



Appeal Decision

Site visit made on 26 July 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/22/3313414

Land to the rear of No. 198 Harrington Road, Croydon SE25 4NE

- 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 Inicio Homes against the decision of the Council of the London Borough of Croydon.
 - The application Ref 22/03596/FUL, dated 25 August 2022, was refused by notice dated 21 October 2022.
 - The development proposed is demolition of an existing end of terrace dwelling and existing structures on site and construction of nine x 3 bed dwellings with associated access, amenity space, landscaping refuse and cycle storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There is some variation in the description of development as given on the planning application form, decision notice and appeal form. I have taken the description in the heading above from the planning application form as this is the basis on which the application was submitted.
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.

Main Issues

4. The Council's decision includes a reason for refusal relating to fire safety. However, the Council has confirmed that details submitted with the appeal, and which can be secured by condition, would address this issue. On that basis, the main issues are:
 - Car parking and highway safety;
 - Accessible housing;
 - Refuse and recycling facilities;
 - The character and appearance of the area;
 - The living conditions of future residents with regards to light;

- The living conditions of neighbouring residents with regards to outlook, light and privacy; and
- Cycle storage.

Reasons

Car Parking and Highway Safety

5. A total of 5 car parking spaces would be provided for the 9 dwellings, resulting in a potential overspill of car parking of 4 vehicles. The appellant has provided a parking survey that indicates that overnight parking stress is at 87%, which exceeds the 85% threshold used by the Council to be representative of an area at parking capacity. However, the appellant's evidence states that even at 87% capacity this would still represent a reserve capacity to accommodate additional parked vehicles along unrestricted kerb length.
6. At the time of my visit I saw that there was some on-street parking available although this was limited. The availability of on-street parking was also restricted by the number of vehicle cross-overs, and although some dwellings had off-street parking a significant number of these spaces appeared to be below modern standards.
7. Therefore, notwithstanding the reserve capacity identified by the appellant, given the nature of parking that I observed in this area I consider that the Council's concerns about existing parking stress are well founded. Furthermore, the Council refers to issues with the appellant's parking survey including with regard to on-street parking that would be lost as a result of the widened site access, existing parking of vehicles across crossover points, and the measured extent of the public highway. Based on what I have seen and read, the appellant's parking survey is not suitably robust.
8. I am mindful that the recommended parking numbers are a maximum rather than a minimum figure. However, suburban developments should ideally address the parking need they generate within the extent of the development site, in the interests of the convenience of residents and to support the free flow of traffic. The census data referred to also supports the principle that the proposal should provide for the parking of 9 vehicles.
9. The swept path analysis provided by the appellants shows that multiple manoeuvres will be required within the shared surface to enable vehicles to enter and leave the site in forward gear. Given the form of family housing proposed and the lack of parking within the site, this will increase the number of pedestrian movements through this shared surface, including along the relatively long and narrow access route. Because of this arrangement and the resultant convoluted vehicle manoeuvres, this would significantly increase the potential for collisions between vehicles, cyclists and pedestrians to the detriment of highway safety.
10. The limited manoeuvring space may also encourage drivers to reverse out of the site and onto the highway, which may add to the potential for collisions with other road users due to the awkward form of this manoeuvre and limited visibility.
11. The appellant refers to drivers taking care in this environment and that there are numerous safe havens for pedestrians. But there is no certainty that that

would be the case given that drivers and pedestrians may be unaware of each other's presence, and the convoluted nature of vehicle movements resulting from the restricted nature of the shared surface.

