



Appeal Decision

Site visit made on 11 July 2023

by David English BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 October 2023

Appeal Ref: APP/L5240/W/23/3316113

35 Kingswood Lane, Warlingham, Croydon CR6 9AB

- 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 M McFadden of Novo Land & Development Ltd. against the decision of the Council of the London Borough of Croydon.
- The application Ref 22/04791/FUL, dated 15 November 2022, was refused by notice dated 11 January 2023.
- The development proposed is demolition of existing detached bungalow, garage and outbuildings and replacement with a block of nine new apartments over 3 floors including roof. Associated landscape and parking.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended plans were submitted with the planning appeal documents. These include alterations to the proposed flank wall adjacent to 37 Kingswood Lane to provide larger and additional windows. Even if those windows were obscure glazed, these alterations would materially and fundamentally change the proposal before me. There has been no specific consultation with neighbours adjoining the appeal site about this alternative proposal. For that reason, my consideration of such an alternative scenario, that is so changed in comparison to the proposal on which the Council made its decision, would deprive those who should have been consulted on the changed proposal the opportunity of such consultation.
3. I disagree with the appellant's assertion that my consideration of these amended plans would not cause prejudice and I find that such an approach would not meet the principles established in the *Wheatcroft* judgement¹. While two neighbouring occupiers have provided representations following consultation about the appeal, neither refers to the proposal as modified, and this does not demonstrate that the occupiers most affected by the changes proposed have had the opportunity to comment on a modified scheme.
4. Other changes have been made to the proposed development after the Council's decision. These include amendments to cycle storage arrangements, modifications to the proposed bin store access, and the provision of further information in respect of vehicle manoeuvring in the proposed car park. The appellant has also submitted a Highways Statement (February 2023) (the HS), and an Internal Daylight and Sunlight Report (2 February 2023) (the IDSR).

¹ *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

5. The Council does not object to further consideration being given to the additional information but note that the IDSR provides an assessment based on the revised plans provided after its decision was taken. I have had regard to this additional information in so far as it aids identification of relevant rooms in the flats which are otherwise not named or numbered on the application plans. I have therefore referred to rooms as identified on the plans in the IDSR in my decision. However, for the reasons given above, my decision on the appeal is based on the plans used by the Council in their determination of the planning application.

Main Issues

6. The main issues are the effect of the proposal on:

- the character and appearance of the area; and
- the living conditions of occupiers at 33 Kingswood Lane in respect of privacy and outlook; and

whether the proposal would provide:

- a suitable housing mix reflecting the need for family homes in the Borough;
- appropriate living conditions for future occupiers in respect of the internal layout and associated daylight and sunlight to habitable rooms;
- adequate cycle parking facilities to serve future occupiers and thereby support sustainable and active travel options;
- adequate facilities for refuse collection; and

the effect of the proposal on highway safety with particular regard to vehicle manoeuvring within and when exiting the car park; and

whether the proposal would provide appropriate contributions towards the provision of sustainable transport measures to alleviate traffic impacts.

Reasons

Character and appearance

7. Kingswood Lane is a quiet residential road on the edge of suburban ribbon development that links the village of Warlingham to Purley. That section of Kingswood Lane closest to Limpsfield Road comprises a mix of primarily traditional suburban single- and two-storey dwellings along both sides of the road. However, beyond the cul-de-sac at Oakenshaw Close housing is found only on one side of Kingswood Lane, including at the appeal site.
8. Beyond Oakenshaw Close up to the appeal site the development along Kingswood Lane largely comprises single- and two-storey dwellings, some with rooms in the roof space. Those dwellings are generally set back a short distance from the highway and positioned towards the front of large plots. This arrangement of buildings gives significant consistency in the overall appearance of Kingswood Lane, and in the scale and mass of the dwellings, and their separation from one another. The low-density, low-level housing in large plots creates a feeling of openness which contributes positively towards the pleasant spacious character of the area.

