



Appeal Decision

Site visit made on 3 May 2023

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2023

Appeal Ref: APP/L5240/W/22/3302354

2 & 4 Kenley Lane, Kenley, CR8 5DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Martyn Avery (Chartwell Land and New Homes (2) Ltd) against the decision of the Council of the London Borough of Croydon.
 - The application Ref 20/06471/OUT, dated 15 December 2020, was refused by notice dated 28 January 2022.
 - The development proposed is the demolition of two residential dwellings and erection of a development comprising a new doctor's surgery with 25 flats with associated access and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application has been submitted in outline but with all matters except landscaping to be considered at this stage. I have dealt with the appeal on this basis.
3. I have taken the address in the banner heading from the Council's decision notice and appellant's appeal form as it identifies the full extent of the site.
4. During the Council's consideration of the planning application, the scheme was amended from 27 to 25 flats. I have therefore considered the proposal on the basis of this amended scheme and the description of development in the banner heading similarly reflects this change.
5. Between the application being refused and the appeal coming before me the Council revoked its Suburban Design Guide. I therefore make no reference to it in my decision.
6. The Council has confirmed that its fourth reason for refusal has been resolved following the completion of a legal agreement. The legal agreement addresses the issues of affordable housing, local employment and training, carbon offsetting, air quality, sustainable transport contribution and restrictions on parking permits. I return to this matter later in my decision but have taken it into account in defining the main issues of the case.
7. Amended plans were submitted by the appellant as part of the appeal. These relate to internal changes which affect the size of the plant room, disabled parking bay and cycle parking arrangements. Whilst an appeal is not the forum to evolve a scheme, the Council has commented upon the amended drawings,

and I am satisfied that in this particular instance my taking the amended drawings into account would not prejudice interested parties.

Main Issues

8. The main issues are therefore a) the effect of the proposed development on the character and appearance of the area; b) the parking, drop-off, servicing and delivery arrangements; and c) whether or not there is appropriate cycle parking provision.

Reasons

Character and Appearance

9. The appeal site comprises two detached two-storey dwellings which front onto Kenley Lane. The site encompasses the return boundary along Redwood Close, a residential cul-de-sac of detached, two storey dwellings. The site is within a predominantly residential area characterised by detached dwellings that are set back from their site frontages enabling tree and boundary planting to have matured. The site is opposite Kenley railway station, which is served by a single storey ticket office.
10. There are newer, more intensive developments further along Kenley Lane, to the east of the appeal site. Various retail/commercial units front onto the A22, but these are the other side of the railway line and are largely hidden from view by the existing trees within the area. As a result, within the immediate vicinity of the site, the area has a suburban and verdant character.
11. The site is within the Kenley Focussed Intensification Area, which broadly seeks a more efficient use of land, where developments may be significantly larger than the existing. In this respect, Policy DM10 of the Croydon Local Plan 2018 (CLP) specifically notes that buildings should be up to double the predominant height of buildings, take the form of character types "Medium-rise block with associated ground", "Large buildings with spaces", or "Large buildings with Continuous frontage line"; and should assume a suburban character with spaces between buildings.
12. My attention has been drawn to the Croydon Local Plan Review, which has been through Regulation 19 consultation. It is intended to change Kenley to an Area of Moderate Intensification. However, I have not been informed of the extent to which there are unresolved objections to relevant policies and given the stage of preparation of this emerging plan it may be subject to further change. I have therefore not given any weight to this potential change to the area's designation.
13. It appears that 'Sycamores', a four storey block near the station, whose top storey is recessed; and 'Mera Heights' on Church Road, an ostensibly three storey, pitched roof development of nine properties are the emerging expressions of the current approach sought by Policy DM10. Whilst the nature and type of building that is found in the area has clearly started to evolve and no doubt will continue to evolve over time, the examples that I saw did not appear to unduly diminish the overall suburban character of the area.
14. In contrast, the appeal scheme proposes a building which extends to six storeys at its highest. It does step down to three storeys when adjoining neighbouring properties and contains various different heights and some upper

elements that are recessed. The building would be cut into the site and the highest part would be at the corner of Kenley Lane and Redwood Close, a not uncommon architectural approach and one which in this case helps to ensure the highest parts of the proposal are set away from adjoining buildings. However, even allowing for the rising levels of Redwood Close, the scale, height and mass of the proposed building would be manifestly at odds with the form and appearance of the surrounding properties and would cause a significant change to the skyline.

