



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/22/3311374

Surrey House, 2 Scarbrook Road, Croydon, London CR0 1SQ

- 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 Mr Bery Konig of Blueberry Trading against the Council of the London Borough of Croydon.
 - The application Ref 22/01237/FUL, is dated 22 March 2022.
 - The development proposed is erection of two new storeys to form sixth and seventh floors (upward roof extension) to create 9 no. self-contained residential units, and associated works.
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Decision

1. The appeal is dismissed and planning permission for erection of two new storeys to form sixth and seventh floors (upward roof extension) to create 9 no. self-contained residential units, and associated works is refused.

Preliminary Matter

2. 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.

Background and Main Issues

3. The appeal was submitted following the Council's failure to give notice of its decision within the prescribed period. In its Appeal Statement, the Council has indicated the decision it would have made had it been in a position to do so.
4. Having regard to the Council's Statement, the main issues are:
 - The effect on the character and appearance of the area, with due regard to the Central Croydon Conservation Area;
 - The living conditions of future residents with regards to light and privacy;
 - Accessible Housing;
 - Cycle and refuse storage;
 - Whether sufficient evidence has been submitted in respect of fire safety; and
 - Contribution to sustainable transport.

Reasons

Character and Appearance

5. The appeal site consists of a 6-storey building located on a corner site in the central commercial area of Croydon. The uppermost floor of the existing building is set back from the main façade.
6. The site is located within, but on the edge of, the Central Croydon Conservation Area (CA). The CA Appraisal and Management Plan (CAAMP) refers to the largely medieval street layout and the retention of much of the area's historic fabric and plan form representing phases of development as being part of the CA's special character. These are factors which contribute to the importance of the CA as a designated heritage asset.
7. However, the CAAMP identifies the appeal site as a large-scale modern building that detracts from the CA's special character. Although a degree of screening is provided by buildings in the vicinity, the appeal site is readily visible in medium distance views from within and outside of the CA.
8. The principle of a 2-storey extension to the height of the building has previously been accepted. However, although this would respect the footprint of the set-back 5th floor, the top floor of the permitted extension would be set back further again which would give a stepped appearance to the upper floors.
9. The appeal proposal before me would amend the approved layout so that the upper floors would in effect continue the footprint of the uppermost floor to the full height of the extension. This would remove the articulation of the approved scheme and would lead to an awkward and top-heavy addition to the building. Although the uppermost floors would be set back from the lower part of the building, the continuation of the upper elevation as proposed would result in an obtrusive and bulky extension on this prominent site.
10. The proposal would also alter the form and proportion of materials in comparison to the façade of the approved extension, in that the amount of solid cladding, spandrel panels and metal mesh balustrades would increase compared to glazed elements. The general façade design would also be a jarring feature as the window placement would not reflect that of the lower floors. Furthermore, the appellant has not demonstrated that the choice of materials reflects that of the host building or the wider context and whether they would be of a high quality appearance. Rather than emphasising the subservience of the proposal as contended by the appellant, the materials and detailing would add to the impression of an extension of a clumsy and heavy appearance.
11. The appellant has referred to nearby developments which they consider establishes a context for the appeal proposal. However, it has not been demonstrated that the circumstances of those developments are a direct parallel to the appeal before me, including in respect of the prominence of this corner site within the CA. I acknowledge that there is a mixture of building designs and scales in this area, including some which are higher than the appeal proposal. That said, some of the buildings I saw served to confirm the harm that can arise from poorly articulated upward extensions or overdominant facades. The buildings and developments I observed do not lead me to a

different conclusion in respect of the harm arising from the proposal based on the particular characteristics of the site.

12. I conclude that due to its design, scale and location, the proposal would lead to significant harm to the character and appearance of the area. The proposal would also fail to preserve or enhance the character and appearance of the CA, and would exacerbate harm to the special character of the CA arising from the extant building.

Living Conditions

13. With regards to light, the appellant has submitted a Daylight and Sunlight (DAS) report for within the development which shows that the flats would receive appropriate levels of daylight provision.
14. However, the DAS report also calculates that flats 31 and 39 would not meet the sunlight exposure target. Even though the failure to comply with the relevant standard for flat 39 is marginal, the sunlight calculations indicate that these flats would provide a gloomy and oppressive environment for residents. In accordance with the relevant guidance, it may not be possible for every dwelling to achieve ideal levels of sunlight, and the appellant refers to the constraints of the site. However, I am mindful that an upwards extension for flats has previously been permitted and it reasonable to assume that levels of sunlight for that development were deemed to be acceptable. It has therefore not been demonstrated that the inadequate levels of sunlight in some flats in the appeal proposal would be due to site constraints, as opposed to the appellant's intention to increase the number of dwellings beyond that which the site is reasonably capable of supporting.
15. In respect of amenity space, the Council refers to a lack of light reaching the amenity spaces of flats 32 and 38. However, even given the degree of enclosure and location of the amenity space for unit 38 I consider that this would still receive an appropriate level of light and would provide a functional area for residents. The arrangement of the amenity space for unit 32 is also similar to that previously approved, and on that basis I do not consider that the amendments arising from the appeal proposal are sufficient to warrant the refusal of planning permission.
16. In respect of privacy, the Council accepts that amended details including obscured glazing would mitigate issues of overlooking between units 32 and 33. However, the relocation of windows would still enable a view between units 38 and 39. Due to the arrangement and proximity of these windows, the view enabled between units 38 and 39 could enable an intrusive degree of intervisibility to the significant harm of the privacy of residents. However, the appellant's suggestion as to the fitting of obscured glazing for the kitchen window of flat 39 would address this matter.
17. Notwithstanding my conclusions in respect of amenity space, privacy and daylight, I conclude that the proposal would not provide adequate levels of sunlight for 2 of the proposed units with significant harm to the living conditions of residents. The proposal would therefore be contrary to Policies SP2 and DM10 of the Croydon Local Plan 2018 and Policy D6 of the London Plan 2021 in respect of the consideration of sunlight and amenity.