9. Approaching the appeal site from the junction with Oakenshaw Close there is a striking contrast in scale and appearance between the older single storey and dormer style two-storey dwellings and 37 Kingswood Lane, a modern block of flats. The height of that building and the substantial expanse of its roof and flank walls stand starkly above the existing bungalow on the appeal site and those neighbouring dormer bungalows at 31, 33 and 41 Kingswood Lane. This effect is acknowledged by the appellant in recognising the dramatic change in height currently present between the existing bungalow at No 35 and the flats at No 37, noting in their appeal statement that this is harmful and disruptive to the massing and rhythm of development along the street scene. However, the proposal would add to, rather than correcting the harsh contrast in bulk and mass currently present.
10. As a result of its depth, height and positioning on the appeal site relative to No 37, which would project at significant height in front of the proposed block of flats, the proposal would add an obtrusive and incongruous bulky three-storey built development in this readily visible, prominent position on Kingswood Lane. The substantial and harmful visual intrusion that would be created by the proposal by virtue of its height, scale and mass would not be lessened to any significant degree by its lower roof and eaves heights in those parts of the proposed building adjacent to No 33. Nor would the acceptability of the proposed external materials mitigate the harmful effect arising from the scale, siting and design of the proposed development.
11. Notwithstanding some more modern taller buildings further along Kingswood Lane, at broadly three storeys in height, with a truncated roof form, the proposed development would not be sympathetic to or characteristic of the smaller scale of the single-storey and two-storey neighbouring buildings within its immediate context. This would create a jarring structure out of character with its surroundings. Design features including the articulation to the front elevation, differing roof heights and gabled dormers, while adding some interest, would not reduce the visual harm of the proposal.
12. While No 37 would be partially screened by the proposal, this would not constitute a benefit since the proposal itself would introduce visually harmful development. Any similarities in scale with No 37 would not weigh in favour of the proposal due to the harm it would cause.
13. Consistency in decision-making is one of the main principles to be applied in determining development proposals. The Council granted planning permission for the flats at No 37 in the recent past and, notwithstanding the subsequent revocation of other guidance in place at that time, the same development plan policies were in place. From the information provided it appears the Council resolved to grant planning permission for that proposal at its Planning Committee meeting on 8 April 2021.
14. However, changes to the National Planning Policy Framework (the Framework) in July 2021 emphasise the government's priority of seeking good design. While paragraph 125 of the Framework seeks to ensure that residential developments make optimal use of the potential of each site, and relevant development plan policies are consistent with this expectation, this does not negate the need to recognise and apply one of the overarching principles of the planning system of fostering well-designed, beautiful places.

15. The Council's previous decision on an adjacent site is a matter to which I have had regard. However, given the clarity provided in the Framework regarding a fundamental purpose of the planning system of achieving well-designed places, and from my appreciation of the effect the development at No 37 has had on the character and appearance of the area, I give only limited weight to that earlier decision. In any event, I have determined this appeal on its own planning merits.
16. I therefore find that the development would result in unacceptable harm to the character and appearance of the area. Accordingly, there would be conflict with the relevant provisions of Policies D3 and D4 of the London Plan 2021 (the London Plan) and Policies DM10 and SP4 of the Croydon Local Plan 2018 (the Local Plan), which, amongst other things, require high quality development which respects and enhances local character, contributes positively to townscape and responds to local context and distinctiveness. The development would also conflict with section 12 of the Framework which includes the requirement to achieve well-designed places.

Living conditions at 33 Kingswood Lane

17. The proposal comprises the demolition of a modest bungalow, which is positioned largely in front of the neighbouring dormer bungalow at 33 Kingswood Lane, and its replacement by a substantial building that would contain 9 flats on three floors. The proposed building would have an extensive footprint and would extend to considerable height above the garden of No 33.
18. The land is generally level across the back gardens of the appeal site and the neighbouring properties either side. The lower part of the proposal would be located adjacent to No 33 and would be set a short distance from the side boundary with that property. The taller three-storey section to the rear of the proposed building would step in further again from that boundary but would project a significant way into the rear of the plot. This design solution appears to have been engaged in order to ensure that the proposed building would not break a line and arc taken at 45 degrees from the nearest window to a habitable room in the rear elevation of No 33.
19. Adequate daylight would continue to reach habitable rooms in No 33 and the proposal would not result in significant harm to the occupiers of No 33 in this respect. Furthermore, views towards the proposal from windows to habitable rooms in No 33 would be at oblique angles. Due to the separation between those windows and the nearest parts of the proposed building, the outlook of occupiers from within habitable rooms in No 33 would not be unduly harmed.
20. Nevertheless, when viewed from the rear garden of No 33, the proposal would appear to tower above that garden and would project a significant distance beyond the existing rear wall of No 33. Due to the height and bulk of the proposal, its position and coverage over the site, and, given the relatively limited separation that would exist between the rear patio and garden at No 33 and the proposed building, it would appear as a large, dominant and unduly obtrusive development when viewed from those locations. This would result in a harmfully unacceptable overbearing and oppressive effect on the outlook of the occupiers of No 33.
21. The windows in the west elevation of the proposed building would serve bathrooms, provide a secondary light source to kitchen areas, or would be roof

