



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: 24 July 2023

Appeal Ref: APP/L5240/W/22/3303647

Idahota House, 50 Sydenham Road, Croydon CR0 2EF

- 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 Ignatius Ebhogiaye against the decision of the Council of the London Borough of Croydon.
 - The application Ref 22/00724/FUL, dated 11 February 2022, was refused by notice dated 28 April 2022.
 - The development proposed is erection of a pair of semi-detached 2-storey dwellings plus amenity space, cycle store, bins store and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has advised that the Supplementary Planning Document (SPD2) Suburban Design Guide 2019 was revoked on 25 July 2022. This document is therefore no longer relevant.

Main Issues

3. 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 neighbouring properties, with particular regard to outlook, light, privacy, noise and disturbance;
 - Whether the proposal would provide satisfactory living conditions for its future occupiers, with particular regard to access arrangements and fire safety;
 - Whether the proposal would provide safe and adequate arrangements for deliveries and servicing, waste collection and cycle storage;
 - Whether car parking arrangements would be adequate; and
 - Whether the proposed housing mix is appropriate.

Reasons

Character and appearance

4. The appeal site comprises the rear garden area of the host property. During my visit, it appeared largely unused and somewhat overgrown. The site is currently divided in two by a boundary fence spanning most of its width. It is flanked by tall fences either side, with a large flatted residential development to the north and a nursery to the south. To the east, the neighbouring site appeared vacant and overgrown, with access to it running between the appeal site and the adjacent nursery building.
5. The surrounding area is characterised by a mix of buildings of differing age, scale and design. The appeal property and neighbouring nursery building are a pair of similar large 3-storey detached buildings of traditional design including hipped roofs and bay windows. Other examples of similar scale traditional buildings can be found along this part of Sydenham Road. The traditional architecture of the street is perforated in places by more contemporary forms of development, including several more recent blocks of flats, such as those adjacent to the appeal site at 52 Sydenham Road.
6. Development to the rear of properties along this part of Sydenham Road is common, including within the vicinity of the appeal site. This typically comprises a mixture of two storey terraced dwellings and 3 or 4 storey blocks of flats. The examples within the vicinity of the appeal site are all of a subservient scale to the development along the frontage. The proposed dwellings would be contemporary in appearance and subservient in scale to the host building. Given the mix of architecture in this area, their design would not appear unduly out of character.
7. However, existing examples of this form of development are set out in a linear arrangement, parallel to Sydenham Road. This has maintained a relatively open tract of land running along the rear of properties, between the intersecting streets. Though its width varies, and it has been somewhat compromised in places, it remains a prevailing feature of the area. Near the appeal site, this fosters a sense of space to the rear and provides welcome relief from the accumulation of development.
8. I recognise that the proposal is smaller in scale than the adjacent buildings. Nevertheless, it would introduce considerable built development into an otherwise open area and within a relatively constrained site boundary. In this context it would appear visually intrusive, significantly eroding the sense of space to the rear and having an enclosing effect that would be detrimental to the character and appearance of the appeal site and surrounding area. Though well screened from views along Sydenham Road, this deleterious effect on the sense of space would also be perceptible through the appreciable gap between the appeal site and the buildings to the north.
9. I therefore conclude that the proposal would have a harmful effect on the character and appearance of the area. It is contrary to Policies SP4 and DM10 of the Croydon Local Plan 2018 (the Local Plan). 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. It is also contrary to Policies D4 and D8 of the London Plan 2021. These policies,

among other provisions, seek to ensure that proposals meet the design requirements of the London Plan and that public realm is well-designed.

10. The proposal would also conflict with Paragraphs 130 and 134 of the National Planning Policy Framework (the Framework). Among other provisions, these seek to ensure that developments are well designed, add to the overall quality of the area, are visually attractive as a result of good layout, are sympathetic to local character including the surrounding built environment and landscape setting, and maintain a strong sense of place.
11. Policy SP2 of the Local Plan concerns the quantity and location of homes, provision of affordable homes and Gypsy and Traveller pitches, housing mix and housing standards. The evidence before me does not indicate that it is directly relevant to this main issue.