15. Whilst the appeal scheme would not be in excess of six storeys and would not be over 25m in height, I do not find that the stepping of the height and the articulation of the main elevations, would prevent it from being "significantly taller than most surrounding buildings". As such, not only would this take the proposal beyond what Policy DM10 is seeking to achieve in Kenley but it would fall within the broad definition of a 'tall building', as set out in the accompanying text to Policy DM15 of the CLP. The site is not within a location identified by Policy DM15 for a tall building. Whilst the definition of a tall building in the CLP may differ slightly from the definition in the London Plan 2021 (LP), all of this nonetheless points towards the inappropriateness of such a building in this location.
16. I note that the building would incorporate recessed balconies, recessed brick panels and proposes varied cladding material to the upper floor that are designed to break up the width of the Kenley Lane elevation. Similar design techniques are proposed for the Redwood Close elevation. Nevertheless, the overall building would relate poorly to the neighbouring properties, creating an awkward juxtaposition within the street scene.
17. There may not be objections in principle to a redevelopment of the site nor any replacement building having a larger footprint than the existing buildings. Similarly, a building that turns the corner with Redwood Close is not necessarily in itself objectionable. However, this does not mean that the current scheme is acceptable.
18. Any new development must respect, and have regard to the qualities of the area, in order to ensure such changes are not harmful. Other sites may become more intensively developed in accordance with CLP policy and the prevailing buildings may become larger or taller than they are at present. However, given the height and scale of the proposal, it does not seem to me that such changes would necessarily help to successfully integrate the proposal within the area or sufficiently overcome the discordant nature of the building.
19. Whilst the scheme has gone through pre-application discussions and the appellant points to a design-led approach, it appears to me that the scheme does not pay sufficient regard to the area in which it would be placed. As a result, I have found it to be harmful to the character and appearance of the area.
20. The proposal would therefore be contrary to Policies H1, D1, D3, D4 and D9 of the LP and Policies SP4, DM10.1, DM10.11 and DM15 of the CLP which, amongst other things, seek to ensure that whilst the development of sites is optimised, it is sympathetic to the character and appearance of the area.

Parking, Drop-Off, Servicing and Delivery Arrangements

21. Firstly, as regards the parking for the flats, the Transport Statement (TS) relies on the TS prepared for the Sycamores development. This is now some 2-3 years old and as such, it does not take into account the aftereffects of the coronavirus pandemic, and any consequences on travelling patterns and thus the demand for parking in the area. There may also have been other developments permitted locally in the interim which may have a bearing on current parking capacity.
22. The legal agreement makes provision for contributions towards various matters and initiatives to make sustainable modes of transport more attractive. However, there is no evidence before me that a car club provider is interested in locating a vehicle in this location or that a controlled parking zone (CPZ) is likely to come forward. Whilst these factors do not render the legal agreement inoperable, they do reduce the potential effect these measures could have in terms of deterring car parking/ownership.
23. With regard to parking for the surgery, there is no survey information as to whether or not the station car park has sufficient capacity to accommodate the likely demand for staff or patients. Notwithstanding this, given the distance and incline involved in getting to the surgery, there must be some doubt as to whether those patients who need to park close to the building would all be able to get to the surgery from this car park.
24. As a result, some patients might look to park closer to the appeal site. Whilst any illegal parking, should it occur, would be an enforcement matter for the Council, there is some merit in the Council's concerns that the proposal could generate some inconsiderate parking near the site. Any additional parking pressure or vehicles looking for parking spaces in the immediate vicinity of the appeal site would be an additional hazard to road users.
25. I note that the appellant has committed to a Travel Plan for the surgery, to encourage sustainable travel, and this may reduce the need for car parking, especially for staff. However, any eventual operator may not necessarily wish or be able to offer all the features suggested by the appellant, such as staff interest free loans for public transport. There is no indication why such a Travel Plan is not in place for the existing surgery or why the development would make it possible to now instigate one.
26. Two drop-off spaces are provided to serve the surgery. There is a 5m wide landing area for the first 7m after leaving the carriageway. However, if both drop-off spaces were taken any additional cars wishing to use one of the spaces would in effect partially block either the access to the undercroft car park or to Kenley Lane.
27. It is suggested that cars waiting to use the drop-off spaces would be limited and so such conflicts would be rare. The TS indicates that there would be seven total person trips in the morning peak hour with three being by vehicle. In the evening, the site could generate 12 total person trips, of which four could be vehicular trips. However, the data upon which this is based is limited and does not appear to be entirely comparable to the appeal site's location. Furthermore, it is also not clear how a surgery with 6 clinical rooms would potentially generate such a relatively low number of trips.

