



Appeal Decision

Site visit made on 13 June 2023

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2023

Appeal Ref: APP/L5240/W/22/3307153

77 Woodmere Avenue, Croydon CR0 7PX

- 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 Rob Allen of Clifford Blackmore Investments Ltd against the decision of the Council of the London Borough of Croydon.
 - The application Ref 22/00726/FUL, dated 9 January 2022, was refused by notice dated 18 August 2022.
 - The development proposed is demolition of single family dwelling and garage to facilitate the erection of a detached 2-storey building with accommodation in the roof space, comprising of 7 self-contained apartments with intergraded bike store and 8 off street car parking spaces.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Reference has been made to the Council's Suburban Design Guide SPD (the SDG). However, the Council has confirmed in its Appeal Statement that the SDG was revoked in 2022, so is no longer guidance and carries no weight. The appellant has had the opportunity to comment on this.
3. A revised version of the National Planning Policy Framework (the Framework) was published on 5 September 2023. However, the changes relate to elements of Chapter 14 which are not directly relevant to the main issues in this appeal. Hence it has not been necessary for me to go back to the main parties.
4. It was requested that I view the appeal site from 79 Woodmere Avenue, and I was able to do so at my visit.

Main Issues

5. The Council's decision includes reasons for refusal relating to fire safety and biodiversity. However, the Council has confirmed that details submitted with the appeal, and which can be secured by condition, would address these issues. On that basis, the main issues are:
 - Whether the proposal would provide suitable amenity space for Flat 3;
 - The effect on the character and appearance of the area;

- The effect on the living conditions of neighbouring residents in respect of light, outlook and privacy;
- Car parking, highway safety and sustainable transport; and
- The provision of refuse and recycling storage.

Reasons

Amenity Space

6. Flat 3 would be a 3-bedroom 4 person flat. Policy D6 of the London Plan 2021 states that a minimum of 5sqm of private outdoor amenity space should be provided for 1-2 person dwellings with an extra 1sqm provided for each additional occupant. This would result in a required total of 7sqm of private amenity space for Flat 3.
7. The submitted plans indicate that Flat 3 would have a balcony of 6.2sqm. However, the Council has provided a measurement based on the scale bar of the plans which indicates that the area of the balcony would be approximately 5.38sqm, which would be significantly below the 7sqm required by Policy D6.
8. The appellant contends that the architect's measurement on the plans would be more accurate than a scale bar measurement. However, the appellant has not provided substantive evidence to demonstrate that the area stated on the plan is correct, and on that basis I give more credence to the detailed measurements provided by the Council.
9. The appellant states that the size of Flat 3 is 75sqm compared to a requirement of 74sqm of Policy D6. They contend that the deficiency in private amenity space could be provided internally. However, the Council has provided a detailed measurement which demonstrates that the flat would not be able to provide compensation for the identified shortfall, albeit to a minor but material degree. The appellant has also not demonstrated that it would be impossible to provide the required private outdoor space for the flat, as referred to in paragraph 6.76 of the Croydon Local Plan 2018.
10. Based on the evidence before me, I conclude that the proposal would not provide sufficient private outdoor amenity space for the residents of Flat 3, with significant harm to their living conditions. The proposal would therefore be contrary to the housing quality and amenity space requirements of Policy D6 of the London Plan and Policy D10 of the Local Plan.

Character and Appearance

11. The appeal site is located in a pleasant suburban area. The streetscape is characterised by bungalows and 2-storey detached and semi-detached dwellings, although some properties include rooms in the roof space. The appeal site contains a bungalow of an understated character but which is representative of this area.
12. The neighbouring properties on either side consist of a detached 2-storey dwelling and a bungalow with accommodation in the roofspace. Although the appeal proposal is for a 3-storey building, its height is not excessive compared to its immediate neighbours, including with regard to the ridge and eaves height. The proximity of the building to the side boundaries of the site would also not be out of character with the adjacent dwellings or the wider area.

