



Appeal Decision

Site visit made on 11 July 2023

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 September 2023

Appeal Ref: APP/L5240/W/23/3314504

5-7 Hartley Old Road, Purley, Surrey CR8 4HH

- 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 B3 Homes Ltd against the Council of the London Borough of Croydon.
 - The application, Ref 22/02039/FUL, is dated 13 May 2022.
 - The development proposed is the erection of 2 pairs of semi-detached dwellinghouses to the rear of Nos 5-7, with provision of associated vehicular access and parking, hard and soft landscaping, amenity space and refuse and recycling storage.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 pairs of semi-detached dwellinghouses to the rear of Nos 5-7, with provision of associated vehicular access and parking, hard and soft landscaping, amenity space and refuse and recycling storage at 5-7 Hartley Old Road, Purley, Surrey CR8 4HH in accordance with the terms of the application, Ref 22/02039/FUL, dated 13 May 2022, and the plans submitted with it, subject to the conditions in the schedule at the end of this decision.

Preliminary Matters

2. This appeal was made on the basis of the Council's failure to determine the planning application within the statutory timescale. The Council has provided a statement explaining the reasons why it would have refused planning permission, had it been able to do so. The main issues reflect the putative reasons for refusal set out within the Council's statement.
3. The appellant has submitted with this appeal a revised drawing No 033-S01/P1 Site Plan Proposed, to replace drawing No 033-S01 Site Plan Proposed; an addendum to the Design and Access Statement (DAS); a comparative study of hardstanding proportions; and a CO₂ Emissions Report. The revised drawing and DAS addendum include additional information about photovoltaic panels on the roofs of the proposed houses. Neither they nor the other additional information otherwise change the original proposal and the Council has acknowledged the revised drawing and additional information in its statement. Therefore, no parties would be prejudiced by me taking account of the revised drawing and additional information in my decision.

Main Issues

4. The main issues in this appeal are:
 - i. The effect of the proposed development on the character and appearance of the surrounding area.
 - ii. Whether the proposed development would provide adequate living conditions for future occupants, with particular regard to floor to ceiling heights and refuse storage arrangements.
 - iii. The effect of the proposed access and parking arrangements on highway safety.
 - iv. Whether adequate bicycle parking would be provided.

Reasons

Character and appearance

5. The appeal site is in a hilly, suburban, residential area comprising mainly detached and semi-detached houses of varied, traditional appearance. These are generally positioned in linear frontage plots with long rear gardens. There are some back-land housing developments already built or under construction in the area. A number of the dwellings along Hartley Old Road, including Nos 5 and 7, have mature trees and hedges along their frontages that restrict views into the plots and contribute to the verdant character of the neighbourhood.
6. The layout of the new houses would be denser than the prevailing pattern of development because each linear plot would be subdivided, and each new plot would accommodate two dwellings rather than one. However, the plots are long and the houses would be parallel with the existing dwellings, which would respect the broadly rectilinear pattern of existing development. This layout would be comparable to other back-land housing developments nearby. The spacing of the pairs would be akin to that found in several local streets, even if parts of Hartley Old Road itself are less tightly developed. Together, these factors would help integrate the new houses into the surrounding area, despite the increase in density.
7. The proposed subdivision of the linear plots would result in smaller gardens for the two host dwellings. In these circumstances, Policy DM10.4(e) of the Croydon Local Plan (CLP) requires a minimum length of 10m and no less than half or 200m² (whichever is the smaller) of the existing garden area to be retained for each host property. The policy does not apply these requirements to rear gardens only. The front gardens at Nos 5 and 7 are relatively large and private, given the frontage planting. From the evidence before me, I am satisfied both existing houses' garden areas would meet the requirements of Policy DM10.4(e).
8. The rear gardens at Nos 5-7 Hartley Old Road fall away steeply from the existing houses, so the level of the new houses would be significantly lower than that of the existing dwellings. This would make them appear subservient in scale and mass to the host properties, even with two storeys and accommodation in the roof. Along with the mature frontage planting, this difference in levels would also significantly restrict views of the new houses from the street. Consequently, the change in appearance resulting from the

- plot subdivision and new houses would not have a detrimental effect on the character of the surrounding area.
9. The asymmetrical design of the front facing gables, windows and roofs of the new houses would differ in appearance from equivalent elements on the host dwellings and other houses nearby. Nevertheless, these features would be reminiscent of traditional designs, so would not present such a contrast that this would be harmful to the character of the area, particularly given their secluded location. Complementary materials can be secured by condition to help integrate the new houses with their context.
 10. I acknowledge there would be a reduction in soft landscaping across the appeal site, with some loss of lower value trees, including some that have already been felled. However, I am persuaded from the evidence that the area proposed for new soft landscaping, including trees, would be optimised. The quality and layout of both hard and soft landscaping, including pedestrian routes, retaining walls, boundary treatments, planting type and replacement trees, can be secured by condition. In addition, the mature planting on the street frontage would change little. Consequently, the proposal would not detract significantly from the verdant character of the area and would still have biodiversity value.
 11. The refuse collection point would be close to the street, so more visible than the houses. Nevertheless, it would be located behind mature planting and in a location already used for this purpose by No 5. Although larger to accommodate more bins than the current arrangement, it would primarily be used on refuse collection days so bins would not be visible most of the time. Appropriate design details for this element of the scheme can be secured by condition, to ensure a satisfactory layout and appearance alongside the access and garden areas.
 12. I understand other permissions for new back-land housing in the area were determined in the context of a Suburban Design Guide Supplementary Planning Document, which has since been revoked by the Council. Be that as it may, each proposal must be determined on its individual merits, and I have considered this appeal on the basis of the specific site and case circumstances before me.
 13. For the above reasons, I conclude the proposed development would not have a harmful effect on the character and appearance of the surrounding area. Accordingly, I find no conflict with Policies D3, D4, D6 or H2 of the London Plan (March 2021) (the LP) or Policies SP4, DM10 and DM13 of the CLP. Together, these policies seek, among other things, a high standard of design that respects the pattern of development and local character; a design-led approach to optimising site capacity; well-designed new homes on small sites in existing residential areas; and sensitive integration of refuse/recycling facilities. I also find no conflict with the National Planning Policy Framework (July 2021) (the Framework) where it seeks high quality design that is sympathetic to local character.

Living conditions

14. Policy D6 of the LP and associated Housing Supplementary Planning Guidance (March 2016) (LPHSPG) require a minimum floor to ceiling height of 2.5m for at least 75 per cent of the gross internal area in each new dwelling. I am satisfied from the sections and information provided that this requirement would be met.
15. The proposal would include a dedicated refuse storage area at the front of each house in addition to the communal bin collection point near the site entrance. The proposed space for two wheelie bins and a food caddy for each house would be typical for an urban area, and the suggestion that more would be needed has not been satisfactorily substantiated. Future occupants would need to pull their wheelie bins up and down the inclined access road on bin collection days. However, I am not persuaded from the evidence before me that this would be an unacceptable arrangement or contrary to agreed standards. The demand for bulky waste collection is likely to be occasional rather than a regular occurrence requiring a dedicated facility. Consequently, the refuse storage arrangements would be adequate, subject to details secured by condition.
16. For the above reason, I conclude the proposed development would provide adequate living conditions for future occupants, with particular regard to floor to ceiling heights and refuse storage arrangements. Accordingly, I find no conflict with Policies D3, D6 (including Table 3.2) and SI7 of the LP or Policies SP2.8, DM10 and DM13 of the CLP. Together, these policies seek, among other provisions, indoor environments that are comfortable and inviting for people to use, and adequate, convenient and effective refuse/recycling storage and collection facilities. I also find no conflict with the Framework where it seeks a high standard of amenity for future users.
17. Policy SP4 of the CLP relates to urban design and local character, so is not directly relevant to this main issue.

