



Appeal Decision

Site visit made on 12 May 2023

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2023

Appeal Ref: APP/L5240/W/22/3308850

233 Hayes Lane, Kenley, Croydon CR8 5HN

- 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 Matthew Harding (MJH Hayes Lane Developments Ltd) against the Council of the London Borough of Croydon.
 - The application Ref 22/03401/OUT is dated 11 August 2022.
 - The development proposed is demolition of existing dwelling and erection of a two-storey development comprising three family dwellings.
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Decision

1. The appeal is dismissed and planning permission for demolition of existing dwelling and erection of a two-storey development comprising three family dwellings is refused.

Preliminary Matters

2. The planning application was in outline, with scale only to be considered at this stage. I have therefore treated details of landscaping, access and layout which are included on drawing no. 233HL.4 P3(A) as being indicative. However, I have had regard to that drawing to the extent that it details the scale of the proposed dwellings. I have also treated drawing no. 233HL.4 P4 as being indicative, since it is confined to details of the appearance and layout of the proposed dwellings, which are reserved matters.
3. The Council did not issue a decision within the prescribed period or within any 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. The Council's second putative reason for refusal refers to Policy D13 of the Croydon Local Plan 2018 (CLP). Elsewhere, the Council's evidence refers to CLP Policy DM13, and it is clear from the context that this is the applicable policy in relation to refuse and recycling. I have therefore had regard to policy DM13 when considering this aspect of the appeal.

Main Issues

5. The Council's statement of case states that, had they reached a decision, planning permission would have been refused for three reasons relating to the character and appearance of the area, protected species and provision for cycle and refuse storage. On that basis, the main issues are:
 - the effect of the proposal on the character and appearance of the area,

- whether the proposal would protect or enhance biodiversity, and
- whether suitable provision could be made for refuse and recycling and storage of cycles.

Reasons

Character and Appearance

6. The appeal site is located in a residential area comprising predominantly detached dwellings in mature gardens. Dwellings either front the original main through routes, including Hayes Lane, or are grouped around cul-de-sacs inserted as a result of later infill development. Plot widths are relatively consistent and generous along Hayes Lane, however the design, scale and materiality of individual dwellings is more varied.
7. At the time of the application, there was a detached bungalow on the appeal site, but this has since been demolished. There remains a concentration of bungalows along this part of Hayes Lane and into Lovelock Close, including single storey dwellings to both sides of the site and at the rear. However, in the wider area, two storey dwellings are more prevalent. Extensive mature garden planting and roadside vegetation is a unifying feature of the street scene, as is a sense of space around each dwelling.
8. The proposed two storey dwellings would extend across much of the width of the site. They would have a significantly greater eaves and ridge height than either of the adjacent bungalows. Whereas the bungalows have a low, wide profile with fully hipped roofs, the proposed dwellings would have a significantly narrower and more vertically-oriented form, in order to accommodate three units across the width of the site. As a result, there would be a particularly abrupt contrast in scale, both vertically and horizontally, between the proposed dwellings and their nearest neighbours.
9. The two storey dwellings nearby are predominantly detached houses, each standing in their own generous garden. Where there is a mix of single storey and two storey elements, there is typically a generous level of lateral separation at first floor and roof level. The proposed dwellings would lack a similar sense of space and would therefore appear significantly more cramped.
10. While Policy DM10.1 of the CLP says that development should seek to achieve a minimum height of 3 storeys, it also requires that proposals respect the development pattern, scale, height and massing of the surrounding area. Reference is also required to the characteristics of the Place of Croydon within which the site is located. Although the bungalow on the appeal site may not have fallen neatly within the predominant housing types in Kenley, as described in the Borough Character Appraisal, the effect of the proposal on distinctive local characteristics such as the generally spacious plots and detached housing typology, remains relevant.
11. Although the character of the street scene has evolved over time, notably as a result of several cul-de-sac developments off the main through routes, the proposed development would not be a logical continuation of that process. The appeal site lacks sufficient space to allow for creation of a cul-de-sac with its own internal character. Instead, the proposal would introduce a non-typical housing typology, in a prominent position on the main road frontage, which fails to respond positively to the character of its surroundings.

12. I note that the Inspector considering a previous proposal for a flatted development concluded that the scale and mass of that proposal would have caused significant harm to the character of the area¹. Although the overall ridge height of the current proposal would be slightly lower, its width across the site would be greater and the subdivision of the plot to provide separate dwellings more clearly apparent. As such, I similarly conclude that the proposed scale of this alternative development would cause significant harm to the character of the area.
13. Since layout and landscaping are reserved matters, the submitted details of parking provision and soft landscaping are indicative. Likewise, while the siting of the dwellings aims to respond to the curve in Hayes Lane, this aspect of the proposal is also indicative at this stage. With that in mind, given the extent of the site, it would potentially be possible through careful design to provide adequate soft landscaping to screen the parking areas and maintain the leafy character of the street scene. Likewise, suitable external materials and detailing could be adopted, drawing on the varied palette of materials within the surrounding street scene. However, these design measures would not be sufficient to overcome the harm arising from the scale of the proposed dwellings, as identified above.
14. For the reasons set out above, I conclude that the proposed development would have an unacceptably harmful effect on the character and appearance of the area. As such, it would conflict with policy D3 of the London Plan 2021 and policies SP4 and DM10 of the CLP. These policies, amongst other things, require that development which increases residential densities should also respect existing local character, including existing development patterns, scale, height and massing.

Biodiversity

15. Although the site is within an established residential area, it fronts onto an area of undeveloped land and there is extensive vegetation within the surrounding gardens and along the roadside. The Council also refers to the site as being opposite a Site of Importance for Nature Conservation (SINC), although little evidence has been provided as to the features which this local designation seeks to protect.
16. There have been several previous applications on the site and the appellant states that an updated preliminary ecological appraisal (PEA) was most recently submitted with application 21/02624/FUL for the erection of flats. The Bat Survey² provided with the appeal documentation also refers to PEAs dated March 2020 and April 2022. However, the Council states that no PEA was provided with this application and no copies of any previous PEAs have been made available with the appeal evidence. Therefore, I have been unable to consider their contents, other than in the form of the brief summaries included in other documents.
17. Based on the earlier PEAs, the appellant has indicated that there would be low to negligible impact on habitat for protected species. I further note that the bat emergence survey did not record any evidence of bats roosting within the bungalow. However, it is also clear that circumstances have subsequently

¹ Appeal ref APP/L5240/W/20/3264881, decision dated 4 February 2022

² Quantock Ecology Environmental Consulting Bat Survey – Emergence and Activity Surveys dated 6 May 2022

changed on the site, since the bungalow has now been demolished and the site is lying vacant. On that basis, as well as having not had sight of the baseline ecological evidence, I can no longer be confident that it is up to date.

18. I note that the appellant has expressed willingness to undertake a further updated PEA as part of the reserved matters process. However, this would not address the absence of satisfactory evidence to support my consideration of the principle of the proposed development. Had I been otherwise minded to allow the appeal, this is a matter which I could have raised with the appellant. However, since resolution of this issue would not overcome the other harm identified above, there would have been little benefit in doing so in these circumstances.
19. For the reasons given above, on the basis of the information before me, I am not satisfied that the proposed development would protect or enhance biodiversity. As such, it would conflict with policy G6 of the London Plan and policy DM27 of the CLP. These policies, amongst other things, require that development proposals should avoid adverse impacts on designated nature conservation sites or protected species and should be informed by the best available ecological information.

Refuse/recycling and Cycle Storage

20. Since layout is a reserved matter, there would be an opportunity to confirm detailed arrangements for refuse/recycling facilities and cycle storage at a later stage. While I note that the Council has highlighted practical concerns in relation to the arrangements shown in the application drawings, that site layout is for indicative purposes only.
21. Notwithstanding the width of the proposed dwellings, it would remain possible to maintain some form of access to the rear of the site. Therefore, cycle storage in this location could feasibly be designed without relying on internal access through any of the dwellings. Alternatively, a different location and form of cycle parking/storage could be devised. Likewise, alternative arrangements for storage and collection of refuse and recycling could be designed to satisfy local collection standards.
22. On that basis, I conclude that suitable provision could be made for refuse and recycling and storage of cycles, subject to submission of a detailed layout at reserved matters stage. On that basis, the proposal does not conflict with policies T4 and T5 of the London Plan or policies DM13, DM29 or DM30 of the CLP. These policies, amongst other things, require that site layouts facilitate use of cycles, including through provision of cycle parking to relevant standards and that refuse facilities are conveniently located and easily accessible.

Other Matters

23. I note that the London Plan 2021 introduced an increased housing target for the Borough, which post-dates adoption of the CLP in 2018. However, I have not been presented with any substantive evidence of under-delivery against that updated target. Neither has either party suggested that the Council lacks a five year supply of housing land. Therefore, based on the evidence before me, there is no indication that the policies which are most important for determining the application should be regarded as being out of date.

24. The proposal would make a modest contribution of two additional homes towards the supply of housing. It would be capable of exceeding Local Plan policy requirements in relation to housing mix, including targets for the provision of three bedroom family housing. It would also bring forward housing on a small site, capable of being built out quickly and contributing to the small sites target in the development plan. There would be a modest contribution to the local economy, as a result of the construction process and increased trade for local businesses.
25. However, while the efficient use of land and development on small sites is supported in both the London Plan and the National Planning Policy Framework (the Framework), such support is not at the expense of ensuring that all development is well designed. Notwithstanding the absence of an area-wide design code for the Borough, the effect of developments on small sites on the character and appearance of the surrounding area remains a valid consideration. Furthermore paragraphs 124 and 130 of the Framework require that development is visually attractive and has regard to an area's character and setting, as well as making more efficient use of land where appropriate.
26. In addition, both the Framework and the London Plan direct the most significant uplift in residential densities towards areas with a high standard of accessibility to public transport and local services. As indicated by its Public Transport Accessibility Level of 0, which is the lowest rating, the appeal site is not within such an area. Therefore, the proposal's contribution towards the environmental and social objectives of sustainable development would be inherently limited.
27. There is no indication that the detailed design would fail to meet required standards in relation to fire safety, minimum space standards, play space, accessibility, air quality or energy efficiency. Likewise, no material harm has been identified in relation to the effect on the occupiers of neighbouring properties, parking provision, highway safety, drainage, flooding or the future redevelopment potential of neighbouring sites, subject to consideration of a detailed design through the reserved matters. I have also concluded that adequate provision could be made for refuse/recycling and cycle storage.
28. However, compliance with these and any other relevant policies of the development plan is a neutral factor which does not weigh either for or against the proposal.

Planning Balance

29. While the proposed development would deliver benefits in terms of the supply of housing on small sites and associated economic benefits, these benefits are inherently modest given the small scale of the proposal. Having also had regard to the site's poor accessibility to local services and public transport, I have given these benefits of the proposal modest weight.
30. Set against those benefits are the inadequate evidence that biodiversity would be protected or enhanced and the significant harm I have identified to the character and appearance of the area. Even if I had been provided with more convincing and supportive ecological evidence, the harm to the character and appearance in itself carries significant weight.

31. Consequently no other matters outweigh the clear harm that would result from the proposal, as set out in the foregoing main issues.

Conclusion

32. For the reasons given above, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed and planning permission refused.

Jane Smith

INSPECTOR