13. However, the design of the roof includes both pitched and flat roof elements and, given the extensive footprint of the building, the scale of the roof unacceptably increases the massing of the proposal. Even allowing for the hipped roof slopes, the roof would add significantly to the bulk of the proposal, giving it an unfortunate obtrusive presence. The massing of the roof and a side elevation would be particularly apparent as an overdominant feature projecting over the smaller scale dwelling at No 79.
14. The design of the front elevation is also of an incongruous appearance. The number and arrangement of recessed balconies are not representative of this area; and the varied design and placement of the openings as well as the fenestration facing onto them would lead to an awkward and contrived appearance. Rather than adding articulation and variation to the front elevation, these design features would instead appear as jarring elements on the building and within the streetscape.
15. The design of front gables is also of a contrived and rather half-hearted appearance. I agree with the Council's concerns that the gables are neither symmetrical or sufficiently asymmetrical, and their relationship with each other would lead to an odd and unsatisfactory composition to the front elevation. The front entrance is also poorly articulated, with a lopsided character and an awkward relationship with an adjacent set-back wall. Taken individually, these elements may be minor matters of detail. But when viewed as a whole the front elevation of the building would be of an unduly incongruous appearance.
16. The Council has also expressed concern about the design of the rear elevation and the degree of projection to the rear. However, although the rear elevation contains balconies and gables of a varying scale, it would not be prominent in views of the wider area. The rear building line is also not a defining feature of the area, and in this regard I am mindful that the proposal respects the front building line of its closest neighbours. On balance, I do not consider that the design of the rear elevation would be sufficient reason to withhold planning permission in respect of character and appearance.
17. The proposal would include an extensive hard surfaced forecourt to the front to provide for car parking and access. Given the extent of hard surfacing, the scope for landscaping to the front would be limited. However, there are a significant number of properties in this area which have a similar treatment to the front, and within that context the proposed extent of hard surfacing would not be out of character for the area.
18. I acknowledge that there is a significant variation in the design of dwellings in this area, and that the proposal is an opportunity to provide a bespoke design on this site. However, even within that context, the unacceptable bulk of the proposal and the incongruous appearance of the front elevation would lead to an overbearing and jarring addition to the streetscape.
19. I conclude that the proposal would lead to significant harm to the character and appearance of the area due to its scale and design. The proposal would therefore be contrary to the design and character requirements of Policy DM10 of the Local Plan and Policy D4 of the London Plan.
20. Policy DM10.1 of the Local Plan states that proposals should seek to achieve a minimum height of 3 storeys. The appeal proposal reflects the aim of this policy. However, it may be that a proposal of a more appropriate design in

respect of character and appearance could also provide 3-storeys. Therefore, the compliance of the proposal with this element of Policy DM10.1 does not negate the harm I have identified on this main issue.

Living Conditions

21. With regards to **light**, the Council's officer report sets out a detailed assessment of the effect of the proposal on the windows of Nos 75 and 79.
22. In respect of No 75, the Council identifies that there would be a bedroom that would suffer a major adverse impact in respect of criteria including the vertical sky component and the consideration of no skyline. With regard to No 79, the Council identifies adverse impacts on 2 rooms in respect of annual probable sunlight hours, reduction in the vertical sky component, and a breach of the 45 degree rule. Due to the scale and proximity of the appeal proposal and the location and form of the windows I observed on my visit, I consider that the Council's assessment is well-founded.
23. The appellant has provided no substantive evidence to disprove the Council's conclusions, but instead refers to the SDG which sets out that windows such as these place undue restraints on development, and as such the light and outlook they receive will not receive significant protection. However, the SDG has been withdrawn and carries no weight. The appellant's reference to the SDG does not therefore negate the Council's assessment. Furthermore, the appellant's Daylight and Sunlight Assessment is based on the 2011 BRE Guidelines¹, which has been superseded by a 2022 edition which has significantly altered the assessment of daylight and sunlight for new developments. I therefore cannot be certain that the appellant's assessment of this matter reflects current best practice.
24. The appellant's consideration of the effect of the proposal on levels of light reaching neighbouring premises is not appropriately robust, and does not lead me to a different conclusion on the harm arising to the living conditions of neighbouring residents based on the evidence before me and my own observations.
25. In respect of **outlook** the appeal proposal would extend beyond the rear building line, and due to its proximity to the boundary would be readily apparent from both Nos 75 and 79.
26. In respect of No 79, the scale and massing of the side elevation would be an overdominant, oppressive and enclosing feature when viewed from windows and a patio area. Even allowing for the length of the rear garden of No 79, this would lead to significant harm to the outlook from the rear of the dwelling and from that part of the rear garden closest to the dwelling. The appellant contends that there is no concern about the impact on No 79, but this does not reflect my observations on site.
27. The proposal would also be apparent from No 75. As referred to in my consideration of light, the proposal would have an oppressive effect on the outlook from a window to the side. However, I do not consider that the proposal would have an unduly overbearing impact on views from the rear elevation and garden of No 75 due to the projection of extensions to the rear of

¹ Building Research Establishment publication 'Site Layout and Planning for Daylight and sunlight, a guide to good practice' second edition published in 2011

that property. But this does not negate my conclusions in respect of the outlook from the side window.

28. On the matter of **privacy**, there would be a kitchen/dining area window on a side elevation that would enable an intrusive degree of overlooking into a first floor side window of No 75. A bedroom window on the other side elevation would enable an intrusive degree of overlooking into a number of windows of No 79. In both cases, this would lead to a significant loss of privacy for neighbouring residents.
29. Both side elevations also include a secondary bedroom window which looks onto Nos 75 and 79. However, these windows would be set at a high level and would not enable views of an intrusive nature from the appeal proposal. Nevertheless, this does not negate my previous conclusions in respect of harm to privacy.
30. I conclude that the proposal would result in significant harm to the living conditions of residents of Nos 75 and 79 in respect of light, outlook and privacy. The proposal would therefore be contrary to the amenity requirements of Policies D3 and D6 of the London Plan and Policy DM10 of the Local Plan.