Highway safety

18. The swept path analysis for a fire tender is sufficient to demonstrate acceptable access for a delivery vehicle of a similar size or smaller. This would include most delivery vehicles generally expected to visit residential premises in a suburban area. There is little evidence to demonstrate the need for deliveries by 10m long rigid lorries, once construction is complete. Consequently, I am satisfied with regard to access for deliveries.
19. I am not persuaded from the evidence before me that the swept paths for cars leaving bays 4, 5 and 6 would be unacceptably long. While no swept paths have been provided for the new parking spaces for No 5, the plans suggest they would be feasible and there would be scope for adjustments to the layout at the front of that dwelling. Therefore, any revisions necessary to the position of these parking spaces could be addressed through a condition.
20. Policy T6.1G of the LP specifies a minimum provision of disabled persons parking for residential development proposals of ten or more units. The proposed inclusion of one enlarged space is therefore a benefit that would meet the needs of some users with disabilities, even if the requirements of Policy

T6.1H, which sets out expected standards for disabled persons parking bays, are not met in full.

21. Pedestrian visibility splays are shown within the red line boundary of the proposal, but the right-hand splay would appear to fall at least partly within the curtilage of No 3 Hartley Old Road. Whilst full splays of 1.5m x 1.5m may not ultimately be maintainable to both sides of the site's access, having inspected the existing boundary treatments and noted the generous width of the neighbouring footway, I see little prospect of any unacceptable barrier to pedestrian visibility materialising in the future. To offer further assurances, confirmation of detailed splay designs could be secured via condition. The differentiation of pedestrian footpaths within the site can also be secured by condition as part of landscaping details.
22. Concerns have been raised about parking stress and additional on-street parking demand. The proposal would provide 1.5 on-site parking spaces for each house, which is the maximum number allowed under Policy T6.1 of the LP. The site is also within walking and cycling distance of a station and local shops. I therefore consider the level of additional on-street parking demand from four houses would be low, and insufficient to justify a survey of parking stress in surrounding streets.
23. For the above reasons, I conclude the proposed access and parking arrangements would not have a harmful effect on highway safety. Accordingly, I find no conflict with Policies T4, T6, T6.1H(5) of the LP and Policies SP8, DM29 and DM30 of the CLP. Together, these policies seek, among other provisions, to reduce road danger, ensure the movement of pedestrians and cyclists is not impeded by car parking, and ensure adequate provision for deliveries. I also find no conflict with the paragraph 111 of the Framework, which states development should only be refused on highways grounds if there would be an unacceptable impact on highway safety.

Bicycle parking

24. There is little evidence to substantiate the suggestion that the proposed cycle stores would be too small to accommodate 2 bikes each. I am also not persuaded that space to store larger, adapted cycles would be necessary given the size of the scheme. Concerns have been raised about a lack of short-stay spaces for visitors. Policy T5 of the LP requires these for developments of five or more dwellings, so there would be no shortfall against standards in that regard.
25. For the above reasons, I conclude adequate bicycle parking would be provided. Accordingly, I find no conflict with Policies T4 and T5 of the LP and Policies SP8, DM10, DM29 and DM30 of the CLP. Together, these policies seek an increase in active travel including cycling and require adequate, secure cycle parking. I also find no conflict with the Framework where it requires development to encourage cycling.

Other Matters

26. Policy H2 of the LP supports incremental intensification of existing residential areas in principle within 800m of a station. The Council is satisfied the site is within that distance of a station and I see no reason to disagree, notwithstanding the public transport access level (PTAL) of 1b. There is little

evidence hills would deter all future occupants from walking or cycling, even if they would make it more difficult for some. Consequently, I am satisfied the site would be an appropriate location in principle for new housing.

27. Four additional dwellings would result in a modest increase in demand for local infrastructure such as schools, leisure centres and health facilities. The Council has adopted a Community Infrastructure Levy (CIL) charging schedule and the development would be CIL liable. The allocation of CIL and delivery of infrastructure are outside my remit in considering this appeal.
28. The Council has raised no concern with the living conditions of future occupants in relation to room sizes, disabled access and external amenity space. It is also satisfied with the level of traffic the proposal would generate; and with the proposal's effect on the living conditions of neighbours with regard to noise, light, privacy and outlook. From the evidence before me I see no reason to disagree with these conclusions. Indeed, generous separation distances would be achieved and relatively limited traffic movements to and from the site would realistically be anticipated to be generated by the scheme. There is also little to substantiate the concern about anti-social behaviour resulting from the development.
29. Construction would cause some disruption but this would be temporary and would be mitigated by a Construction Method Statement (CMS), which could be the subject of a condition. To safeguard protected species, the recommendations of the Preliminary Ecological Appraisal can be also secured by condition, as can biodiversity enhancements.
30. Indicative information about electric vehicle charging points and energy generation was included with the appeal. I have added conditions to secure further details and provision of these measures. I am satisfied the Fire Strategy Statement, together with the plans and transport assessment, provide the information required by Policy D12 of the LP. I have included a condition to secure these fire safety provisions. Disability access within the new dwellings and the disposal of foul sewerage are matters for other regulatory regimes.
31. I note the Council provided pre-application advice to the appellant. However, I have considered this appeal on its merits based on the evidence before me.