lights. Overlooking from these windows towards No 33 and its garden could be controlled through appropriately worded planning conditions to secure non-opening obscure glazing were the appeal to be allowed. Accordingly, harm would not arise to the living conditions of the occupiers of No 33 in respect of privacy.

22. For these reasons, whilst the proposal would not harm the privacy of the occupiers of 33 Kingswood Lane, it would be unacceptably harmful to the living conditions of those occupiers in respect of their outlook. It would therefore be contrary to Policy D3 of the London Plan and Policies SP4.2 and DM10.6 of the Local Plan which require, amongst other things, that proposals comprise the most appropriate form of development that responds to a site's context, enhances well-being, achieves outdoor environments that are comfortable and inviting for people to use, delivers appropriate outlook, and that the amenity of occupiers of adjoining buildings is protected.

Housing mix

23. The proposal would include two flats having three bedrooms, with the remaining seven flats having fewer bedrooms. Policy SP2 of the Local Plan sets a strategic target for 30% of all new homes up to 2036 to have three or more bedrooms. The appellant indicates that a contribution of 22.2% family homes is as much as the scheme can reasonably accommodate given the size of the site. However, no substantive evidence is provided to demonstrate why this is the case, or why the proposal cannot make a greater contribution towards meeting the strategic target of 30% in accordance with Policy SP2.
24. Policy DM1 of the Local Plan and the associated Table 4.1 relates to proposals for 10 or more dwellings and is therefore not directly relevant to the appeal proposal. Nevertheless, I recognise that Policy DM1 does require a greater proportion of dwellings having three or more bedrooms to be provided on major developments, particularly in less accessible locations as measured by the Transport for London Public Transport Accessibility Level (PTAL) rating system. However, this does not negate the expectation that other schemes of all sizes contribute appropriately and proportionately to meeting the strategic target in accordance with the terms of Policy SP2 of the Local Plan.
25. Appeal decisions have been provided by both main parties seeking to support their respective positions. Appeal Ref. APP/L5240/W/21/3289646 for a smaller scheme of 6 dwellings was dismissed in October 2022 and the Inspector's conclusion on Policy SP2 of the Local Plan is cited by the Council in support of their case. The appellant refers to Appeal Ref. APP/L5240/W/19/3226118, an older decision from August 2019 for a scheme of 9 dwellings, where the Inspector allowed a proposal which did not provide 30% family sized dwellings. However, that decision was made having regard to an older version of the Council's Strategic Housing Market Assessment (SHMA) which has since been reviewed and updated in November 2019 (the updated SHMA).
26. The updated SHMA notes that Croydon has seen a high amount of smaller flatted development delivered through permitted development. It also notes that the recent supply of stock has been heavily skewed towards 1- and 2-bedroom homes, suggesting that *'While this supply has readily been taken up by younger households it perhaps should be tempered to ensure there is a supply of larger homes when they start a family.'*

