



Appeal Decision

Site visit made on 25 May 2023

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2023

Appeal Ref: APP/L5240/W/22/3311417

The Bungalow, Little Roke Road, Kenley, Croydon CR8 5NE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Simpson, on behalf of Harestone Associates Limited, against the decision of the Council of the London Borough of Croydon.
 - The application Ref 22/03202/FUL, dated 28 July 2022, was refused by notice dated 21 October 2022.
 - The development proposed is described in the application form as demolition of existing dwelling. Proposed 2, 3 bedroom dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of the occupiers of 118 Lower Road, with particular regard to outlook;
 - Whether the proposal would provide satisfactory living conditions for its future occupiers, with particular regard to floor to ceiling heights, accessibility and fire safety;
 - The effect of the proposal on highway and pedestrian safety, with particular regard to pedestrian sightlines and swept paths;
 - Whether the proposal would provide adequate refuse and cycle storage provision;
 - The effect of the proposal on biodiversity and habitats.

Reasons

Character and appearance

3. The appeal site comprises a detached bungalow and its associated curtilage. The site is in a prominent location on the corner of Little Roke Road and Lower Road. It is partially screened in wider views by boundary fencing and vegetation adjacent to the boundary along Little Roke Road. While the existing bungalow is at odds with the prevailing pattern of development along Lower Road, its modest size, considerable set back and existing screening limit its impact on the wider street scene.

4. The surrounding area is predominantly residential in character. It is primarily comprised of a mix of terraced and semi-detached 2-storey properties. On the opposite side of Little Roke Road is a more contemporary housing development. Contemporary infill developments can also be found sporadically along Lower Road and Little Roke Avenue. To the north of the appeal site is a large four storey commercial building.
5. On the appeal site's side, Lower Road is lined by rows of traditional terraced dwellings with common design features including projecting ground floor bays and canopies, parapet walls between roofs and shared chimney structures. Windows have a vertical emphasis and finishing materials include brick, render and pebbledash in various colours. Two storey rear offshoots are common. This side of the road therefore has a more harmonious appearance and form, and it is highly visible when approaching the area from the east.
6. The appeal proposal would replace the existing bungalow with a pair of semi-detached 2-storey dwellings with accommodation in the roof space. The proposal would form a continuation of the building line along Lower Road, with a similar modest set back from the footpath. The overall ridge height and width of the dwellings would also be comparable to others along the terrace.
7. However, the proposed dwellings would have considerable depth measured from the main front to rear elevations. This depth would not be broken up in the form of more modest rear offshoots, as is commonplace among existing dwellings in the terrace. As such, the gable of the proposed dwellings would appear unduly expansive when viewed from the street, particularly given the limited fenestration. The loss of existing vegetation along the boundary would increase the prominence of this elevation. Viewed from this side, the plane of the roof slope of the proposed dwellings would also not align with that of the adjacent terrace and would be a discordant feature in the street scene.
8. The front elevations of the proposed dwellings reflect some features of neighbouring dwellings, such as the projecting ground floor canopies. However, the design otherwise fails to pick up on many of the prevailing characteristics of the street. The proposed ground floor level, eaves height and window proportions and arrangements are also inconsistent with adjacent dwellings.
9. Overall, the design of the proposal, combined with its prominent location, would result in a highly noticeable and incongruous addition to the street scene. This would detract from the largely harmonious appearance and form of the terraces along this side of Lower Road and the positive contribution this makes to the character and appearance of the area.
10. I conclude that the proposal would harm the character and appearance of the area. It is contrary to Policies SP4 and DM10 of the Croydon Local Plan 2018 (the Local Plan) and Policy D3 of the London Plan 2021. These policies, among other provisions, seek to ensure development is of a high quality, respects and enhances local character, including development pattern, layout, scale, massing and appearance, and positively responds to local distinctiveness.

