion of the existing dwelling house into three flats plus alterations to the existing rear elevation and rear garden.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Preliminary Matters

2. The appellant has suggested that Flat 2 could be restricted to two people with one bedroom and a study, or two single persons bedrooms. While I have considered this, any study would still be capable of future conversion to a bedroom and there is nothing before me to prevent this.
3. Even if there was, I have not been provided with amended drawings to show any changes. There is also no evidence before me to suggest a two-person standard should be applied given the layout of Flat 2.
4. The Nationally Described Space Standards (the NDSS) set standards based on the proposed number of bedrooms and storeys. Flat 2 would provide two bedrooms over two storeys and I have therefore considered the proposal on this basis in reaching my decision.

Background and Main Issues

5. This appeal against the Council's failure to give notice of a decision results from a validation dispute between the main parties. An assessment by the Council of the scheme's planning merits has now taken place at appeal stage.
6. I have identified the main issues in this appeal having considered the Council's evidence which sets out their main concerns. Notwithstanding, the validation dispute, I have determined the appeal on its merits with regard to the available evidence.

7. Therefore, in light of the above, I consider the main issues to be, the effect of the proposed development on:

- The living conditions of the future occupants with particular reference to floorspace;
- The supply of family sized housing;
- Car parking provision;
- Cycle parking provision;
- Waste management; and
- Fire safety.

Reasons

Living Conditions

8. **Flat 1** – Policy D6 of the London Plan 2021 (the London Plan) and the NDSS state that one-bedroom, two-person dwellings should have a minimum gross internal floor area of 50 square metres (sqm). The appellant suggests Flat 1 would meet this standard. The Council suggest it would fall under this threshold at 49.8 sqm.
9. The appellant has provided evidence to show that Flat 1 would meet this standard and the dispute is marginal between the parties. From the evidence before me, I am satisfied that Flat 1 would meet the NDSS standards.
10. **Flat 2** – The London Plan and the NDSS state that two-bedroom, three-person dwellings over two stories should have a minimum gross internal floor area of 70 sqm. The Council suggest this target would not be met and this is not contested by the appellant.
11. The single bedroom proposed in Flat 2 is L shaped and its widest areas would not meet the width requirement of at least 2.15 metres(m). The Council suggest it would be 1.95m and 1.15m respectively.
12. The drawings also show that the double bedroom proposed in Flat 2 would provide 11sqm of floor area. This would also fall under the threshold of 11.5sqm.
13. The Council has not adequately explained why or how the entrance to Flat 2 would be cramped or how it fails to provide a place of retreat. However, regardless of this and in the absence of compelling evidence to the contrary, I ascribe significant weight to the harm arising from the London Plan and NDSS transgressions identified above.
14. **Studio Flat** – This flat would exceed the minimum gross internal floor area standards. While it would have an entrance corridor, it has not been clearly shown that this would cause a substandard or impractical internal layout.
15. While I have found no conflict in respect to Flat 1 and the Studio Flat, it has not been clearly shown that Flat 2 would avoid a space which would be cramped, oppressive and difficult to fit furniture in or provide general internal circulation space.

16. I also acknowledge the appeal site has extant planning consent for the conversion of the existing dwelling into a 6-bedroom house in multiple occupation (Croydon ref: 20/03638/FUL). However, it has not been clearly demonstrated how a 6-bedroom house in multiple occupation requires the same minimum space as three self-contained units of accommodation. This therefore has limited bearing in respect to this main issue.
17. Consequently, the proposed development would not provide acceptable living conditions for future occupants with particular reference to floorspace. The proposal would unacceptably conflict with the relevant provisions of Policy DM6 of the London Plan, DM10 of the Local Plan and the NDSS. These, amongst other things, address the need for high quality design therefore respecting the living conditions of residential occupiers.

Family Housing Provision

18. There is a particular focus on the supply of family housing in the Croydon Local Plan 2018 (the Local Plan). The Local Plan also has policy in place to protect existing family housing. The strategy for the protection of family housing in the Borough would have been founded upon the evidence base arising out of the plan preparation. This, therefore, establishes a strong presumption against the loss of family housing.
19. However, both parties confirm the appellant has extant planning consent for the conversion of the existing dwelling into a 6-bedroom house in multiple occupation (Croydon ref: 20/03638/FUL). In the event the extant permission is implemented, there is limited evidence to suggest the existing dwelling would continue to offer family accommodation.
20. This therefore creates a viable fallback position which is a material consideration. The courts have held that in considering the concept of fall-back development, as a material consideration, there should be a "real prospect" of it being implemented and not just a theoretical possibility that the development might take place.
21. Based on the available evidence I have no reason to doubt that the appellant may seek to implement the extant permission should this appeal fail and therefore it represents a fallback which is material to my consideration of the current proposal.
22. In conclusion, the proposed development would have an impact on the supply of family sized housing and this generates some conflict with the relevant provisions of Policies GG4, H10 of the London Plan 2021 (the London Plan) and Policies DM1 and SP2.7 of the Local Plan. However, I have also found that the appeal before me would be no more harmful than the fallback permission. This is a material consideration which balances the conflict with the development plan.