Conditions

32. I have considered the conditions put forward by the Council and have amended the wording where necessary in the interests of clarity and simplicity. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty.
33. Condition 3 requiring a CMS is necessary to protect the living conditions of neighbouring occupiers during construction. I have not specified the content of the CMS because the Council can do this as part of the approval process. Agreement of the CMS prior to commencement of development is necessary because demolition and construction would occur within the rear gardens of existing dwellings. Condition 5 is necessary to protect existing trees during construction and is pre-commencement to ensure measures are in place before works start on site.

34. Condition 4 on visibility splays is necessary to safeguard highway safety. It seeks approval pre-commencement so that highway safety is safeguarded during construction. Condition 7 is necessary to ensure acceptable finalisation of parking layouts, including swept paths for the bays at No 5 Hartley Old Road. Condition 8 is necessary for effective management of refuse and recycling and to finalise the design of the collection point. Condition 14 is necessary to increase fire safety in the development.
35. Condition 6 is necessary to mitigate impacts on ecology during construction. Conditions 12 and 13 are necessary to secure an enhancement of biodiversity from the scheme and to mitigate harm to bats from new external lighting. Condition 10 is necessary to secure acceptable soft and hard landscaping, including new planting and replacement trees. Condition 11 is necessary to secure effective surface water drainage on the site.
36. Condition 9 is necessary to integrate external materials and finishes with the surrounding context. Condition 15 is necessary to ensure external energy generation measures have a satisfactory appearance. Condition 16 is necessary to manage proposals to enlarge the dwellings, to safeguard the character and appearance of the surrounding area.
37. The Council's suggested condition 4 in relation to windows on the northern and southern elevations is not necessary because this is controlled by conditions 2 and 16, which respectively require compliance with the approved plans and withdraw the future use of permitted development rights with regard to dwellinghouse alterations. The development plan policy basis for the Council's suggested condition 9 on water use is not clear from the evidence before me, so such a condition is deemed not necessary.

Conclusion

38. For the above reasons the proposal accords with the development plan, when read as a whole. Material considerations, including the Framework, do not indicate that a decision should be taken other than in accordance with the development plan. Having regard to all other matters raised, I therefore conclude the appeal should be allowed.

C Carpenter

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 033-S00 Existing Site Plan; 033-S01/P1 Proposed Site Plan; 033-S02 Proposed Ground Floor Context; 033-S10 Proposed Site Location Plan; 033-GA00 Proposed Ground Floor Plan; 033-GA01 Proposed First and Second Floor Plan; 033-GE01 Proposed Front Elevation; 033-GE02 Proposed Flank Elevation; 033-GE03 Proposed Rear Elevation; 033-GE04 Proposed Flank Elevation; 033-GE05 Existing and Proposed Street Elevation; 033-GS01 Existing and Proposed Section AA; 033-GS02 Existing and Proposed Section BB;