Living conditions of neighbouring occupiers

11. 118 Lower Road is a two-storey end-terrace dwelling located immediately to the north-west of the appeal site. The overall depth of No 118 is comparable to the proposed dwellings. However, approximately half of this is made up of a

two-storey and single storey rear offshoot that is smaller in height and width than the main dwelling and set back from the shared boundary. There are several ground floor windows in the side elevations of No 118 facing the appeal site. There are also ground and first floor windows in the original rear elevation of No 118, in addition to a rear facing window in the two-storey offshoot.

12. The appeal proposal would project considerably beyond the original rear elevation of No 118 and sit directly opposite ground floor side facing windows. The proposed dwellings would be situated immediately adjacent to the shared boundary. The separation distance between the proposed dwellings and many of the windows in No 118 would therefore be limited.
13. I recognise some of these windows may be secondary or serve "non-habitable" rooms. However, given the proportion of windows affected due to the considerable depth of the proposed dwellings, combined with their proximity, the proposal would inevitably appear unduly overbearing from within No 118. As such, it would have a detrimental impact on the outlook from No 118.
14. The proposal would result in the removal of the existing bungalow and siting of the proposed dwellings towards the front of the site. Given the existing relationship between this bungalow and the rear garden area of No 118, the effect of the proposal on the outlook from No 118's garden would be moderate.
15. I conclude that the proposal would harm the living conditions of the occupiers of 118 Lower Road, with particular regard to outlook. It is contrary to Policy DM10 of the Local Plan which, among other provisions, seeks to ensure development protects the amenity of the occupiers of adjoining buildings.

Living conditions of future occupiers

16. Policy D6 of the London Plan stipulates that the minimum floor to ceiling height must be 2.5m for at least 75 per cent of the Gross Internal Area of each new dwelling. The appellant maintains that the proposed dwellings would achieve a ceiling height of 2.4 metres for the ground and first floor accommodation with a height of 2.3 metres for the main part of the second floor.
17. While the proposed floor to ceiling heights may comply with those referred to in the Nationally Described Space Standards (NDSS), paragraph 3.6.3 of the London Plan indicates that a minimum height of 2.5m is required to address the impacts of the urban heat island effect in London. While the NDSS are a material consideration, they are national standards and, in this case, do not take precedence over local circumstances and the requirements of the adopted development plan.
18. There is no compelling evidence before me to indicate a departure from Policy D6 of the London Plan would be justified in this instance. I therefore find that the proposal would not provide adequate living conditions with regard to floor to ceiling heights.
19. In respect of accessibility, Policy D7 of the London Plan requires compliance with requirement M4(2) of the Building Regulations in most cases. The supporting text indicates that to comply with requirement M4(2), step-free access into dwellings must be provided. However, for specific small-scale infill developments comprising blocks of four storeys or less, it may be necessary to apply some flexibility to the application of this policy.

20. The appeal proposal would not provide step-free access to either the front or rear of the dwellings. The appellant has indicated that this is due to the site levels having been raised to provide adequate falls for surface water drainage, in line with the recommendations of the Flood Risk Assessment (FRA)¹.
21. The recommendations of the FRA indicate that the site levels, which are currently below the adjacent highway level, should be raised to approximately the same level as the adjacent highway. The finished ground level of the proposed buildings should be at least 300mm above this. However, the details before me indicate that the finished floor level would be 600mm above ground, considerably beyond the recommendations in the FRA.
22. It has therefore not been demonstrated that the finished floor level must be 600mm above ground level, and that step free access could not be achieved. I am therefore not satisfied that there is any justification for a departure from the requirements of Policy D7 of the London Plan in this instance.
23. In terms of fire safety, the appeal is supported by a Fire Safety Statement (FSS), setting out fire safety measures including provision of fire doors, heat and smoke detectors, and an evacuation assembly point.
24. The FSS does not identify an outside space for a fire appliance to be positioned. However, the proposed end dwelling is located on a corner plot in a residential street, with access to the highway on two sides. Access to the other proposed dwelling is more restricted, though is similar to other mid-terrace dwellings along the street. I am therefore satisfied that space could be identified for a fire appliance to be positioned.
25. While I recognise the brevity of the FSS, in respect of the other requirements of Policy D12(A), there is no compelling evidence to indicate that compliance with this policy could not have been secured through a suitably worded planning condition, as proposed by the Council in their suggested conditions. I therefore conclude that the proposal adequately demonstrates that fire risk would be mitigated.
26. While I have not identified any harm in respect of fire safety matters, I conclude that the proposal would fail to provide satisfactory living conditions for its future occupiers, with regard to floor to ceiling heights and accessibility. It is contrary to Policy DM10 of the Local Plan, and Policies D6 and D7 of the London Plan. I also find conflict with Policy SP2 of the Local Plan, referred to in the Council's officer report.
27. These policies, among other provisions, seek to ensure that new homes meet the needs of residents, contribute to sustainable communities and are of a high-quality design with adequately-sized rooms and comfortable and functional layouts. They also seek to provide suitable housing and genuine choice for London's diverse population, including disabled people, older people and families with young children.
28. I find no conflict with Policy D12 of the London Plan, which seeks to ensure the safety of all building users.