Car Parking

23. The appeal site lies in an area with a 'poor' Public Transport Accessibility Level (PTAL). The Local Plan states that outside high PTAL areas the Council will apply the standards as set out in the London Plan.
24. The London Plan aims to reduce car dependency and supports development which encourages healthy streets, encouraging trips to be made on foot, cycle

- and public transport. The London Plan does not specify minimum parking standards. It states that car-free development should be the starting point for all development proposals in places that are well-connected by public transport and developments elsewhere should be designed to provide the minimum necessary parking ('car-lite').
25. The appellant has submitted a Transport Statement (the TS) which shows that the site lies 1.3km from Croydon's town centre. The TS states there are regular bus routes along Queens Road, London Road and Whitehorse Road all within an approximate 10-minute walk of the site.
 26. The TS identifies local and national cycleways in the vicinity of the site and car club vehicles. Rail and tram services are also shown to be approximately 15 – 20 minutes' walk away, maximum 1500 metres and the TS also confirms that local amenities and services are located close to the site, within an approximate 10-minute walk.
 27. The Council has not challenged these elements of the TS and therefore it would be reasonable to conclude that notwithstanding the PTAL rating, future occupiers would use these services and alternative transport options, particularly if car parking is restricted or less cost effective than other modes of transport. Consequently, the need for necessary off-street parking at this site has not been robustly substantiated.
 28. The surrounding streets are within a Controlled Parking Zone (CPZ), and I attach significant weight to their designation as a CPZ. In these circumstances, further parking pressure would be likely to lead to an unacceptable conflict with existing residents and the highway network. Therefore, it would be necessary to prevent future occupiers from obtaining residents' car parking permits within the CPZ.
 29. In the event this appeal was acceptable in all other aspects a planning obligation would be required to prevent future occupiers from obtaining residents' car parking permits within the CPZ. This would ensure the proposed development would make appropriate provision to control its car parking impact.
 30. Subject to an acceptable obligation, the appeal would therefore comply with the relevant provisions of Policies DM16, DM30 and SP8 of the Local Plan and Policies T2, T3, T4, T6 and T6.1 of the London Plan. These policies seek, amongst other things, to ensure that development provides the minimum necessary car parking provision.

Cycle Parking

31. The Council state that there would be sufficient room within the existing rear garden to provide acceptable cycle parking spaces. However, they state the width of the rear lane to access the garden area would be insufficient for the passage of cycles.
32. During my site visit I walked through the gates and along the rear lane. It was very clear that a standard sized cycle would be able to negotiate the lane and gates.
33. In the absence of compelling evidence to come to a different view, the proposed development would provide acceptable cycle parking in accordance

with the relevant provisions of Policies T1, T2, T4, and T5 of the London Plan; Policies DM16, DM29, DM30 and SP8 of the Local Plan and the Cambridge Cycle Parking Guide 2010. These, amongst other things, address the need to promote sustainable travel and healthy communities.

Waste Management

34. It is proposed to demolish a rear single storey structure, and this would enlarge the existing rear garden space. As part of their evidence, the appellant accepts the Council's suggested condition No 6 (Waste Management).
35. I stood in the garden during my site visit, and it was apparent that there would be sufficient space to store and manage waste onsite in accordance with suggested condition No 6.
36. I also walked through the gate and along the rear lane back to the public highway. It was very clear that a 240-litre bin as well as the smaller bins / caddies would be able to negotiate the lane and the gates.
37. Having walked along to the corner of Greenwood Road, I noted space along the pavement for the temporary storage of bins on collection day. The width of the pavement would ensure that pedestrians could still pass and had this appeal been acceptable in all other regards a condition could have been imposed to agree these details.
38. The proposed development would therefore, and subject to conditions, provide acceptable waste management provision. It accords with the relevant provisions of Policies DM10 and DM13 of the Local Plan, Policies D6, SI7 and T7 of the London Plan, the National Planning Policy Framework and the Waste and Recycling in Planning Policy Document 2018. These, amongst other things, address the need for design which manages waste provision generated from developments.

Fire Safety

39. Part A of Policy D12 of the London plan sets out that all development proposals must achieve the highest standards of fire safety, taking into account factors which include fire risk reduction, fire escape and evacuation and provision for firefighting. While Part B of the policy requires submission of a Fire Statement as part of major development proposals, this is not a requirement for minor development such as the appeal proposal.
40. From the evidence before me and having regard to the scale and nature of the development, I can see no reason that submission, approval and implementation of a satisfactory fire strategy to address the requirements of the London Plan could not be secured by means of a planning condition.
41. I therefore conclude on this main issue that subject to a condition, there would be adequate standards of fire safety and I find no conflict with the relevant provisions of Policies D11 and D12 of the London Plan. These policies seek to ensure the safety of all building users.

Other Matters

42. The proposal would provide a mix of housing units making a positive contribution toward housing delivery. I ascribe this benefit moderate weight.

43. I have also not found the appeal scheme to be in conflict with the development plan in some respects. However, the absence of harm is a neutral matter that weighs neither for nor against the proposal.
44. However, the weight attributable to the harm, in respect of the living conditions of the future occupants with particular reference to floorspace, attracts significant weight. This harm would not be outweighed by the benefits to tip the planning balance in the appeal scheme's favour when set against its conflict with the development plan.
45. There is some dispute on the wording of the legal agreement and its content. However, as I am dismissing this appeal for other reasons there is no need for me to consider this matter further.

Conclusion

46. The appeal scheme would therefore conflict with the development plan when read as a whole for the reasons I have given, and I consider there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed and planning permission refused.

N Praine

INSPECTOR