



Appeal Decision

Site visit made on 28 June 2023

by G Rollings BA(Hons) MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2023

Appeal Ref: APP/L5240/W/22/3303686

2a Grasmere Road, Croydon, Purley, CR8 1DU

- 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 Nick Lambert against London Borough of Croydon.
 - The application Ref 22/00865/FUL, is dated 28 February 2022.
 - The development proposed is demolition of existing dwelling with construction of replacement block of 7 apartments with associated refuse, recycling, cycling storage and car parking, with adjusted crossover.
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Decision

1. The appeal is dismissed and planning permission for the demolition of an existing dwelling with construction of a replacement block of seven apartments with associated refuse, recycling, cycling storage and car parking, and an adjusted crossover, is refused.

Preliminary Matters

2. The Council has not issued a decision on the planning application which is the subject of this appeal. It has also advised that it does not contest this appeal but has commented on several topics within its appeal statement. Additionally, several interested parties have objected to the application. The main issues in this appeal are drawn from the topics within these submissions.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on the living conditions of the occupiers of 2 Grasmere Road, with particular regard to sunlight and daylight, and noise and disturbance;
 - Whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to outdoor space and accessibility;
 - The effect of the proposal on sustainable transport, with particular regard to parking; and
 - The effect of the proposed development on biodiversity and trees.

Reasons

4. The site is a corner property with an approximately triangular shape, bordered by Grasmere Road to the front and Warren Road to the side and rear. The remaining side is a boundary shared with 2 Grasmere Road (hereafter referred to as No. 2). The upward slope of Warren Road means that, in common with No. 2, the property rises from its front boundary. It is presently occupied by a single dwelling of two storeys with a garage undercroft, and mature vegetation including established trees.
5. The proposed development would have a total of four storeys, although the slope of the land would result in much of the lowest level being below ground level. From Grasmere Road there would be four storeys visible, comprising a lower ground floor undercroft accommodating parking, and ground, first floor and second floor residential accommodation. From Warren Road, the upper three storeys would be visible, although the slope of the land means that near its easternmost point, only two storeys would be visible.

Character and appearance

6. The surrounding area is predominantly residential in nature, with a mix of detached, semi-detached and terraced houses, and the occasional block of flats in nearby streets. Neighbouring buildings on Grasmere Road are three and less commonly four storeys in height, generally with an undercroft storey built into the upward slope. There are differing design styles and materials throughout the wider area. The Council has advised that the previous proposal for this site, which was dismissed at appeal¹ for reasons other than character and appearance, does not differ significantly from that before me, and that in its view the design changes that have been made represent improvements to the scheme.
7. Although the building would be a storey taller than neighbouring buildings when viewed from Grasmere Road, the pitched roof and front façade articulation would reduce the impact of its massing. This corner site is prominent when viewed from the lower Warren Road approach, where the building would be located closer to the street boundaries than its neighbours. However in the context of a journey along this road, the building would appear alongside its higher neighbours. In some views, much of the building would be obscured by the mature street trees and other vegetation.
8. Although there would be less open space around buildings than other homes in Grasmere Road, the level changes and built structures (such as road-level garages) for these buildings limits visibility of this space from the street. Sufficient space would be provided around the building for landscaping, ensuring the sylvan character of the area is incorporated within the site. I noted similar development on other corner properties in the wider area which share characteristics to that proposed, and do not consider that it would be out of character with the development pattern of the area.
9. The building would appear larger than its neighbours, but for the reasons set out above, would not be obtrusive or unreasonably incongruous in its appearance. I therefore conclude that the proposed development would not have a harmful impact on the character and appearance of the area. It would

¹ Appeal ref: APP/L5240/W/21/3268741, decision date: 16 November 2021.

not conflict with the Council's *Croydon Local Plan 2018* (CLP) Policies DM10 and SP4 and *The London Plan* (2021) Policies D3 and D4, which require proposals to be of high quality and respect the design of the area and its buildings, amongst other considerations.