12. The appellant has also confirmed that small delivery vehicles would need to reverse off Harrington Road, although the converse may also apply when vehicles enter in a forward direction and then try to reverse out. While such visits may be for a short period, due to the length of the access route, delivery drivers are likely to drive into the site to reduce the walking distance for deliveries. The vehicles may also attempt to manoeuvre within the site, and given the limitations of the manoeuvring space this may result in collisions between delivery vehicles and other users of the shared surface. Alternatively, delivery vehicles parked near the entrance may also lead to issues of visibility near the junction with the highway or inconsiderate parking with resultant harm to the movement of pedestrians or vehicles.
13. Furthermore, the length of the access route to the dwellings is relatively long and vehicles parked on-street may be some distance from the site. The walking route would therefore not be convenient for family dwellings, and the potentially unsafe vehicle manoeuvres within the shared surface adds to my concerns in respect of the suitability of this arrangement for family dwellings.
14. Reference has been made to the width of the vehicle crossover and the effect on pedestrian movements through the area. However, even given the relationship with nearby domestic crossover points, given the number of vehicle movements from this site and adjacent dwellings, I do not consider that the crossover would lead to an unacceptable effect on highway safety.
15. The Council states that a S.106 agreement would be required to remove access to resident parking permits and towards sustainable transport. The appellant has indicated that they would be willing to enter into a legal agreement to secure measures to mitigate the impacts of on-street parking. However, there is no such agreement or undertaking before me, and the appellant's intentions on this matter carry very little weight in favour of the proposal. In any event, the provisions of the S.106 agreement as proposed would not address my concerns that the amount and form of parking provision and access is not suitable for the number and type of dwellings proposed.
16. Drawing the above together, the proposal would not make suitable provision for the parking and manoeuvring of vehicles with significant harm to highway safety, as well as to the amenity of future and nearby residents. The proposal would therefore be contrary to the highway safety and car parking requirements of Policies T4 and T5 of the London Plan 2021, and Policies DM29 and DM30 of the Croydon Local Plan 2018.

Accessible Housing

17. Policy D7 of the London Plan requires at least 10% of dwellings to meet the Building Regulation requirement M4(3) 'wheelchair user dwellings'. Whilst the 10% figure would be marginally less than 1 dwelling in respect of this scheme, given the number of units this would still be a significant proportion of a dwelling and I consider that it is appropriate to require a wheelchair user dwelling on that basis.

18. The appellant has provided evidence that the only element of M4(3) that the dwellings would not comply with would be the lack of a letter cage on the private entrances to the dwellings. However, it would be possible to provide a letter cage as a result of minor amendments to one of the dwellings, and on that basis it would be appropriate to require this by condition.
19. However, the Council also specifies that the proposed parking spaces would not be of sufficient size to provide for a blue badge holder. On that basis, the inadequate parking would negate the benefit arising from potential amendments to a dwelling to achieve M4(3) compliance.
20. The appellant refers to the Council's Committee report on a revised proposal on the site, which refers to the proposal as not being a major development and that a lack of Part M4(3) dwellings would be considered acceptable. However, based on the evidence before me, there is nothing in Policy D7 of the London Plan which states it only applies to major development. Even allowing for the reference to 10% of dwellings in the policy, for the reason stated previously I consider that it is appropriate to apply this policy to this development.
21. I therefore conclude that the proposal would not make suitable provision for accessible car parking for a wheelchair user, and would therefore conflict with Policy D7 in respect of requirement M4(3) for wheelchair user dwellings with regard to disabled persons parking requirements.

Refuse and Recycling

22. The Council indicates that it would allow a private contractor to manage the site and present the bins at a collection point near the highway. However, no such collection point has been indicated on the submitted plans, and given the constraints of the site I am not confident that this could be required by condition.
23. Furthermore, a planning condition could not provide the necessary degree of certainty that private waste collections or management at the site would continue in perpetuity, for example should a resident decide not to participate in the scheme even if they had been made aware of this prior to moving in. In particular, there is no legal agreement before me with the aim of ensuring that future residents and successors in title are required to use such a scheme.
24. The appellant's comments on waste storage in general are also not persuasive. Although each property would have an individual bin store, it is not clear how the emptying of bins within them would relate to the communal bin store, particularly with regard to food waste. No dedicated area for bulky waste is proposed, and although some dwellings may be able to store this waste prior to collection, the limited space to the front of a number of dwellings may result in restricted access for neighbouring residents. Given the constraints of the site, I do not consider that there is a realistic possibility that appropriate waste storage could be required by condition.
25. The appellant states that the issue of refuse storage/collection was negotiated and agreed with the Council in association with a recently determined planning application for 7 houses. However, the circumstances of that agreement have not been fully set out to me, and in any event this does not lead me to a different conclusion based on my own observations.

26. I conclude that the proposal would not make sufficient provision for the storage and management of refuse and recycling facilities. The proposal would therefore be contrary to the refuse and recycling requirements of Policy DM13 of the Local Plan.