28. Aside from the vehicle generation figures, reliance is placed on the limited time it would take a vehicle to manoeuvre into and out of the drop-off bays, thereby reducing the risk of vehicles meeting. However, elderly patients, those with mobility issues or with children, are likely to be those most needing to be dropped off. They may not be able to get into or out of a car quickly or may need assistance to get to the building itself. Thus, a space could be occupied for several minutes at a time.
29. The appellant acknowledges that visibility from the drop-off bays would be partially restricted. Signage could be installed to remind drivers that there could be vehicles using the undercroft car park. However, neither of these factors suggest that the development has been designed and laid out such that it would necessarily function well.
30. Any traffic light system controlling access into the undercroft car park would not prevent a car entering the site from Kenley Lane. Whilst vehicle speeds would be low, at morning peak times it seems a very real possibility that cars would meet one another, and that the drop-off spaces would be occupied. It seems to me that cars would potentially be manoeuvring around each other or reversing back onto Kenley Lane.
31. Refuse collections for the flats would be from the bin stores on the Redwood Close elevation, next to the main pedestrian access for the residential flats. There is little information from either main party as to what other servicing and deliveries the flats would be likely to generate. Other delivery and servicing vehicles would no doubt instinctively stop on Redwood Close. However, this road is subject to parking and weight restrictions and parking on Kenley Lane could be difficult.
32. Similarly, there is little information on what the servicing/delivery requirements might be for the surgery. There is no dedicated provision and so it seems most likely that service/delivery vehicles would make use of the landing/drop-off area. This would potentially add to the conflict that I have already identified.
33. Whilst I accept that the intention is for the existing surgery to relocate to the appeal site, and the NHS has had an input into the design process, I note that this is not guaranteed. There is no discussion as to any implication of the existing surgery remaining operational or at the very least the premises being used lawfully by a different user whilst the proposed surgery is also operational. This would no doubt have implications for the highway network and pedestrian environment.

Conclusions

34. Overall, I find the evidence in support of the proposal does not provide me with sufficient confidence to conclude on this main issue that there would not be problems associated with additional demand for on-street parking or that the drop-off arrangements and delivery/servicing regimes would necessarily function without adverse effects.
35. Taking a precautionary approach, I therefore cannot rule out the possibility of the proposal leading to conflict with both pedestrians on the footway as well as vehicles on the highway. Such conflict would be likely to generate unacceptable harm.

36. Consequently, taking all of the above into account, I find that the proposal would not adequately address the parking, drop-off, servicing and delivery arrangements for the site and so has not sufficiently demonstrated that it would not have an adverse impact on the highway transport network and the pedestrian environment. The proposal would therefore not accord with Policies T4 and T6 of the LP and Policies SP8 and DM30 of the CLP which, amongst other things, seek to ensure that parking and other transport impacts are appropriately assessed and mitigated.

Cycle Parking

37. Whilst there does not appear to be a dispute between the main parties as to the overall quantum of provision, it is how this is provided, and in particular the cycle parking for the residents of the flats, which is the key area of disagreement. Policy T5 of the LP requires cycle parking to be fit for purpose, secure and well located. This Policy also notes that cycle parking should be designed and laid out in accordance with the London Cycling Design Standards (LCDS).
38. The residents' cycle parking would be located within a separate area within the building's undercroft. A total of 48 spaces would be provided with 36 spaces provided in a two-tier rack and 12 provided in the form of wall hung vertical racks.
39. The cycle storage area is likely to be secure and reasonably accessible to the residents. However, the Council draw attention to a number of issues where the type of parking and how it is laid out is said to be deficient in relation to the LCDS, such as not having 1.5m wide access or sufficient Sheffield stands. As a result, it is said that the parking would not cater for different users and needs.
40. There is no evidence before me to indicate how the proposal has sought to comply with the LCDS. If the development is seeking to encourage sustainable travel, as stated in the appellant's submissions, then the cycle parking should, as best as possible, be seeking to meet the guidance in the LCDS. Simply providing cycle parking without giving consideration to the quality and usability of what is offered would fail to provide parking that is fit for purpose. This in turn would represent a harmful barrier to cycling and its associated sustainability and environmental benefits.
41. I have considered whether this matter could be resolved by condition. Given the constraints of the site it is unclear as to how this issue could be resolved without significant changes to the internal layout of the building and the undercroft in particular. This could in turn have implications for the level of car parking. This does not provide me with sufficient confidence to accept that this matter could be addressed by a condition, were I minded to allow the appeal.
42. Policy T5 does acknowledge that where it is not possible to provide adequate provision within residential developments, Councils and developers must work together to find alternative solutions that meet the policy's objectives. Whilst the Council may not have put forward any alternative solutions to meeting the policy requirements, it is equally unclear whether the appellant has proposed any alternatives in the light of the Council's concerns. The absence of any collaboration between the main parties does not rule out the possibility of the policy's objectives being met outside of the site and so is not a reason to find in favour of a scheme which I have found to be sub-standard.