Living conditions of neighbouring occupiers

10. The sole adjoining property at No. 2 would share similar front and rear setbacks to the proposed building. There would be no side-facing windows in the new development. I have taken account of the Council's assessment that the building would neither project significantly beyond the setbacks of No. 2, and that the separation between the proposed and No. 2 buildings would be around 3.5 metres at the narrowest point, which is the typical separation of properties on Grasmere Road.
11. The development would have a greater height than the house at No. 2, albeit with a hipped roof retreating from the neighbouring site. The Council's assessment of the development states that there would be "some degree" of loss of light to No. 2 by reason of its height relative to the neighbouring property, but that this "would not be significant". My observation during my visit was that there was significant vegetation between the existing dwelling on the appeal site and No. 2. The proposed building would occupy a similar footprint to that of the existing in the vicinity of No. 2, and together these factors initially suggest that any impact may indeed accord with the Council's assessment of "not significant" harm.
12. However, a surveyor's comments have been provided by the occupiers of No. 2, which considers that a daylight and sunlight assessment is needed to properly consider the effects of the proposed development. This considers the impact on the habitable room windows in No. 2 opposite the proposed development and suggests that the development does not pass the '25%' preliminary tests set by the commonly accepted good practice on this matter.² The Council's assessment was based on the '45%' preliminary test but I consider the former to be appropriate given the presence of the aforementioned windows. I accept that the boundary vegetation may have some light-limiting effect but also agree with the Council that there is likely to be some loss of light to these windows resulting from the new building. However, I cannot be certain without detailed evidence that the effect would be so insignificant as to avoid harm to the living conditions of the adjoining occupiers. It is prudent to take a precautionary approach in this instance.
13. Although the intensification of the use of the site could result in some increased noise and disturbance, I have no evidence to suggest that this would be of greater instance or intensity than any other domestic use. Vehicular activity on the site would be largely enclosed and garden areas are orientated to face the street frontages, which would enclose or direct noise away from the adjoining property.
14. I therefore conclude that, with regard to noise and disturbance, that the proposed development would not have a harmful effect on the living conditions of the occupiers of No. 2. The evidence before me suggests that, with regard to sunlight and daylight, there could be a harmful effect on the living conditions of the occupiers of No. 2. This would conflict with CLP Policy DM10 which,

² *Site layout planning for daylight and sunlight: a guide to good practice* (BRE, 2022)

amongst other considerations, support proposals for development that do not result in significant loss of existing sunlight or daylight levels of adjoining occupiers.

Living conditions for future occupiers

15. There would be two main areas of communal outdoor space adjacent to Grasmere Road and Warrant Road. I am aware that concerns have been raised regarding usability, accessibility and privacy of these spaces, and acknowledge that the provision of level and ramped access to these areas would overcome any accessibility barriers. The Council has recommended that were the appeal to be allowed, boundary and landscape treatment together with play space should be specified in a planning condition, and this would be acceptable to overcome any remaining concerns.
16. The previous appeal for development on this site was dismissed in part due to the Inspector's concerns regarding access into that scheme. This appeal proposal does not propose any stairs, with appropriate level access planned from both Grasmere Road and Warren Road. A lift would be provided within the building.
17. I therefore conclude that the proposed development would provide acceptable living conditions for future occupiers, with particular regard to outdoor space and accessibility. There would be no conflict with CLP Policy DM10, which requires new residential development to provide private amenity space of a suitable size and design, which is flexible, multifunctional, accessible and inclusive, amongst other considerations.

Sustainable transport

18. The proposed development would provide seven on-site car parking and ten cycle parking spaces, with appropriate dimensions and sufficient manoeuvring space subject to a minor and achievable redesign that could be specified with a planning condition. These amounts are considered to be appropriate by the Council, and I see no reason to disagree. This provision does not conflict with CLP policies SP8, DM29 and DM30 and London Plan Policy T5, which seek to promote development that reduces impact of car parking and increases the use of other transport modes.
19. I walked the route between the site and Purley Railway Station and the large Tesco supermarket. Although this is a short walk of 10-15 minutes, it does not benefit from any surveillance along much of its length. It is also narrow, with on-street car parking forcing cycle users to be faced with oncoming traffic. Accordingly, I would not consider this route to be an attractive one for walking or cycling.
20. The surrounding streets are within a controlled parking zone (CPZ) requiring on-street vehicles to have a parking permit. The Council has recommended that the appellant enter into a legal agreement to ensure that future occupiers would not be able to apply for CPZ parking permits. This accords with London Plan Policy T6, which considers that car parking in areas of low public transport accessibility, such as the area of the appeal site, should be designed to provide the minimum necessary amount of car parking spaces.
21. The appellant notes that many surrounding residents have access to parking spaces on Grasmere Road but choose not to use them. My observations during

my late morning weekday visit were that the street was almost fully parked, and that there were marked on-street bays and signs clearly advising of the existence of both a CPZ and timed restrictions. The appellant's *Transport Note*³ models an upper car parking demand of 6 cars, and that this could be accommodated within the on-site parking areas and that there would be no overspill onto the street.