Character and Appearance

27. The proposal would include the demolition of 198 Harrington Road in order to provide improved access to the site. No 198 is at the end of a terrace which has a hipped roof at either end. The proposal would result in the creation of a gable elevation at 196 Harrington Road facing onto the new access.
28. The Council contends that the proposed gable wall would not reflect the hipped roof design of the existing terrace and other dwellings in the area. However, due to the length of the terrace, its symmetrical form is not readily apparent. Although the end of the terrace on the other side of the proposed entrance has a hipped roof, a terrace and a detached property on the opposite side of Harrington Road have gable walls. There are also a mixture of roof designs in the vicinity, including a number of gable walls. Within that context, the introduction of a gable wall adjacent to the site entrance would not appear out of character.
29. It is proposed to use an A-frame structure adjacent to the gable to introduce a green wall. Although I recognise that this is an attempt to introduce a landscaped entrance feature, this would appear as a contrived and jarring element in an otherwise understated suburban streetscape. Amended proposals indicate that this frame would be set apart from the gable wall and would include a cut-out element at its base to enable the parking of cars. This would add to the incongruous appearance of this feature and the harm to the character and appearance of the area.
30. The Council refers to the overdeveloped nature of the proposal. However, although the entrance would be dominated by hard surfacing, this is not unusual for an entrance road and circulation area, and there is potential to introduce a degree of landscaping to soften its appearance. Despite the constrained layout of the site, the dwellings would also include sufficient areas of open space so that they would not appear as an unacceptable overdevelopment.
31. The proposed buildings would be of an unconventional appearance, which responds to the constraints of the site. Although this design would differ from the more traditional suburban streetscape, the site is of a self-contained nature which is appropriate for a bespoke design approach. Although the site is in a backland location, there are other developments in the vicinity which are of a similar arrangement and of a design which contrasts from the main suburban streetscape. On that basis, and despite their unusual design, the proposed dwellings would not be unduly incongruous within this area.
32. Notwithstanding my conclusions in respect of overdevelopment, location and design, I conclude that the proposed A-frame green wall would appear as an incongruous feature, with significant harm to the character and appearance of the area. The proposal would therefore be contrary to the design and character considerations of Policies D3 and D4 of the London Plan and DM10 of the Local Plan.

Living Conditions of Future Residents

33. A Daylight and Sunlight Report (DSR) was submitted with the proposal which concluded that the proposed design will provide the development's future occupiers with adequate levels of natural light. However, the Council refers to the effect of trees close to the site boundary on the amount of light reaching the proposed dwellings and gardens, and that these were not adequately considered within the DSR.
34. The appellant has provided a copy of a revised DSR (the revised DSR) which relates to a proposal for 7 dwellings on the appeal site. This is essentially the same as the appeal proposal with the 2 westernmost dwellings removed. This has modelled the effect of trees on the amount of light reaching the proposed plots.
35. In respect of garden areas, the amended DSR identifies that 2 of the gardens would not receive at least 2 hours of sunlight on 21 March each year. I have had regard to the BRE Guidance¹ which states that the aim should normally be to have some areas of partial shade under trees while leaving other parts of the garden or amenity area in full sun. This goes on to state that if the whole of the garden is shaded by trees for a lengthy period of time in summer, the garden is probably too shady.
36. I acknowledge that the revised DSR relates to 21 March and that this may not be representative of a lengthy summer period. I am also mindful of the practical considerations arising from the development of sites in urban and suburban areas. But, based on the evidence before me, 2 of the gardens would be too shady within the terms of the BRE Guidance.
37. I am also mindful that 1 of the gardens identified in the revised DSR is adjacent to 2 of the plots of the 9-dwelling scheme which forms the basis of this appeal, and which are not addressed within that document. On that basis, and based on my observations on site, there is a significant possibility that the gardens of the 2 westernmost properties may also be unduly affected by overshadowing from trees.
38. I also note that the revised DSR assesses that the proposal will receive appropriate levels of daylight and sunlight, albeit with a caveat that the levels of daylight during the summer months is only considered to be acceptable due to the targets being met over winter. However, the revised DSR does not consider the effect of trees in respect of daylight and sunlight for the 2 westernmost dwellings. I can therefore give these conclusions little weight in my consideration of the appeal proposal as a whole.
39. I therefore conclude that insufficient evidence has been provided to demonstrate that future residents of the proposal would receive adequate amounts of light, with potentially significant harm to their living conditions. It has therefore not been demonstrated that the proposal would meet the housing quality and amenity considerations of Policies D3 and D6 of the London Plan, and Policies SP2 and DM10 of the Local Plan. It has also not been demonstrated that the proposal would meet the advice of the Housing SPG² in respect of the utility and amenity of private open space.