Living conditions of neighbouring occupiers

12. The adjoining property at No 52 is comprised of two new residential buildings, a larger 6 storey building to the front of the site, and a smaller 4 storey building to the rear. Some construction activity was still ongoing here at the time of my site visit, though both blocks appeared largely complete.
13. The 4-storey building sits adjacent to the appeal site and features several windows and doors at ground and first floor in its west facing elevation. The evidence indicates there is a storage area at ground floor in this building immediately adjacent to the shared boundary. Ground floor windows and doors are therefore further from the appeal site than those at first floor.
14. Nevertheless, the appeal proposal would project forward of these windows, extending along approximately half of the length of shared boundary between the rear block and front block at No 52. Due to its size and proximity, the appeal proposal would have an enclosing effect on views from within the ground and first floor units adjacent to the shared boundary, and their private amenity areas. In addition, there is a shared amenity space at ground floor between the front and rear blocks, which the appeal proposal would also have an enclosing effect upon. It would therefore have a deleterious effect on the outlook from these neighbouring properties.
15. In terms of light, a daylight and sunlight report was not submitted with the planning application and none has been provided in relation to this appeal. I must therefore assess the relevant matters on the merits of the case as I see them. The appeal proposal is located south of the windows serving the residential units in the rear block at No 52, their private amenity space and the shared amenity space. Given the two-storey height of the proposal, and its proximity to the boundary, loss of daylight and sunlight would thus occur. In the absence of any compelling evidence to the contrary, I find that this would harm the living conditions of the occupiers of these neighbouring properties.
16. With respect to privacy, rear facing ground floor windows within the proposed dwelling adjacent to the shared boundary would be partly screened by boundary treatments and at an oblique angle. Rear facing first floor windows within this proposed dwelling would be either obscurely glazed or high level. Opportunities for overlooking would therefore be negated. To the front, the proposed windows and doors in this dwelling would be located at a distance

from those in the rear of the larger block at No 52 and at an oblique angle, sufficient to preclude any undue overlooking.

17. 48 Sydenham Road is occupied by a nursery, with a single storey rear classroom extension and rear playground. The proposed dwellings would sit beyond the rear elevation of No 48 and would be separated from its side boundary by a narrow alleyway.
18. Windows and doors in the principal front facing elevation of the proposed dwelling adjacent to No 48 would be at an oblique angle that would prevent any undue overlooking. However, in the side of this dwelling is a projecting bay feature at first floor, which is set back from the principal front elevation.
19. Though this relationship has been considered in the submitted Design and Access Statement, the front facing window within this bay would allow more direct views towards the rear of No 48 and its playground area, at a relatively close distance. This would have a harmful effect on the privacy of these spaces for the occupiers of No 48.
20. Given the otherwise open outlook from the adjacent nursery and playground, the set back of the proposed dwellings from the boundary and their flat roof design, the proposal would not have a harmful enclosing effect on outlook from this property. Additionally, the Council found that the proposal is unlikely to significantly impact No 48 in terms of sunlight or daylight. I have no reason to conclude otherwise.
21. Access and servicing would be along the front and side of the host building, 50 Sydenham Road. Similar arrangements can be found locally and, given the scale of the proposal and its urban context, this would not harm the living conditions of the occupiers of No 50, through undue noise and disturbance.
22. The site to the rear at 101 Lansdowne Road features a series of garages under separate ownership. I recognise that the proposed dwellings are close to the shared boundary with this site. However, there is no evidence that planning permission has or would be granted for residential development on this site, and no details of any proposals for its redevelopment are before me. I therefore cannot conclude the proposal would be harmful to future occupiers of this neighbouring site and, in any event, any future proposals would need to be considered on their own merits having regard to the site context at that time.
23. Although I have found no harm in respect of noise and disturbance, I conclude that the proposal would have a harmful effect on the living conditions of the occupiers of neighbouring properties, with particular regard to outlook, light and privacy. It is contrary to policy DM10 of the Local Plan and Policies D3 and D6 of the London Plan. These policies, among other provisions, seek to ensure developments are of a high-quality design, protect the amenity of the occupiers of adjoining buildings, respond to a site's context and capacity for growth and deliver appropriate outlook and privacy.