27. The Council indicates that the updated SHMA suggests that approximately 50% of new homes should have three or more bedrooms. This is reflected in each of the three modelled scenarios in the updated SHMA. While the Council has not provided a detailed breakdown on recent delivery of housing towards meeting their strategic target identified in the development plan, the updated SHMA provides evidence of the size of dwellings delivered recently in the Borough, and evidence suggesting an ongoing need for more family homes. Accordingly, my consideration of the proposal has had regard to this evidence which is more up to date than that available to my colleague when determining the appeal referred to by the appellant.
28. I recognise that Policy SP2 of the Local Plan establishes a strategic target intended to support the delivery of family homes across the Borough, and that this is not expressed as a requirement for the provision of family homes in all forms or scale of residential development proposal. However, the case before me concerns a proposal in a relatively quiet established suburban location where family homes are the predominant form of housing. Given its location, setting and context I have no compelling justification before me to demonstrate why, in this particular case, the proposal should not make a greater contribution towards meeting the Council's strategic priority of delivering more family homes.
29. The proposal would provide a net increase of one additional 3-bedroom home which would be a benefit. However, this does not adequately mitigate the failure to comply with the target set out in Policy SP2 which, notwithstanding its strategic nature, is a relevant policy in the assessment of all proposals for new homes within the Borough. Accordingly, in the circumstances associated with this case, I find that the proposal would not make an appropriate contribution towards the expectations of the development plan.
30. The Council's reasons for refusal state that the proposal fails to accord with Policy DM1 of the Local Plan which seeks to resist the loss of 3-bedroom homes and homes smaller than 130 sq.m. However, the Officer Report to the Council's Delegated Business Meeting (the Officer Report) states that '*The proposed development would provide a replacement three-bed flat therefore as a replacement is proposed the principle of redevelopment is acceptable.*' While other concerns have been raised regarding the living conditions associated with the replacement 3-bed flats, given the Council's stated position on this specific matter, I am satisfied that the proposal would accord with the intentions of Policy DM1 in respect of seeking to maintain a stock of family homes.
31. For these reasons, whilst the proposal would provide a net increase of one additional 3-bedroom home, and this is a benefit to which I attribute moderate weight, I find that it would not provide a suitable housing mix reflecting the need for family homes in the Borough. Accordingly, the proposal conflicts with the requirements of Policy D3 of the London Plan and Policy SP2 of the Local Plan which, amongst other things, support incremental densification where this would achieve a change in densities in the most appropriate way, and where it contributes to the Council's strategic target for 30% of all new homes up to 2036 to have three or more bedrooms.

Living conditions for future occupiers

32. Other than the IDSR, which provides relevant information concerning daylight and sunlight in respect of many of the rooms in the proposed development, I

have not been provided with a daylight and sunlight assessment of the whole of the proposal before me. Nevertheless, the IDSR shows living/kitchen/dining (LKD) rooms R3 on the ground floor, and R5 on the first floor, as failing to meet the Building Research Establishment (BRE) tests on acceptable levels of daylight based on target values of 200 lux. Even when a lower target value of 150 lux is applied, based on the BRE guidance suggesting this may be appropriate where a kitchen is located to the rear of the LKD, room R3 on the ground floor still fails by some margin.

33. Given that these tests are based on an alternative proposal with larger, and a greater number of windows serving both of those LKD rooms, and, noting the depth of the covered balconies serving the relevant flats, in my judgement the proposal before me would result in a significantly poorer performance were the relevant tests to be carried out on the appeal plans. In any event, the LKD room R3 on the ground floor would provide unacceptably harmful living conditions for future residents in respect of daylight based on the conclusions in the IDSR.
34. The Council agrees that the principle of densification is acceptable and in accordance with development plan policies in this location. The IDSR notes that advice contained in the BRE guide is not mandatory and its numerical guidelines should be interpreted flexibly. This flexibility, it is said, is *'...especially if development is to match the height and proportions of recently consented neighbouring schemes.'*
35. The proximity of the adjacent development at No 37 would affect the levels of daylight reaching rooms R3 on the ground floor and R5 on the first floor. However, the development plan does not expressly require development on the appeal site to match the height and proportions of other nearby recently consented schemes. The application of flexibility in using the BRE guidance must respect the requirement to determine proposals in accordance with the development plan unless material considerations indicate otherwise². Accordingly, in this case, the need for the proposal to provide appropriate levels of daylight and sunlight for future occupiers, particularly in their main living, cooking, and eating areas is therefore not negated by the presence of the tall neighbouring flats.
36. Notwithstanding perceptions about future residents' expectations in respect of the standard of accommodation that should be provided, paragraph 130 of the Framework expects decisions to support the creation of places that promote health and well-being, with a high standard of amenity for future users. It would be inappropriate to allow development that creates flats which would provide harmfully inadequate daylight or sunlight for future occupiers, as would be the case with this proposal. The provision of private and communal outdoor space, which give separate and different benefits, would not compensate for the poor standard of daylight and sunlight to some of the proposed internal spaces.
37. Even if there were poor standards of daylight and sunlight at other recently permitted accommodation, including No 37, as suggested by the appellant, this would not justify further development that would have harmfully inadequate living conditions for future occupiers in those respects.