¹ Site layout planning for daylight and sunlight: A guide to good practice, Building Research Establishment Limited, 2022

² Housing Supplementary Planning Guidance, Mayor of London, March 2016

40. I find no conflict with Policy D7 of the London Plan on this main issue as this relates to accessible housing. I also find no conflict with Policy SP4 of the Local Plan on this main issue as this relates to urban design and local character rather than considerations of amenity.

Living Conditions of Neighbouring Residents

41. With regard to **outlook**, the dwellings would be prominent in views from the rear gardens of properties on Harrington Road. Although the proposed dwellings would not directly abut the boundary with those properties, the separation distance to the boundary would be minimal, particularly at the first floor level of the proposed dwellings. However, the gardens of 200-206 Harrington Road are of a good area and length, and despite the 3-storey height of the proposal the roofslope is such that the height of the buildings would not be overbearing in views from the rear gardens. The design of the façade facing the buildings would also break up what could otherwise be a stark and bulky appearance. On balance, I consider that despite the proximity to the rear gardens of Nos 200-206 the proposal would not lead to an overdominant relationship with the outlook from the rear of those properties.
42. The proposed dwellings would also be visible from the rear of No 196. However, given the size of the garden and the separation distance from the host dwelling, the proposal would not have an overbearing impact on the outlook from that property.
43. With regards to **privacy**, the appeal proposal includes corner glazing which could enable elevated views into the rear gardens of neighbouring properties. However, the first floor windows are designed at an angle so that they can look primarily into the appeal site. The glazing that would face onto Nos 200-206 would be obscure glazed which would mitigate potential overlooking. The glazing for the dwelling closest to No 196 can also be adapted with obscured glazing of a different arrangement. Subject to an appropriate condition, the use of obscured glazing would mitigate potential loss of privacy.
44. In respect of **light**, due to the arrangement and location of the appeal site, and matters such as the relatively low roof profile closest to the boundary with neighbouring residential properties, the size of gardens and separation distances to dwellings, I consider that the proposal would not lead to unacceptable loss of daylight or sunlight to nearby properties.
45. I conclude that the proposal would not lead to significant harm to the living conditions of nearby residents with regard to outlook, privacy and light. The proposal would therefore not conflict with the amenity requirements of Policy D3 of the London Plan and Policy DM10 of the Local Plan.

Cycle Storage

46. The Council sets out that the site would need a mixture of 2-tier stands and Sheffield racks, including an element for larger cycles. Two of the proposed dwellings would have cycle parking provision within the plots, and even given the site constraints it would be feasible to secure covered cycle storage by condition without unduly limiting private amenity space and extent of landscaping. Cycle storage could also be required on the same basis for a further dwelling. The limitations in respect of the width of access could be addressed as a minor amendment if required.

47. For the remaining 6 dwellings, the appellant has provided evidence that the required mix of cycle storage provision could be provided within the area indicated for communal cycle parking. On that basis, it would be reasonable to secure the provision of adequate cycle parking by condition.
48. Subject to appropriate conditions, the proposal would make suitable provision for cycle storage. The proposal would therefore not conflict with the cycle parking requirements of policy T5 of the London Plan, and policies DM29 and DM30 of the Local Plan.

Other Matters

49. I am mindful of the benefits of the proposal. It would add to the mix and supply of housing in an area with good access to services by sustainable modes of transport. It would also represent development on an underused area of previously developed land. However, the benefits arising from the number of proposed dwellings would be limited. The limited benefits arising from the proposal would therefore not outweigh the significant harm and conflict with development plan policy that I have identified.

Conclusion

50. Notwithstanding my conclusions in respect of the living conditions of neighbouring residents and cycle storage, I have concluded that the proposal would lead to significant harm in respect of car parking and highway safety, accessible housing, refuse and recycling facilities, and the character and appearance of the area; and that it has not been demonstrated that the proposal would comply with development plan policy and advice on the living conditions of future residents. The proposal would therefore be contrary to the development plan as a whole in respect of highway, design and amenity considerations.
51. There are no material considerations of such weight that indicate that the proposal should be determined other than in accordance with the development plan. The appeal should therefore be dismissed.

David Cross

INSPECTOR