22. However, this is not a certainty, and it may be the case that occupiers of flats have additional cars. Given the on-site parking provision and the possibility of additional demand for on-street parking, it would be appropriate for future occupiers to be prevented from applying for CPZ parking permits, to ensure no conflict with London Plan Policy T6.
23. The Council has also recommended that, given the poor public transport accessibility level, the legal agreement also encompasses appellant contributions toward the operation of a car club. This is necessary to discourage the use of private cars, particularly in light of the cycling and walking conditions between the site and Purley town centre. Electric vehicle infrastructure on the site could be ensured with a suitably worded planning condition.
24. A legal agreement has not been provided. This was also the case for the previous appeal, where the Inspector found that the alternative imposition of a condition to restrict on-street parking by future residents would not be reasonable. Any condition requiring the appellant to enter into an agreement with the Council would require a planning obligation. The Planning Practice Guidance considers that such conditions would be unlikely in the majority of cases, and should only be applied in exceptional circumstances when there is clear evidence that the development would otherwise be at serious risk, and that the six tests of conditions should be met.⁴
25. I do not consider that exceptional circumstances exist in this instance. Firstly, I have doubts that such a condition would meet the test of reasonableness, given that parking permit restriction normally requires the amendment of a Traffic Regulation Order, which is outside the influence of the appellant. Secondly, given that the appeal is being dismissed for other reasons, the delivery of the development is unlikely to be put at risk through the absence of a condition.
26. In the absence of a suitable legal condition, I conclude that the proposed development would fail to suitably promote sustainable transport, and would conflict with CLP policies SP8, DM29 and DM30 and London Plan Policies T5 and T6, for the reasons set out above.

Biodiversity and trees

27. The appellant and Council have agreed proposed mitigation measures as set out in the *Preliminary Ecological Appraisal and Preliminary Roost Assessment Report*⁵, following the previous appeal's dismissal for reasons including effects on protected species. No protected flora, birds, reptiles or amphibians were recorded in the vicinity of the appeal site, although it does provide opportunities for foraging and habitation. Hedgehogs have been sighted in the

³ Prepared by NDL Traffic and Highways Engineering Limited, dated 31 January 2022.

⁴ PPG reference ID: 21a-010-20190723.

⁵ Prepared by Darwin Ecology, dated August 2020.

area and appropriate mitigation for these and other species is proposed during the construction and occupation phases of the development. Bats were also sighted, as set out in the appellant's *Bat Emergence Survey*.⁶

28. The recommendations of the report and survey and the mitigation measures therein are suitable and would satisfy the requirements of CLP Policy DM27, which seeks to enhance biodiversity across the borough and ensure no adverse impact from development on any protected species. Were the appeal to be allowed, planning conditions would ensure that its measures would be incorporated within the scheme.
29. There are several mature trees on the site, together with mature street trees close to the proposed building area. The appellant's Arboricultural Impact Assessment (AIA)⁷ identifies significant vegetation within the site and along site boundaries. Neighbouring occupiers have expressed concerns regarding the potential impact of construction on trees along the border of No. 2, and the accuracy of the appellant's identification of trees and other vegetation on the site. An alternative schedule of boundary trees has been provided, although some of these appear to be accounted for within the AIA as a group, rather than being identified as individual specimens.
30. The AIA does not recommend the removal of any trees but does specify pruning works, including to the trees along the boundary with No. 2. It considers that this work and the construction of the scheme, taking account of the trees' root protection areas, would not result in damage that would threaten their longevity. The AIA has been written by a member of the Arboricultural Association and I have no reason to doubt its professional analysis or findings. It has also been assessed by the Council, which does not object to the proposed works, and works would be carried out in accordance with the relevant British Standard. I am satisfied that the proposed works would not result in harm to the trees which, were the appeal to be allowed, would be specified in a planning condition.
31. I therefore conclude that the proposed development would not have a harmful effect on biodiversity or trees. It would not conflict with CLP Policy DM27, for the reasons set out above. It would also not conflict with CLP Policy DM28, which seeks to avoid the loss of retained trees and habitats where they make a contribution to the character of the area, amongst other considerations.

Other considerations

32. I acknowledge that the appellant has identified aspects of the proposed development not referred to above in which there would be an absence of harm, such as the proposed fire safety strategy. The development would also provide new homes, adding to the local supply and helping to address the borough's housing need. I have not been provided with any information about the Council's housing supply and accordingly cannot conclude on the specific benefits of the proposal. Nonetheless, the proposal would result in harm in regard to sustainable transport and living conditions, and this harm outweighs the benefits that have been presented within this appeal.

⁶ Prepared by Arbtech, dated August 2021.

⁷ Prepared by Veteran Tree Arboriculture, dated 10 August 2020.

Conclusion

33. The proposal would conflict with the local development plan, and there are no considerations that lead me to a decision otherwise than in accordance with the plan.
34. The appeal is dismissed and planning permission refused.

G Rollings

INSPECTOR