² Section 38(6) of The Planning and Compulsory Purchase Act 2004

38. Notwithstanding conformity with internal space standards set out in the development plan in respect of room and dwelling sizes, the quality of accommodation would be unacceptably poor and harmful in terms of living conditions for future residents due to the limited daylight that would be afforded to rooms R3 on the ground floor and R5 on the first floor. While paragraph 125 c) of the Framework supports the optimal use of sites, this is caveated with a requirement that the resulting scheme would provide acceptable living standards.
39. For these reasons, on this main issue I find that the proposal would not create appropriate living conditions for future occupiers in respect of the internal layout and associated daylight and sunlight to habitable rooms. It therefore conflicts with Policies D3 and D6 of the London Plan and Policy DM10 of the Local Plan which, in summary, seek to ensure housing development is of high quality design having indoor environments that are comfortable and inviting for people to use with functional layouts that are fit for purpose, address key qualitative aspects in the design of housing development including the need to provide sufficient daylight and sunlight to new housing that is appropriate for its context, and the need to seek to enhance well-being.
40. The Council refer to Policies D5 and D7 of the London Plan in their reasons for refusal. However, those policies relate to inclusive design and accessible housing respectively. I have not been directed to wording in those policies that is specifically relevant to this main issue and therefore have not had regard to them.

Cycle parking and storage

41. While the plans on which the Council based its decision do not show an adequate variety in the provision of cycle parking and storage, given the size of the appeal site, I am satisfied that space exists within the site to make adequate provision. However, this is not a matter that I consider could be addressed through planning conditions were the appeal to be allowed due to other concerns I have about the proposed cycle storage arrangements.
42. The London Cycling Design Standards (December 2014) (the LCDS) advises, in the design of cycle storage, avoiding multiple and narrow doorways and recommends that external doors should be a minimum of 2 metres wide. It would be necessary to pass through the proposed building via a long corridor in order to gain access to the proposed detached cycle store located towards the bottom of the rear gardens. The HS indicates the corridor would be 1.4 metres wide and has two turns along its length.
43. The HS further provides an illustration of the swept path of a cyclist walking with a bicycle through a 1.2m wide corridor showing this manoeuvre requiring a width of only one metre. Nevertheless, the proposed route to the cycle store would be unacceptably long, convoluted, tortuous, and generally narrow and would require opening three doors. While the plans show no dimensions for the doors to the front and rear entrances to the proposed building, the plans demonstrate that the opened door widths at the front and rear entrances to the corridor would be significantly less than the width of the corridor, and a long way short of the 2-metre door width recommended in the LCDS.
44. As a result, the proposed access route to the cycle store would be inconvenient for future users and would fail to meet the expectations in the LCDS that

development proposals must take every opportunity to overcome barriers to cycling for their prospective residents and for visitors. The location and means of access to the cycle store would therefore not serve to encourage alternative sustainable travel modes.

45. The Council's reasons for refusal refer to Policy DM30 of the Local Plan. However, that policy relates principally to the quantum of cycle parking required to serve development, and that it be secure. I am satisfied that a sufficient number and variety of secure spaces for cycle parking could be accommodated at the site and accordingly the proposal would not conflict with the development plan in this specific respect.
46. On this main issue I find that the proposed development would not provide adequate cycle parking facilities to serve future occupiers and thereby support sustainable and active travel options. It would therefore conflict with Policy T5 of the London Plan and Policy DM29 of the Local Plan which, amongst other things, require that development proposals should help remove barriers to cycling, promote measures to increase cycling and create a healthy environment in which people choose to cycle; and that cycle parking should be fit for purpose, secure and well located and designed in accordance with the LCDS.

Refuse collection

47. The dispute between the main parties in respect of refuse collection concerns the application of the Council's Waste and Recycling in Planning Policy Document, August 2015 (the Waste Policy Document), specifically, the distance bins would need to be pulled by refuse collection operatives, and the positioning of the bulky waste store.
48. Although I have not been provided with details regarding the planning status of the Waste Policy Document, its stated purpose is to provide guidance to architects and developers. In this respect it aids implementation of relevant development plan policies that require adequate refuse disposal and collection arrangements to be in place to serve new development.
49. The Servicing & Access plan provided in the Design Development and DAS (November 2022) show level pedestrian access into the proposed bin store at a distance of 18 metres from the back edge of the highway. However, the appellant clarifies details of the proposal in the HS which states that the furthest distance bins would be located from the back edge of the highway would be 21.6 metres, this being cited as a '*...worst case scenario*'.
50. The Waste Policy Document requires a maximum pulling distance to be measured from the furthest location of a bin to the loading position at the back of the refuse collection vehicle. The pulling distance would therefore need to account for the passage of operatives over the footway to the carriageway where the refuse collection vehicle would park, rather than to the back edge of the highway.
51. The distance over which bins would need to be pulled exceeds the maximum set out in the Council's Waste Policy Document. This, the Council contend, would result in waste not being collected from the development by the Council's refuse collection operatives. I have seen nothing to dispute such an outcome, and no alternative appropriate arrangements for refuse collection

have been suggested. Accordingly, harm would arise to the living conditions of future occupiers and neighbouring residents in respect of odours and health hazards associated with stored refuse if it were to remain uncollected from the proposed development.

52. There is no dedicated segregated pedestrian route between the highway and the bin store. Therefore, refuse collection operatives would have to walk through the proposed parking area to gain access to the bin store. However, this would occur relatively infrequently during the week and their presence would be associated with the arrival of a large and, due to the mechanical process of emptying bins, generally audible refuse collection vehicle, which would also be visible because of hazard warning lights when in operational use.
53. It seems unlikely to me that this activity would go unnoticed by any driver seeking to manoeuvre within the proposed parking area. Accordingly, the risk of collision between refuse collection operatives and vehicles manoeuvring within the appeal site would be minimal and manageable through normal dynamic risk assessment methods employed during bin collection activities. However, this does not alter my findings in respect of the bin pulling distance.
54. The Waste Policy Document expects the provision of 10 sq.m. of space on site for the storage of bulky household waste items. An area is shown for this purpose in a position close to the only window serving a bedroom. Although no further details of the appearance of the bulky waste store are provided, its position so close to that bedroom window would result in a harmfully poor outlook being afforded to future occupiers of that property.
55. On this main issue I find that the proposal would not provide adequate facilities for refuse collection. It would therefore conflict with Policy D3 of the London Plan and Policy DM13 of the Local Plan which require, amongst other things, development to deliver appropriate outlook, facilitate efficient servicing of buildings and to provide refuse and recycling facilities that are conveniently located and easily accessible by waste collection operatives and their vehicles.

Highway safety

56. There is no dispute between the main parties about the number of car parking spaces proposed. The appellant disputes the Council's claim that manoeuvring to and from parking bays numbered 5 and 6 would be onerous, and that inadequate visibility would be afforded to drivers leaving the site from those bays. Details showing swept paths for a large estate car have been provided with the appellant's Transport Rebuttal Letter (the TRL), as have some details of an enacted scenario in a car park elsewhere.
57. However, from the plans provided and from what I saw during my site visit when I observed parking arrangements at nearby properties, including No 37, notwithstanding the generally low anticipated daily number of vehicle movements that would be generated by the proposal, the space required to complete entry and egress from bays 5 and 6 would be inadequate. This would result in drivers having to leave the site at an oblique angle to the highway.
58. Notwithstanding the suggestion that the manoeuvre required would be similar to some examples given in the Highway Code, I am not convinced those examples are relevant to the manoeuvres that would be necessary to leave the proposed car park safely from bays 5 and 6.