Living conditions of future occupiers

24. The proposed dwellings would be designed to an accessible standard, and the access route would be well lit and overlooked, with CCTV coverage. However, due to their location at the rear of the site and the absence of direct vehicular access, future occupiers would have to travel a considerable distance from the public footpath to access their homes.

25. This arrangement would make access to the properties difficult for those with reduced mobility and inconvenient for all future occupiers. Heavy items such as furniture, other bulky items and groceries would need to be carried a considerable distance on foot to reach the dwellings. Heavy waste bags and bins from the properties would also need to be transported a considerable distance to the collection point. This would be detrimental to the living conditions of future occupiers.
26. In terms of fire safety, the submitted Planning Fire Safety Statement (PFSS) includes details of construction related fire safety measures, smoke and heat detection and alarm systems, means of escape, evacuation and assembly, and positioning for fire appliances. While it does not explicitly reference Policy D12 of the London Plan, each element of the PFSS clearly corresponds with the numbering set out in this policy. No substantive concerns with the contents of the plan have been raised and, based on the evidence before me, I have no reason to conclude that it is inadequate.
27. While I have not identified any harm in respect of fire safety measures, I conclude that the proposal would fail to provide satisfactory living conditions for its future occupiers, with particular regard to access arrangements. It would conflict with Policies D5 and D6 of the London Plan. These policies, among other provisions, seek to ensure developments achieve the highest standards of accessible and inclusive design, are convenient and welcoming with no disabling barriers, providing independent access without additional undue effort, can be entered and exited easily, and the experience of arrival is comfortable, accessible and fit for purpose.
28. I have found no conflict with Policies D7 or D12 of the London Plan, in respect of their aims of ensuring residential developments meet Building Regulations requirements M4(2) or M4(3) and ensuring the safety of all building users. Policy DM10 of the Local Plan sets out various requirements pertaining to the design and character of development, however I find no direct conflict in respect of this main issue.

Deliveries and servicing, waste collection and cycle storage

29. The appellant contends that the existing driveway offers enough space for the existing parking and waste storage, and deliveries and servicing would take place from Sydenham Road within the designated car turning area. Goods would be carried on foot from the front courtyard to the new houses. The swept path for a vehicle accessing the parking area is shown on the proposed plans.
30. However, I could see during my site visit that the existing crossover does not fully serve the property. The existing arrangements are therefore inadequate to accommodate intensification of the use of the site.
31. No further information on how adequate access could be achieved is before me. Notably, a speed cushion in front of the site could conflict with this. In the absence of further swept path analysis, it would also appear difficult for vehicles to exit the site in a forward gear when the parking area is full. No segregated space has been provided for pedestrians or cyclists away from manoeuvring areas, and no details of pedestrian and vehicular sightlines are shown. The Council's Transportation team also recommended refusal of the application. It has therefore not been demonstrated that the proposal would provide safe arrangements for deliveries and servicing.

32. The proposal is not supported by a Waste Management Plan. However, the proposed plans show a bin storage area provided approximately mid-way along the pedestrian access between the public footpath and the proposed dwellings. As above, this arrangement would not be convenient or easily accessible for future occupiers. Based on the evidence before me, it is also unclear that conveniently located and easily accessible refuse facilities could be provided.
33. The proposed plans indicatively show cycle storage accommodated within the rear garden areas. While full details of cycle parking arrangements are not before me, including visitor cycle parking where required, I am satisfied that there is sufficient space across the site to accommodate this securely. This issue could therefore have been overcome using planning conditions.
34. While I have found no harm in respect of cycle storage arrangements, the proposal would fail to provide safe and adequate provision for deliveries and servicing, and waste collection. It would conflict with Policies DM13 and DM29 of the Local Plan and Policy T6 of the London Plan. These policies, among other provisions, seek to ensure developments provide refuse facilities that are safe, conveniently located and easily accessible, do not have a detrimental impact on highway safety for pedestrians, cyclists and private vehicles, and include adequate provision for efficient deliveries and servicing. It would also conflict with Paragraph 111 of the Framework, which seeks to ensure development that has an unacceptable impact on highway safety is prevented or refused.
35. In respect of this main issue, I have not identified any conflict with Policies SP8 or DM30 of the Local Plan, or Policies T4 or T5 of the London Plan. These policies, among other provisions, seek to ensure development proposals have regard to the effect on the transport network and incorporate adequate provision for cyclists, including cycle parking.

Car Parking

36. The development is proposed to be car free. It is in an area with a Public Transport Accessibility Level (PTAL) of 6b, the highest level possible. In such locations, Policy SP8 of the Local Plan supports car free development, and Policy T6 of the London Plan states car-free development should be the starting point for all development. The site is also in a Controlled Parking Zone (CPZ).
37. The Council state that a legal agreement would be required to secure the development as car free, including measures that would preclude future occupiers from seeking parking permits. The appellant has indicated they are willing to provide such an undertaking and contends that this would resolve this matter. The parties therefore do not dispute that such an obligation would be relevant, proportionate and necessary, and I have no reason to conclude otherwise.
38. However, there is no executed legal agreement before me, and so no mechanism to secure the development as car free. On this basis, I conclude that the proposal would fail to provide adequate car parking arrangements. In this regard, it would be contrary to Policies SP8 and DM29 of the Local Plan, and Policies T4 of the London Plan. Though not explicitly referenced in the Council's fifth reason for refusal, the proposal would also conflict with Policy DM30 of the Local Plan and Policy T6 of the London Plan. These policies, among other provisions, seek to ensure proposals have regard to the effect on the transport network, encourage car free development and reduce the impact of

car parking in areas with good access to public transport, and promote sustainable travel.

Housing mix

39. Policy SP2 of the Local Plan sets a strategic target for 30% of all new homes up to 2036 to have three or more bedrooms. The proposed dwellings would have 2 bedrooms each. There would therefore be no dwellings with three or more bedrooms provided.
40. However, this target is a strategic aim, and there is nothing in the policy wording that indicates this must be achieved on every site. The appeal site is small and somewhat constrained thereby limiting its ability to provide larger units. Furthermore, there is no compelling evidence before me to indicate this target is not being achieved Boroughwide. There is therefore also no reason to believe the shortfall on this site would not be made up on others.
41. My attention has been drawn to Policy H10 of the London Plan. This policy recognises that a higher proportion of one and two bed units are generally more appropriate in locations near a town centre or station, with higher public transport access and connectivity. The site is close to the centre of Croydon with good access to public transport and services. Policy H10 also highlights the role of one and two bed units in freeing up existing family housing.
42. I therefore find that the proposed housing mix is appropriate. I do not find any conflict with Policy SP2 of the Local Plan or Policy H10 of the London Plan. These policies, among other provisions, seek to ensure an appropriate mix of housing sizes is provided in new development, and a choice of homes is available to address the need for homes of different sizes.

Other Matters

43. The proposal would reuse garden land in an urban area close to the town centre. This would provide good access to services and public transport for future occupiers. It would contribute to meeting the housing requirement, and small sites are often built-out relatively quickly. This would support the Government's objective of significantly boosting the supply of homes, as set out in Paragraph 60 of the Framework. However, these benefits would be modest, given the small scale and context of the development.
44. Paragraphs 69 and 120 of the Framework indicate that planning decisions should give weight to the benefits of using suitable windfall and brownfield sites within settlements for homes. Chapter 11 of the Framework advocates for the effective use of land. However, given the harm identified, it has not been demonstrated that the appeal site is a suitable site or that the proposal would be an effective use of land.
45. I recognise that residential development in this location is acceptable in principle and, other than where set out above, I have not identified conflict with any other relevant 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.
46. 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 appeal scheme is acceptable with regard to the main issues.

Conclusion

47. The proposal would result in significant harm and development plan conflict with respect to its effect on the character and appearance of the area and the living conditions of the occupiers of neighbouring properties and future occupiers of the appeal site. I have also identified harm and development plan conflict with respect to matters of deliveries and servicing, waste collection, and car parking. While I have not identified any harm in respect of noise and disturbance, cycle storage arrangements and housing mix, I find that the proposals would be contrary to the development plan, taken as a whole.
48. There are 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