¹ Flood Risk Assessment and Drainage Strategy July 2022

Highway and pedestrian safety

29. The appeal proposal includes provision of two off street parking spaces to the rear, and the parties agree that this is an acceptable level of car parking provision. The proposal would utilise the existing crossover, which would remain unchanged. I could see during my site visit however that this is not wide enough for two vehicles accessing the appeal site to use it simultaneously.
30. The proposed plans show obstacles including waste bins, cycle storage and boundary fencing that could compromise visibility and manoeuvrability. The limited space in this area would also make it difficult to exit the site in a forward gear. No swept path analysis has been provided to demonstrate how vehicles could safely access the proposed spaces via the existing crossover and manoeuvre within the site.
31. There are also no visibility splays/pedestrian sightlines shown on the proposed plans. Based on the evidence before me, the proposal would pose a risk for pedestrians, particularly young children and parents/carers with children in buggies, who may be difficult to see for vehicles exiting the site. This is pertinent given the proximity of a school nearby. The Council's Strategic Transport team recommended the scheme be refused for similar reasons.
32. The appellant has suggested a planning condition could be used to ensure the parking is provided to the requirements of the Local Highways Authority. However, such a condition would be imprecise, and it is unclear based on the evidence before me that it could be complied with without considerable amendments to the layout of the appeal scheme. The use of a condition in this instance would therefore not be appropriate.
33. I therefore conclude that the proposal would have a harmful effect on highway and pedestrian safety. It is contrary to Policies DM29 and DM30 of the Local Plan. These policies, among other provisions, seek to ensure development does not have a detrimental impact on highway safety for pedestrians and the movement of pedestrians is not impeded by the provision of car parking.

Refuse and cycle storage

34. Both proposed plots are a reasonable size, and there is a commensurate amount of rear garden space with access to the rear. The proposed plans indicatively show cycle parking and refuse storage accommodated within the rear garden areas and rear parking area, respectively.
35. While the full details of refuse storage and cycle parking arrangements are not before me, I am satisfied that there is sufficient space across the site to accommodate these, particularly within the rear garden areas, were the rear parking area not appropriate. This issue could therefore be overcome using planning conditions to secure details of refuse and cycle storage provision.
36. The proposal would therefore provide adequate refuse and cycle storage provision. It is in accordance with Policy T5 of the London Plan and Policies DM13, DM29 and DM30 of the Local Plan. These policies, amongst other provisions, seek to promote cycling and secure provision of appropriate levels of cycle parking that is fit for purpose, secure and well-located. They also require developments to sensitively integrate refuse and recycling facilities and provide facilities that are safe, conveniently located and easily accessible.

Biodiversity and habitats

37. The appeal site comprises an existing residential property and associated outbuildings and garden land. The site is somewhat overgrown, with hedging and several trees along the boundaries. However, the evidence before me does not indicate that the site has been designated for its biodiversity value.
38. My attention has been drawn to an Ecological Impact Assessment (EIA)² for this site, submitted in respect of a previous application, a copy of which has been provided by the Council. This assessment concluded that the site features common and widespread habitats typical of an unoccupied residential property and garden, with a low suitability for foraging and commuting bats and suitability for breeding birds. From my observations on site and the evidence before me, I have no reason to believe this is no longer accurate.
39. The EIA indicates that mitigation measures including vegetation clearance and demolition works undertaken outside of the nesting bird season, and incorporation of bird boxes into newly constructed buildings, can be provided to avoid any harm to breeding birds and their habitats. As a form of enhancement, it also recommends bat and bird boxes be incorporated into the new buildings to provide additional roosting and nesting opportunities. The Officer Report provided in respect of the previous application³ indicates that the Council did not have any concerns with this approach at that time.
40. Based on the evidence before me, I am satisfied that similar measures could be secured by planning condition in this instance, in addition to full details of landscaping proposals.
41. I therefore conclude that the proposal would not unduly harm biodiversity and habitats. I have not identified any conflict with Policy G6 of the London Plan or Policy DM27 of the Local Plan. These policies, among other provisions, seek to ensure development proposals are informed by the best available ecological information, aim to secure net biodiversity gain, and incorporate productive landscapes and biodiversity on development sites and on buildings.

Other Matters

42. The Planning Practice Guidance and the National Planning Policy Framework (the Framework) encourage local planning authorities to take a positive approach and work proactively with applicants. While I acknowledge the appellant's frustrations with the level of engagement offered by the Council during the application process, this does not lead me to a different conclusion on the main issues.
43. I also recognise that the proposals for this site have been amended since the previous scheme was refused. However, this does not indicate that the proposal before me is acceptable with regard to the main issues.
44. The current occupier of No 118 did not object to the application. However, this does not in itself indicate the proposal is acceptable in respect of the effect on the living conditions of neighbours, or other relevant matters. Paragraph 130 of the Framework seeks to ensure that developments create places with a high

² Ecological Impact Assessment Final Document (Revision 2) December 2021

³ Application No. 21/06358/FUL - The Bungalow, Little Roke Road, Kenley, CR8 5NE

standard of amenity for both existing and future users. The absence of an objection of this nature therefore does not weigh in favour of the proposal.

45. Though the proposal would result in additional Council tax intake, this provides for Council services to support the additional residents resulting from the development and would therefore be a neutral factor.
46. I recognise that residential development in this location is acceptable in principle. I have also found no conflict with other parts of the development plan or national policy and guidance. However, the absence of harm or development plan conflict with respect to other relevant matters weighs neither for nor against the proposal.

Conclusion

47. I have found that the proposal would be acceptable with respect to matters of fire safety, refuse and cycle storage, and biodiversity and habitats, subject to planning conditions. However, I have identified significant harm and development plan conflict resulting from the effect of the proposal on the character and appearance of the area, the living conditions of the occupiers of neighbouring properties and future occupiers of the appeal site, and pedestrian and highway safety. These harms are the overriding considerations in this case. The proposal therefore conflicts with the development plan, taken as a whole.
48. The proposal would reuse previously developed land in an existing urban area. It would therefore benefit from a degree of access to services and public transport, though the evidence indicates it has a poor Public Transport Accessibility Level (PTAL). It would contribute to housing delivery in the borough and provide a temporary boost in employment during construction. Additional residents would contribute to the local economy and vitality of the community and the Council may also benefit from the New Homes Bonus. Replacing the existing bungalow with a more energy and resource efficient dwelling would also be a benefit of the scheme. However, these benefits would be modest, given the small scale and context of the development, and insufficient to outweigh the identified harm and development plan conflict.
49. There are therefore no material considerations that indicate the proposal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal should be dismissed.

Ryan Cowley

INSPECTOR