59. The proposal differs noticeably from the examples provided by the appellant. The two parking bays closest to the highway at No 37 are substantially wider than those proposed at the appeal site, and the swept path analysis associated with those parking bays demonstrates the need to use that greater width to complete manoeuvres satisfactorily. The scheme at 43 Kingswood Lane (Council Ref. 19/01561/FUL) shows a wider manoeuvring area between parking bays. I therefore do not find those examples to be directly comparable to the proposal before me which, in any event, I have determined on its own planning merits.
60. The proposal would not result in safe and suitable access to the site being achieved for all users and, as a result of the proposed layout of the car park and the manoeuvres necessary to leave parking bays 5 and 6, would lead to an unacceptably harmful impact on highway safety since drivers leaving the site from those bays would not have clear visibility of other highway users. Notwithstanding the appellant's contention that residents who use the spaces regularly will '*figure out*...' the best way to access the spaces in terms of safety and ease, this would not remove dangers inherent in the design of the car park. This would conflict with paragraphs 110 and 111 of the Framework.
61. Visibility splays are claimed in the TRL to meet Manual for Streets 2 (MfS2) standards for road speed limits of 20mph. However, notwithstanding the appellant's survey of traffic speeds, the Transport Note (November 2022) recognises that the speed limit along Kingswood Lane is 30mph. It is therefore not appropriate to assess the proposal against that standard.
62. Vehicles leaving the site other than at 90 degrees to the highway, as would be the case, would mean that visibility for drivers would be compromised. While vehicle movements from bays 5 and 6 may be relatively few, they nevertheless would present an unacceptable risk to pedestrians and other highway users on Kingswood Lane because of that compromised visibility afforded to drivers. This would not be mitigated by a limitation on the height of boundary treatments at the back edge of the highway due to the awkward approach that would be necessary for vehicular egress from bays 5 and 6.
63. The Council suggest that due to the distance between the front door to the proposed building and the public footpath, and because of the number of car parking spaces, the development should provide a segregated pedestrian footpath away from the parking spaces and manoeuvring areas. However, other than MfS2, which concerns shared road space and therefore does not provide an appropriate comparison for a small private car park, I have not been directed to guidance or relevant development plan policy to assist in understanding any thresholds in respect of scale of development or distances to be travelled by pedestrians in such proposals.
64. The proposed car park would not be a traditional shared surface highway. However, it would be seen as a relatively small private space available for use by residents, visitors and those delivering goods and services. The limited size of the car park would be such that residents or visitors would be mindful of the space available within which they could safely gain access to the entrance to the building on foot. I am not persuaded that a segregated pedestrian route would be necessary over such a short distance in a relatively small-scale development having regard to the space available between parking bays.

However, this does not alter my findings in respect of highway safety associated with vehicle egress from parking bays 5 and 6.

65. On this main issue, whilst the proposal would provide for safe vehicle manoeuvring within the proposed car park, it would result in harm to highway safety with particular regard to vehicle manoeuvring when exiting the car park. It would therefore conflict with Policy D3 of the London Plan and Policies SP8.6, DM29 and DM30 of the Local Plan which collectively, amongst other things, require development to achieve safe environments, not have a detrimental impact on highway safety, ensure the movement of pedestrians is not impeded by the provision of car parking, and that the Council and its partners will improve conditions for walking and enhance the pedestrian experience. The proposal would also conflict with paragraphs 110 and 111 of the Framework for the reasons I have given.
66. Policies T6 and T6.1 of the London Plan generally concern the provision of an adequate quantum of car parking to serve developments and other matters unrelated to this main issue. Although Policy T6 refers to the Transport for London guidance on parking management and parking design I have not been provided with that document and therefore have not had regard to it. Policy T5 of the London Plan relates to cycling and Policy DM10.8 of the Local Plan concerns landscape design and management. I have not been directed to wording in those policies that would be specifically relevant to this main issue.

Sustainable transport contributions

67. Since the Council made its decision, the appellant has provided a signed Unilateral Undertaking (UU) which secures the sustainable transport contributions sought by the Council. However, and notwithstanding this, the appellant questions the necessity for sustainable transport initiatives, and seeks to support their position by reference to a planning appeal decision³ where that Inspector did not consider sustainable transport contributions would meet the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the CIL Regs).
68. The Inspector found in that decision cited by the appellant that the Council had not made reference to any relevant development plan policy to which the need for a sustainable transport contribution could be linked and had provided no further information on the matter. Those circumstances would appear to differ markedly from the case before me and is therefore not directly comparable.
69. The proposal provides off-street car parking and cycle storage facilities. I have considered and addressed the Council's concerns about these matters above. However, the appellant's evidence demonstrates additional on-street car parking would arise as a result of the proposal, and the proposal does not provide the maximum permissible number of parking spaces having regard to development plan policy. Nevertheless, the Council does not express concerns about the quantum of parking proposed, subject to the provision of sustainable transport contributions as set out in the Officer Report, and further detailed in its appeal statement.
70. The appeal site is located in an area rated as 1a in the PTAL. The proposal would therefore have poor accessibility to public transport facilities and would

³ APP/L5240/W/21/3288773

add to on-street parking. I saw during my site visit, which was carried out during the day and therefore unlikely to be representative of the circumstances in the evening or at weekends, that on-street parking was somewhat limited in the vicinity of the site due to the width of Kingswood Lane.