Accessible Housing

18. In accordance with Policy D7 of the London Plan, the proposed flats should meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings'. The flats on the 7th floor would only be accessible via stairs and not a lift, and would therefore not meet the accessibility requirement of the London Plan.
19. The appellant emphasises that this access arrangement was approved under previous applications, and that access by stairs to previously approved flats on the 7th floor could be implemented as a fallback position. However, the circumstances of the previous approvals have not been fully set out, including the development plan policies that were in place at that time. The appeal proposal would also increase the number of flats on the 7th floor. Even allowing for the fallback position, it would not be appropriate to allow an increase in the number of dwellings with access arrangements which are in clear contravention of development plan policy.
20. I conclude that the flats on the 7th floor would not provide an appropriate form of access for future residents, and would therefore conflict with Policy D7 of the London Plan with regards to the provision of accessible housing.

Cycle and Refuse Storage

21. The Council refers to the use of 2-tier cycle stands and that a mix of that type of stand with Sheffield stands would be required. Reference is also made to the lack of a bulky waste store as shown on amended plans, although concerns in respect of a required increase in bin storage and standard of access have been addressed by an amended basement plan.
22. However, the Council also states that the proposed number of cycle parking spaces exceeds the required amount. As shown on a further amended basement plan submitted by the appellant, a reduction in the number of spaces would enable a suitable mix of cycle parking stands to be provided as well as space for a bulky waste storage area. Access to the latter would reflect the access to waste storage previously approved, and the potentially sub-standard access width does not therefore weigh against the proposal.
23. On the basis of amended plans submitted by the appellant, the proposal would make suitable provision for cycle parking and waste storage. The proposal would therefore not be contrary to Policy T5 of the London Plan and Policies DM13, DM29 and DM30 of the Local Plan in respect of the provision of cycle and refuse storage.

Fire Safety

24. The Council's officer report refers to a lack of information regarding fire safety. The appellant has submitted a Fire Safety Statement which confirms that the proposal would meet current Building Regulations requirements and guidance. Given the substantive nature of the Fire Safety Statement, should there be any further concerns then this could be addressed by a planning condition requiring further details.
25. On that basis, sufficient information has been submitted to demonstrate that the proposal would comply with Policy D12 of the London Plan in respect of fire safety.

Sustainable Transport

26. The Council's reason for refusal refers to the lack of a legal agreement to secure sustainable transport contributions, amongst other things. A draft Unilateral Undertaking (UU) had been provided, but the Council did not accept this as a sustainable transport contribution obligation for £1,500 per unit (to total £13,500 for the scheme) is required.
27. A completed UU has now been provided as part of the appeal which includes a sustainable transport contribution as required by the Council. This also addresses other matters including a restriction on car parking permits and car club membership. On that basis, the Council's concerns on this matter have been addressed and the proposal would therefore comply with the parking and sustainable travel considerations of Policy T6 of the London Plan and Policies SP8 and DM30 of the Local Plan.

Planning Balance and Conclusion

28. Notwithstanding my conclusions in respect of cycle and refuse storage, fire safety and sustainable transport, I have concluded that the proposal would lead to significant harm in respect of character and appearance, the living conditions of future residents, and would fail to comply with development plan policy in respect of accessible housing. The proposal would also fail to preserve or enhance the character and appearance of the CA.
29. Although the harm to the CA would be less than substantial, I attach great weight to the conservation of this designated heritage asset in accordance with the Framework. I have had regard to the benefits of the proposal. It would add to the supply and mix of housing in a location with excellent access to services. However, the number of extra dwellings resulting from the proposal is limited compared to the permitted development, and the benefits arising from the increase in dwellings is proportionately limited. It would also contribute to employment during the construction phase, albeit for a limited period. The limited public benefits arising from the proposal would not therefore outweigh the great weight to be given to the harm to the CA as a designated heritage asset.
30. In respect of character and appearance and the effect on the CA, the proposal would therefore be contrary to the design, character and heritage requirements of Policies DM10 and DM18 of the Local Plan and Policies D3 and HC1 of the London Plan. The proposal would also conflict with the Framework in respect of achieving well-designed places and conserving and enhancing the historic environment. The proposal would also be contrary to the advice of the CAAMP with regards to consideration of the special character of the CA and in particular the buildings that detract from it.
31. The appeal proposal would be contrary to the development plan when read as a whole, and 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 is therefore dismissed.

David Cross

INSPECTOR