Car Parking, Highway Safety and Sustainable Transport

31. The appeal site is in a quiet suburban area, and I saw that the volume and speed of traffic was accordingly low. However, the highway layout in the vicinity of the site is relatively complex, due to the proximity of junctions with Gladeside and Woodmere Gardens. The proposal would also increase the number of traffic movements to and from the site compared to the extant situation. In this regard, I note that comments raised locally refer to a fatal traffic accident in the vicinity of the site.
32. Policy T6.1 of the London Plan requires the provision of up to 10.5 car parking spaces for the site. Given the level of accessibility of the site and the reliance of residents on the private car to access services, I consider that that amount of parking provision would be reasonable. The appeal proposal would provide 8 spaces which falls short of the policy requirement.
33. The shortfall in parking spaces would be likely to lead to an increase in demand for on-street parking in this area. However, I saw that on-street parking was readily available, although I acknowledge that my visit took place during the day when the times of peak demand for parking in this residential area would be at the evening and weekends. Nevertheless, given the sensitivity of the site's location in respect of highway safety, it would not be appropriate to increase demand for on-street parking in the vicinity of the site. The Council's concerns in relation to the under-provision of on-site parking are therefore well-founded.
34. The vehicular access to the car park would use an existing crossover which would also be widened. However, the Council refers to a lack of details in respect of a swept path analysis for vehicles within the car park. The appellant contends that the 6m aisle width within the car park is the recommended distance to allow vehicles to manoeuvre within the site and depart in forward gear. However, given the constraints of the car park there is a reasonable possibility that cars would have insufficient space to manoeuvre within the site, particularly those at the far end of the rows of parking bays. Given the

identified sensitivity of the site in respect of highway safety, it is appropriate for the Council to require evidence in respect of a swept path analysis to demonstrate that cars parked in all of the proposed spaces can enter and leave the site in forward gear.

35. The car parking layout indicates a pedestrian visibility splay for drivers exiting the car park. This splay projects onto a neighbouring property and the appellant cannot therefore guarantee that no obstructions would be placed there which could restrict visibility. The appellant considers that vehicles exiting the car park could be positioned so that their visibility splay would not project onto the neighbouring plot. However, given the potential constraints of manoeuvring within the site, there is no certainty that vehicles would be positioned in such a manner.
36. The Council requires that a contribution is made to sustainable transport, and that car club membership for 3 years is provided for each unit. Future residents of the site would add to the demand for sustainable transport, and the provision of car club membership could mitigate some of the issues arising from the under-provision of car parking within the site. The requirement for a planning obligation on these matters is therefore necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. This therefore meets the tests of the CIL regulations and paragraph 57 of the Framework. The appellant states that they are committed to providing a unilateral undertaking (UU) to this effect, but a completed UU has not been provided to me. The Council's reason for refusal on this matter therefore stands.
37. I conclude that it has not been demonstrated that the development can make suitable provision for car parking, highway safety and sustainable transport. The proposal would therefore be contrary to the highway safety, car parking and transport impact requirements of Policies T4 and T6 of the London Plan, and policies DM29 and DM30 of the Local Plan.
38. The Council's reason for refusal refers to Policy T5 of the London Plan which relates to provision for cycling. However, the Council has not objected to the proposal on this issue, subject to conditions. Based on the evidence before me, the proposal would not conflict with Policy T5. However, this does not negate my conclusions in respect of other harm I have identified on this main issue.

Refuse and Recycling Storage

39. Policy DM13 of the Local Plan requires that new build development integrates refuse and recycling facilities within the building envelope. This is a reasonable requirement given the obtrusive clutter that can arise from external waste storage.
40. The proposal would include external refuse storage to the front of the site, which is clearly in conflict with development plan policy. The storage would also add an unacceptable degree of clutter to the front of the site which would add to the harm arising to character and appearance.
41. The appellant contends that the proposal would be integrated into the forecourt landscaping. However, given the limited scope for landscaping to the front of the proposed building, this would not be sufficient to mitigate the visual harm

arising from the storage or the conflict with planning policy. The appellant has also provided no substantive evidence as to why refuse storage cannot be provided within the building envelope. Although the storage as proposed may provide easy access by residents and waste operatives, this may also be achieved by storage within the building envelope.

42. In respect of bulky waste storage, the Council has accepted that the use of a grass cell structure could address its concerns regarding the effect of this storage on landscaping. However, this does not negate the harm arising from the location of general refuse and recycling storage.
43. I conclude that the proposal would not make suitable provision for refuse and recycling storage within the proposed building, with subsequent harm to the character and appearance of the area. The proposal would therefore be contrary to Policy DM13 of the Local Plan in respect of the sensitive integration of refuse and recycling facilities.

Other Matters

44. I am mindful of the benefits arising from the proposal. It would add to the supply and mix of housing in the area and would be brought forward on a developed site within an urban area. However, given the limited number of proposed dwellings these matters carry only limited weight in favour of the appeal.

Conclusion

45. For the reasons given, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR