



Appeal Decision

Site visit made on 18 July 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2023

Appeal Ref: APP/L5240/W/23/3314172

Land to the rear of 1 Beulah Hill, Upper Norwood, London SE19 3LQ

- 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 Kurt Gander-Howe of KGH Studios Ltd against the decision of the Council of the London Borough of Croydon.
- The application Ref 22/01333/FUL, dated 29 March 2022, was refused by notice dated 27 October 2022.
- The development proposed is the erection of one single-storey dwellinghouse (2 bedroom, 4 person) with associated parking and landscaping.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the address from the decision notice as it is more precise than the address provided in the application form.
3. The Council has confirmed, in its appeal statement, that it no longer objects to the proposal due to harm to, or loss of, trees. Based on the evidence before me and my observations on site, I have no reason to take a different stance and, as such, I will not address the fourth reason for refusal in my consideration of the appeal.
4. The Appellant has provided at appeal stage a Revised Floor Plan which is materially different to that considered by the local planning authority. Indeed, the extent of habitable floorspace is altered by it. The 'Procedural Guide to Planning Appeals – England' is clear that the appeal process should not be used to evolve a scheme and that it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. Having regard to the Wheatcroft¹ principles, and in the interests of fairness, this appeal must be determined based on the plans on which the Council made its decision, and which have been subject to consultation. To do otherwise could unacceptably prejudice the interests of other parties.
5. Consequently, in reaching my decision, I have not had regard to the Revised Floor Plan and have determined the appeal based only on the plans that were before the Council when it made its decision.
6. The Appellant has also provided a Daylight Study and additional plans illustrating available outlook with his final comments. However, the Council has

¹ *Bernard Wheatcroft Ltd v SSE*

not had the opportunity to comment on this additional information. Therefore, I have not taken it into consideration in the determination of this appeal as there would be prejudice if I were to do so.

Main Issues

7. The main issues are:

- The effect of the proposal on the character or appearance of the Church Road Conservation Area;
- Whether adequate living conditions would be provided for future occupiers of the proposal, with particular regard to access to sunlight and daylight;
- Whether the proposal makes adequate provision for cycle storage;
- Whether the proposal would be accessible and inclusive for all users;
- The effect of the proposal on the living conditions of the neighbouring occupants, with particular regard to outlook; and
- The effect of the proposal on highway and pedestrian safety with particular regard to the visibility and manoeuvring opportunities for vehicles.

Reasons

Character and appearance

8. The appeal site is in the Church Road Conservation Area (CA). As such I have had regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. The CAAMP² describes the CA as an area characterised by a concentration of high-class Victorian buildings and suburban Victorian housing with a very spacious character, largely as a result of the generous plot layout.
9. 1 Beulah House (No 1) is a substantial detached property that has been subdivided and extended and contains flats and a dental surgery. The large, two-storey, detached Camille House, has been constructed towards the end of what would have been the rear garden of No 1. The construction of Camille House has shortened the back garden area of No 1 and in that regard, it differs from the spacing and layout of the other buildings in the row. Nonetheless, an enclosed grassed area has been retained between the rear of 1 Beulah Hill, and its associated hard surfaced amenity area, and the side elevation of Camille House.
10. The CAAMP identifies that poorly sited and over scaled and/or poorly designed backland development can have a negative impact on the character of the area, interrupting the integrity of the area's layout and spacing, blocking views and result in the removal of trees. The CAAMP does, however, identify instances where further development may be proposed on sites currently used as large gardens. However, the appeal site is not a large garden. Moreover, except for an access pathway to the dental surgery, the footprint of the proposed dwelling and associated enclosed amenity space and hard surfacing,

² Church Road Conservation Area Appraisal and Management Plan Supplementary Planning Document

would cover close to the entirety of the grassed area thereby resulting in a cramped form of development. This would significantly erode the remaining space to the rear of No 1. Thus, it would not preserve the established character or the remaining openness of this part of the CA. Furthermore, the single storey height, shallow pitched roof, blank brick side and rear elevations, and perforated brickwork and metal mesh screening to the car port do not respond appropriately or positively to its surroundings or the local historic context.

11. Consequently, even though the proposed dwelling would not be readily visible from the public realm, and the impact would be limited to views from the adjacent properties, it would be a discordant and contrived feature in this location and would harm the significance of the CA as a designated heritage asset. The proposal may conform to unit size, room sizes and amenity space policies and conforms with parking standards, however that does not alter my findings on this main issue.
12. My attention has been drawn to two recent planning permissions at No 1. Whilst I have not had sight of the approved plans, I note that they relate to single storey rear extensions as opposed to new dwellings necessitating plot division. As such, they are not directly comparable to the appeal proposal and do not provide clear or convincing justification for the scheme that is before me. Additionally, the existence of Camille House does not justify further development that would take up the majority of the remaining space between it and No 1.
13. The proposal would therefore fail to preserve or enhance the character or appearance of the CA as a whole and as such would cause harm to the significance of the designated heritage asset. In the terms set out in the National Planning Policy Framework (the Framework), the harm to the CA would be at a less than substantial level. Paragraph 202 of the Framework states that where a development would lead to less than substantial harm to the significance of a heritage asset, that harm should be weighed against the public benefits of the proposal.
14. I note that the proposal would contribute towards the Frameworks aim to boost the supply of housing through the delivery of an additional housing unit. However, there is nothing before me to suggest that the Council does not have a five-year housing land supply and that current policy is not providing enough housing to meet the housing requirements for the area. As such I attach limited weight to the provision of a single dwelling as proposed. Benefits to the local economy would also be limited due to the small scale of the scheme. In the absence of any other clearly identifiable public benefits, I conclude that the scheme's benefits would not outweigh the less than substantial harm that I have identified.
15. For the above reasons, the proposal would fail to preserve or enhance the character or appearance of the CA. It would therefore be contrary to Policies DM10, SP4 and DM18 of Croydon Local Plan 2018 (CLP) and Policies D3, D4 and HC1 of the London Plan (2021) (LP). It would also be contrary to the guidance set out in the CA General Guidance and the CAAMP Supplementary Planning Documents. These policies and guidance seek, amongst other things, to ensure developments are of a high quality, respond positively to local distinctiveness and preserve and enhance the character and appearance of heritage assets.

Living conditions of future occupants

16. LP Policy SP2 indicates that the Council will seek to ensure that new homes meet the needs of residents over a lifetime which will be achieved, in part, by requiring all new homes to achieve the minimum standards set out in the Mayor of London's Housing Supplementary Planning Document. This includes daylight and sunlight standards.
17. The proposed layout dictates that the majority of the proposed window openings would be closely positioned to each other and address various sides of a small-sized external amenity area. These windows would serve living and dining areas and both proposed bedrooms. The proposed dwelling itself, the end wall to the proposed car port and the side elevation of the two storey Camille House would enclose the amenity area. Due to the enclosed nature of the amenity space and the position and scale of Camille House, the level of daylight and sunlight entering the amenity space and the windows located at its perimeter would inevitably be restricted.
18. A Daylight Factors Assessment has been provided with the Appellant's statement. However, whilst it indicates that the Assessment has been undertaken in accordance with BREEAM³ standards, the method of assessment and whether it is entirely representative of the proposal is not fully clear from the submitted evidence. Moreover, a daylight and sunlight assessment governed by a robust and comprehensive methodology does not comprise a document for determination. It has been suggested that daylight levels could be increased through the introduction of a roof light. However, it is my duty to consider the appeal based on the plans and documents that were determined by the Council and that are currently before me.
19. I conclude that, in the absence of clear and convincing evidence to the contrary, adequate living conditions would not be provided for future occupiers of the proposal, with particular regard to access to sunlight and daylight. The proposal would therefore not comply with LP Policies D3 and D6 and CLP Policies SP2.8 and DM10 which seek, amongst other things, to ensure that the design of development provides sufficient daylight and sunlight to new housing and achieves indoor environments that are comfortable and inviting for people to use.

Cycle storage

20. The appeal plans, on which the Council made its decision, show that the access aisle to the proposed cycle storage area is partially obstructed by the recycling and waste storage areas. The resultant aisle width would be insufficient for a person with a bicycle to pass. Consequently, no useable cycle parking provision would be provided. Furthermore, I am not satisfied that any amendments necessary to secure appropriate cycle storage would be minor, given the constrained nature of the site and likely implications for internal living arrangements, nor that it would be reasonable and appropriate to secure such amendments by a condition.
21. Accordingly, the proposal would not make adequate provision for cycle storage. It would not accord with CLP Policies DM16 and DM30, LP Policy T5 and the

³ Building Research Establishment Environment Assessment Method

London Cycling Design Standards (2014) which seek, amongst other things, to promote cycling by securing appropriate and usable cycle parking facilities.

