



# Appeal Decision

Site visit made on 26 June 2023

**by A Wright BSc (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 August 2023**

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**Appeal Ref: APP/L5240/W/23/3314480**

**19 Shirley Way, Croydon CR0 8PG**

- 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 Patrick Quinlan of Innovative Infill against the decision of the Council of the London Borough of Croydon.
  - The application Ref 22/03684/FUL, dated 3 September 2022, was refused by notice dated 31 October 2022.
  - The development proposed is erection of two storey detached dwelling house on land to the rear of No. 19 Shirley Way, including new vehicular access and crossover from East Way, off-street parking, landscaping and all associated site works.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The appellant submitted some additional drawings with the appeal documentation. The Procedural Guide for Planning Appeals makes clear that the appeal process should not be used to evolve a scheme and it is important that what is considered is essentially what was considered by the Council, and on which interested people's views were sought. Nonetheless, as the additional drawings do not materially change the proposal, I have had regard to them in my determination of the appeal as I am satisfied that the interests of the parties would not be prejudiced.

## Main Issues

3. The main issues are the effect of the proposed development on:
  - the character and appearance of the area;
  - the living conditions of the occupiers of 19 Shirley Way with particular regard to privacy and the size of the retained garden; and
  - road user safety, with particular regard to the proposed crossover and parking arrangements.

## Reasons

### *Character and appearance*

4. The appeal site is in a suburban residential area where semi-detached properties are prevalent. It fronts East Way and comprises part of the garden belonging to the two-storey dwelling at 19 Shirley Way (No 19). The generous plots with long rear gardens in this area give this part of East Way an

- undeveloped, open character. The host dwelling has two modest outbuildings which have little influence on the prevailing character of the rear gardens.
5. The dwelling would be located on a plot measuring approximately 210sqm, considerably smaller than the existing plots in this part of East Way and Shirley Way. Fronting East Way, it would only have a small side garden and minimal rear garden, which would not relate well to the long rear gardens close by. Therefore, the size of the plot and the arrangement of the dwelling and garden within the site would fail to reflect the prevailing pattern of development in the vicinity and would be an incongruous addition, visible from East Way and the junction with Shirley Way.
  6. Whilst the scale, massing, design, orientation, and position of the building would respond to the existing local character, this would not outweigh the harm that the proposal would cause to the development pattern.
  7. The appellant refers to examples of infill developments in the wider locality. However, many of these have larger plot sizes, are in areas where smaller plots are more common or were allowed in the context of a different policy framework. Furthermore, I observed that even those closest to the appeal site at 26 East Way and 45a Shirley Way are sufficiently distant to have little influence on the character of the immediate street scene where the proposed development would be introduced. As such, I am satisfied that the presence of other infill developments does not justify the harm which would arise from the proposal.
  8. Consequently, I conclude that the development would harm the character and appearance of the area. This would be contrary to Policy D3 of the London Plan 2021 (the London Plan) and Policies SP4 and DM10 of the Croydon Local Plan 2018 (the Local Plan) where these require developments to respect the local character and development pattern. It would also conflict with the National Planning Policy Framework (the Framework) which requires development to be sympathetic to local character.
  9. Policy D4 of the London Plan relates to processes and actions required to deliver good design. However, this does not directly link to the harm identified and therefore I find no specific conflict with Policy D4 when reaching my conclusion.

#### *Living conditions*

10. The proposed dwelling would have a first-floor bedroom window facing into the garden of No 19, with separation distances of around 13-15m to the rear windows on the host dwelling.
11. Previous local policy guidance referred to a 15m separation distance, but this no longer applies. The Local Plan and the London Housing Supplementary Planning Guidance 2016 (the London Guidance) refer to minimum distances of 18-21m as a useful yardstick for visual privacy. Whilst this is not intended to be adhered to rigidly, the location of the site in a spacious suburban area and the proximity of the proposed upper floor bedroom window to the rear habitable rooms and rear garden of No 19 would cause harmful overlooking. Although the existing residents of the host dwelling support the proposal, the occupiers of that property will inevitably change over time whereas the

development would be permanent and would result in a harmful relationship with and inadequate privacy for the occupiers of No 19.