43. I therefore do not find that the proposal would offer appropriate cycle parking provision. Accordingly, this would be contrary to Policies T4 and T5 of the LP and Policies SP8, DM29 and DM30 of the CLP which require, amongst other things, the provision of appropriate levels of cycle parking that is fit for purpose and so promotes sustainable travel.

Other Matters

44. Following the Council's decision, the appellant and the Council have signed a legal agreement, completed in counterpart by the parties. The legal agreement contains obligations relating to the provision of affordable housing, local employment and training, carbon offsetting, air quality, sustainable transport contribution and restriction on parking permits. The Council accept that this has addressed their concerns in regard to the fourth reason for refusal.
45. I am satisfied that the agreement would meet the relevant tests and is an appropriate mechanism to provide for the various initiatives. I have taken all the obligations within the agreement into account in reaching my decision.
46. The appellant has drawn my attention to various matters in support of the proposal such as the low risk of flooding, the provision of outdoor space and communal gardens, compliance with space and other standards. However, such matters would be expected for any development to be considered acceptable and so do not weigh positively in support of the appeal proposal.
47. Furthermore, neither the use of contemporary styling, the palette of external materials and their quality, the contribution to the public realm nor the building's detailing were contentious matters in the appeal. Any weight I could attribute to them would be modest.
48. I acknowledge that the scheme has been amended to accommodate a disabled parking space with 1.2m wide margins and the height within the undercroft parking would exceed that required for access to the space. However, this represents an absence of harm.
49. I am aware that the scheme underwent a long period of discussion with the Council and for much of that time the feedback seemed, from the appellant's point of view to be largely positive. Whilst in such circumstances the appellant's frustration is perhaps understandable, I have found the reasons for refusal which form the main issues of this appeal to be well founded. Therefore, any concerns with the Council's pre-application process would be an administrative matter for them to address.

Planning Balance

50. The Government's objective is to significantly boost the supply of housing and the proposal would accord with the Framework's support for windfall sites. Therefore, notwithstanding the fact that the Council is currently exceeding its 5-year land supply figures, the provision of an additional 23 residential units with adequate access to services would attract considerable weight.
51. I note that of these units, two would be intermediate units and two would be London Affordable Rent units, and so would meet the Council's minimum affordable housing requirement. The main parties agree that such provision would not technically be viable given the provision of a surgery on the site, which itself would be a community benefit. These aspects, together with those

previously mentioned would all add some further weight in favour of the proposal.

52. The scheme would also lead to some time-limited, economic benefit during the construction phase, which may give rise to extra local employment. There would also be longer term economic support to the area, once the units were occupied. The larger surgery would potentially offer some new job opportunities.
53. Conversely, I have found harm in relation to the effect of the proposed development on the character and appearance of the area. In addition, the proposal has not sufficiently demonstrated that it would not have adverse effects given the parking, drop-off, servicing and delivery arrangements. Moreover, the proposal would not provide appropriate cycle parking provision and so would not encourage this form of sustainable travel. These harms would be long lasting and unlikely to diminish over time. As a consequence, they are worthy of substantial weight such that I find that the benefits of the scheme would not outweigh them.
54. The proposal would conflict with the development plan taken as a whole. There are no other material considerations, including the Framework, that indicate the decision should be made other than in accordance with the development plan.

Conclusion

55. For the reasons given above, I conclude that the appeal should not succeed.

Stewart Glassar

INSPECTOR