Accessibility/inclusivity

22. To provide suitable housing and genuine choice for London's diverse population, including disabled people, LP Policy D7 includes a requirement for dwellings to meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings'.
23. The appeal plans, on which the Council made its decision, do not demonstrate that the approach route from the car into the proposed dwelling would have the necessary minimum clear width and the principal and alternative entrance has the appropriate clear opening width. It would therefore not be, nor could be necessarily adapted to be, suitable for a wide range of occupants including those with reduced mobility and some wheelchair users. Furthermore, I am not satisfied that any amendments necessary to meet M4(2) would be sufficiently minor, given the constrained nature of the site, for it to be reasonable and appropriate to secure such amendments by way of condition.
24. The proposed development would therefore not be accessible and inclusive for all users and would therefore be contrary to the inclusive design aims of LP Policy D7.

Living conditions of neighbouring occupants

25. The proposal would exceed the height of the existing boundary fence between the appeal site and No1, albeit only marginally. However, whilst the shallow pitched roof would rise above the boundary fence, its highest point would be some distance away from the rear facing windows of No 1. Consequently, the proposal would not materially change the outlook available to occupants of the ground floor flats of No 1 by creating an undue sense of enclosure or overbearing impact, particularly when the lower ground level of the appeal site when compared to No 1 is taken into consideration. For the same reasons it would not unacceptably harm the enjoyment of the rear amenity area for the occupants of the flats at No 1 or unacceptably impact on the living conditions of the occupiers of other adjacent properties. Furthermore, due to the position of the proposed windows, there be no undue intervisibility between such windows and those of adjacent properties so as to result in an unacceptable loss of privacy.
26. I therefore find that the proposal would not materially harm the living conditions of neighbouring occupants, with particular regard to outlook. As such it would comply with CLP Policies DM10.6 and SP4, and LP Policy D3 which, amongst other things, seek to protect the amenity of the neighbouring occupiers, enhance social cohesion and well-being, and deliver appropriate outlook.

Highway safety

27. Due to the height of the front boundary wall and its position closely flanking the access point to the proposed car port upon either side, visibility on exit would be restricted. Nonetheless, there are currently a limited number of vehicle and pedestrian movements at the rear of No 1 and vehicles are likely to be travelling at slow speeds. As such, the occupants of the proposed dwelling and other users of the space would be able to anticipate each other's

movements and stop as appropriate thereby ensuring that highway and pedestrian safety is maintained.

28. Parking of vehicles within the area in front of the proposed dwelling, and in particular on land directly opposite the car port which is outside of the appeal site, would restrict the space available for a vehicle manoeuvring into and out of the car port. Nonetheless, notwithstanding the shared nature of the driveway, in the absence of any substantive evidence to demonstrate otherwise, I am satisfied that a sufficient manoeuvring area would be available on a consistent basis. This would ensure that the proposed parking space would function in a suitably safe and useable manner so as not to pose a major threat to highway safety.
29. I therefore conclude that the proposed development would have an acceptable effect on highway and pedestrian safety with particular regard to the visibility and manoeuvring opportunities for vehicles. Consequently, it would accord with the highway safety and sustainable growth requirements of CLP Policies DM29 and DM30 and LP Policies T4 and T6.

Other Matters

30. The appellant has raised concerns with the Council's handling of the planning application, however that is not relevant to my findings on the planning merits of the scheme.

Conclusion

31. I have found that the proposal would maintain appropriate living conditions for the occupiers of the neighbouring properties and would not prejudice highway or pedestrian safety. However, the scheme's benefits, as set out at paragraph 14 of this decision, would not collectively outweigh the harms that I have identified would be caused as a result of its effect upon the character or appearance the CA, by virtue of the inadequate living conditions being created for future occupiers, as a result of inadequate cycle storage facilities, and by virtue of the proposed dwelling not being accessible and inclusive for all users.
32. The proposed development therefore conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harms and associated development plan conflict.
33. I conclude that the appeal should be dismissed.

Elaine Moulton

INSPECTOR