12. Information from the appellant suggests a willingness to change this bedroom window arrangement involving a condition that requires obscure glazing and restricted opening, and the installation of a new small openable window facing the street. This would overcome the loss of privacy to the occupiers of No 19, but as the only window opening to this habitable room, it would create an oppressive environment with minimal outlook which would not provide satisfactory living conditions for the future occupiers of the proposed house. Therefore, I do not consider it reasonable that such a condition be imposed.
13. In reaching the above view, I have considered that the proposed internal layout and window arrangements would provide appropriate living conditions for the future occupiers, but this would not outweigh the harm that the development would cause to the living conditions of the occupiers of the host dwelling.
14. Policy DM10.4 of the Local Plan requires development to provide functional private amenity space. In the grounds of an existing retained building, a minimum length of 10m and no less than half or 200sqm (whichever is the smaller) of the existing garden area needs to be retained for the host property.
15. Although there would be a structure in the middle of the retained garden of No 19, the outbuildings would occupy only a limited proportion of the space and it is reasonable to assume that gardens will contain these as part of their functional area. The garden (including the floorspace of the two outbuildings) would be around 200sqm, about half the size of the existing garden. There is dispute over its length depending which part of the house it is measured from, with a minimum of around 8m and an average of about 11.5m. Its corner location means that the retained garden would have a significant width and, along with its average length and overall size, I am satisfied that it would be sufficient to meet the needs of the occupiers of No 19 and accords with Local Plan Policy DM10.4.
16. Whilst the amount of retained garden serving No 19 would be satisfactory, I conclude that the proposed development would harm the living conditions of the occupiers of 19 Shirley Way with particular regard to privacy. This would be contrary to Policies D3 and D6 of the London Plan and Policies SP4.1, SP4.2, DM10.6 and paragraph 6.56 of the Local Plan. Together, these require development to ensure privacy, with no direct overlooking at close range of habitable rooms and private outdoor space. It would also conflict with the London Guidance where it sets out yardstick window separation distances and the Framework which requires decisions to provide a high standard of amenity for existing and future users.

#### *Road user safety*

17. The Council indicates that 1.5m x 1.5m pedestrian visibility splays are needed to provide safe access to the site, measured from the outmost points of the crossover. Whilst the plans and appeal documents indicate only low planting on one side which would not interfere with the visibility splay, a hedge and fence alongside the lawn would fall within the visibility splay required on the other side. These have the potential to obstruct visibility for drivers of vehicles exiting the access of pedestrians using the footway, resulting in an

unacceptable risk of accidents and, therefore, harm to the safety and movement of other road users.

18. In reaching the above view, I have taken into account that the appellant considers that revised details could be provided by condition. However, as achieving the necessary visibility splays would require changes to the position and/or height of the hedge and fence shown on the submitted plans, it would materially alter the proposal before me. As such, it would not be reasonable to impose such a condition.
19. For this reason, I conclude that the proposal would harm road user safety, with particular regard to the proposed crossover and parking arrangements. This would be contrary to Policies DM29 and DM30 of the Local Plan where they require development not to have a detrimental impact on highway safety for pedestrians. It would also conflict with the Framework which requires developments to provide safe and suitable access to the site and minimise the scope for conflicts between pedestrians and vehicles.

### **Other Matters**

20. The harm identified leads me to consider that the proposal does not fall within the definition of a 'suitable site' within an existing settlement for homes in terms of the Framework. Nonetheless, the proposal would have benefits in terms of meeting housing needs, as well as providing social and economic benefits associated with its construction and for nearby services and facilities. However, as the proposal is for a single dwelling, those benefits would be modest and do not outweigh the harm I have identified.

### **Conclusion**

21. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

*A Wright BSc (Hons) MRTPI*

INSPECTOR