- 033-GS03 Existing and Proposed Section CC; 033-GS04 Existing and Proposed Section DD; 033-GS05 Existing and Proposed Section EE; 033-GS06 Proposed Section FF; LAS 384/01/A Landscape Proposals.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
 - 4) No development shall take place, including any works of demolition, until details of visibility splays have been submitted to and approved in writing by the local planning authority. The visibility splays shall be constructed in accordance with the approved details prior to commencement of development and shall thereafter be maintained free of obstructions in accordance with the approved details.
 - 5) No development shall take place, including any works of demolition, until the tree protection measures specified in the Tree Protection Plan & Arboricultural Method Statement by JN Tree Consultancy, Reference TPP & AMS 02, dated 4 June 2022, are implemented on site. The tree protection measures shall be retained for the duration of the construction works.
 - 6) Ecological mitigation measures and works shall be carried out in accordance with the recommendations of the agreed Preliminary Ecological Appraisal Survey report by Arbtech Consulting Ltd dated 8 October 2021. This may include the appointment of an appropriately qualified person, such as an Ecological Clerk of Works, to provide on-site ecological expertise during construction. The appointed person shall undertake all activities and works in accordance with the approved details. The ecological mitigation measures shall be retained and/or adhered to for the duration of the construction works.
 - 7) Notwithstanding condition 2 no development above ground shall take place until details of the parking layout and electric vehicle charging points have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 8) Notwithstanding condition 2 no development above ground shall take place until details of the refuse/recycling storage and refuse collection point, including for bulky waste, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 9) Notwithstanding condition 2 no development above ground shall take place until details of the external materials and finishes have been submitted to and approved in writing by the local planning authority. The details submitted shall include samples of all facing materials and finishes and drawings in plan/elevation and section at 1:5 through all typical external elements/details of the facades including all openings in external walls. Development shall be carried out in accordance with the approved details.

- 10) Notwithstanding condition 2 no development above ground shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:

- i) existing planting to be retained;
- ii) replacement trees;
- iii) planting plans including species to enhance biodiversity;
- iv) means of enclosure and retaining structures;
- v) boundary treatments;
- vi) pedestrian access and circulation areas;
- vii) hard surfacing materials;
- viii) an implementation programme.

The landscaping works shall be carried out in accordance with the approved details and the agreed implementation programme. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 11) No development above ground shall take place until a surface water drainage scheme has been submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall include the following details:

- i) calculation of the existing and proposed run-off rate: the latter should be equivalent to the greenfield run-off rate unless an alternative rate is adequately justified;
- ii) the impermeable and permeable site areas used for the infiltration calculations;
- iii) a layout plan to scale;
- iv) measures for on-site infiltration drainage;
- v) the on-site attenuation tank;
- vi) measures for further sustainable drainage;
- vii) a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The surface water drainage scheme shall be carried out in accordance with the approved details prior to first occupation of the development and shall be retained thereafter. The surface water drainage scheme shall be maintained in accordance with the approved management and maintenance plan.

- 12) No development above ground shall take place until a biodiversity enhancement strategy has been submitted to and approved in writing by the local planning authority. The biodiversity enhancement strategy shall include the following details:

- i) purpose and conservation objectives;
- ii) biodiversity enhancement measures to achieve the stated objectives;

- iii) plans showing the locations of the biodiversity enhancement measures;
- iv) persons responsible for implementing the biodiversity enhancement measures;
- v) an implementation programme;
- vi) a programme for initial aftercare and long-term maintenance (where relevant).

The biodiversity enhancement measures shall be carried out in accordance with the approved details and the agreed implementation programme and shall be retained thereafter. The biodiversity enhancement measures shall be maintained in accordance with the approved after-care and maintenance programme.

- 13) The development hereby permitted shall not be occupied until an external lighting scheme for biodiversity is submitted to and approved in writing by the local planning authority. The lighting scheme shall include the following details:
- i) identification of locations in the development likely to be particularly sensitive for bats and the routes they use for foraging;
 - ii) the layout of external lighting including lighting plans, drawings and technical specifications;
 - iii) demonstration that the external areas to be lit will not disturb bats or prevent them using their territory;
 - iv) a maintenance plan.

The external lighting scheme shall be installed in accordance with the approved details and maintained thereafter in accordance with the maintenance plan. No other external lighting shall be installed.

- 14) The development hereby permitted shall not be occupied until the measures in the approved Fire Strategy Statement from B3 Homes have been implemented. The fire safety measures shall be retained thereafter.
- 15) The development hereby permitted shall not be occupied until details of any external energy generation measures shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 16) Notwithstanding the provisions of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement or alteration of the dwellinghouses hereby permitted (including the erection of a garage or enclosure within the curtilage of the dwellinghouses) shall be carried out without the express permission of the local planning authority.