71. The UU secures a contribution of £1,500 per dwelling to be utilised by the Council towards, but not limited to, the provision of on-street car clubs with electric vehicle charging points, highway changes such as on street restrictions, highway transport initiative measures, the removal of residential parking permit entitlements for the new residential units, and pedestrian / cycling improvements, amongst other things. The Council has confirmed a range of appropriate local schemes to which the funds would be directed.
72. I have considered whether the UU meets the tests set out in the CIL Regs. Having regard to the submissions before me, and given the PTAL rating of the site, the parking provision proposed, and the increase in private car use that the proposed development would create, I am satisfied that, were the appeal to be allowed, the contributions secured in the UU would be 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.
73. In reaching my conclusion I have had regard to the recent judgement in *Stephen Whiteside v Croydon LBC & Ors* [2022] EWHC 3318 (Admin) on which the appellant has had the opportunity to comment. While recognising the appellant's comments concerning the wider applicability of that judgement, and notwithstanding their summary of the thrust of the outcome of the judgement, I find it to be directly relevant to the matter of necessity and directly relevant to the circumstances in the case before me. In particular, paragraphs 32, 33 and 37 of that judgement assist in understanding the relevance of the scale of contribution being sought in that case, and that what was being sought was a '*...contribution to a variety of sustainable transport initiatives...*' and not specific mitigation measures. This echoes the purpose of the UU in the case before me.
74. The proposal would contribute towards the provision of sustainable transport measures to alleviate traffic impacts. It would therefore comply with the relevant provisions of Policy T6.1 of the London Plan and Policies SP8 and DM30 of the Local Plan. While Policy DM29 of the Local Plan is not referenced directly in the Council's reason for refusal on this matter, I have been provided with that policy which is referenced elsewhere in the Council's decision notice. It is relevant to this main issue, and I have therefore given it due regard. Collectively, amongst other things, these development plan policies require development to reduce the impact of car parking in areas of on-street parking stress, to promote sustainable travel including walking, cycling and public transport, in part by improving infrastructure, and by requiring development to contribute towards the provision of electric vehicle charging infrastructure, car clubs and car sharing.

Other Matters

75. The development would offer potential benefits in terms of providing an effective use of land adding a net gain of 8 new dwellings to the housing stock. The dwellings would incorporate both smaller, and a net increase in, family sized homes, albeit not in accordance with development plan expectations concerning the number of family homes. There would be economic benefits

from the construction and occupation of the flats. The proposal would contribute towards the government's priority of boosting new housing delivery, and as a small site, it could be delivered relatively quickly. The proposal would also offer opportunities to secure a net gain in biodiversity. I recognise that many of these matters are raised in representations in support of the proposal. However, given the limited scale of the development proposed, the weight I attribute to these benefits is modest.

76. Some representations have been made supporting the proposal in respect of the inclusion of landscaping, amenity space and adequate car parking within the scheme. However, these are not matters in dispute between the main parties and this support does not weigh in favour of the proposal.
77. The appellant contends that the relationship between the appeal scheme and No 33 would be vastly more neighbourly than the current relationship between the existing bungalow on the appeal site and the adjacent block of flats. However, this is not a matter that weighs in favour of this proposal which is harmful for the reasons I have given.
78. The proposal would contribute towards the provision of sustainable transport measures to alleviate traffic impacts. However, given that those measures would be necessary to mitigate the impact of the development I consider this to be a neutral matter.
79. The proposal would have harmfully unacceptable effects on the character and appearance of the area, the living conditions of the neighbouring occupants in respect of outlook, the living conditions of the future occupants in respect of daylight and sunlight, the adequacy of cycle storage, refuse storage and car parking arrangements, and it would not provide a suitable housing mix reflecting the need for family homes in the Borough. The modest benefits associated with the proposed development would not be sufficient to outweigh the harm I have identified and the conflict with the development plan and the Framework I have referred to above.
80. Representations made by local residents and others raise various concerns about the proposed development in addition to the matters set out in the Council's reasons for refusal. However, I do not consider it necessary for me to examine those concerns any further here.

Conclusion

81. For the reasons given above, having had regard to the development plan as a whole and all other relevant material considerations, the appeal is dismissed.

David English

INSPECTOR