



Appeal Decision

Site visit made on 30 May 2023

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2023

Appeal Ref: APP/L5240/W/22/3312631

18 Brambledown Road, South Croydon CR2 0BL

- 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 J Carvall of Carvall Homes Ltd against the decision of the Council of the London Borough of Croydon.
- The application Ref 21/04705/FUL, dated 13 September 2021, was refused by notice dated 15 November 2022.
- The development proposed is demolition of existing dwelling and erection of a three storey building with roof accommodation comprising 7 flats, provision of new access and crossover, 4 parking spaces, refuse store, cycle parking and landscaping.

Decision

1. The appeal is allowed, and planning permission is granted for demolition of existing dwelling and erection of a three storey building with roof accommodation comprising 7 flats, provision of new access and crossover, 4 parking spaces, refuse store, cycle parking and landscaping at 18 Brambledown Road, South Croydon CR2 0BL in accordance with the terms of the application, Ref 21/04705/FUL, dated 13 September 2021, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr J Carvall of Carvall Homes Ltd against the Council of the London Borough of Croydon. This application is the subject of a separate decision.

Preliminary Matters

3. The proposal was amended during the course of the application, to include a reduction in car parking spaces from five to four. Therefore, in my banner heading above I have used the description of development as it appears on the decision notice.
4. The appellant refers to Policy DM10 of the *Draft Croydon Local Plan 2018, Revised 2021*. This emerging plan (EP) has reached Regulation 19 stage. However, following a change in the administration of the Council, consultation on the local plan is to be restarted, with submission consultation scheduled for early 2024. I therefore cannot be certain that policy DM10 of the EP is in its final form, and therefore I attach limited weight to this draft policy.

Background and Main Issues

5. The Council's appeal statement indicated that a legal agreement was required in order to secure financial contributions for sustainable transport improvements and enhancements. Although this matter was referenced in the

officer report to the committee that considered the planning application, it was not referenced in the reason for refusal. I sought further submissions from the main parties on this matter. During the appeal, the appellant submitted a unilateral undertaking (UU), pursuant to section 106 of the Town and Country Planning Act 1990. The Council has been given the opportunity to comment upon the deed and I am satisfied that no party has been prejudiced in this regard. Therefore, having regard to all of the evidence submitted, the main issues are:

- the effect of the proposal upon the character and appearance of the area; and
- whether the proposal would make acceptable provision for sustainable transport improvements and enhancements.

Reasons

6. The appeal site is a large plot at the corner to Heathhurst Road and is presently occupied by a two-storey detached dwelling. The proposed flats would form a block (the proposed block) which would have three storeys, with the ground floor units partially below ground at the rear and further accommodation within the roof space. Policy DM10 of the Croydon Local Plan 2018 (CLP) has a presumption in favour of three storey development, subject to certain matters, which include factors relating to the character and appearance of the area. Policy D3 of the London Plan 2021 (LP) encourages incremental intensification to achieve increased density in an appropriate way.
7. Property forms within this residential area are predominantly detached or semi-detached, occupying much of the plot width with small gaps between built forms. Due to the topography of the area, residential plots and property forms have a stepped character. I saw a variety in the height of built forms, some of which was due to roof extensions and alterations to create further living space. Nevertheless, consistent building lines and forward projecting gables create a sense of harmony. These factors combine with the presence of street trees and modest front gardens to give the area a suburban and open character.
8. The proposed block would have a larger footprint than the existing dwelling. However, its principal elevation would align with that of its neighbour at No.16 Brambledown Road (No.16), and thus the consistent building line would be maintained. While the width of the proposed block would be wider than surrounding individual properties, it would be of a similar width to the built form of the neighbouring pair of semi-detached dwellings at Nos.14-16 Brambledown Road, and also to other pairs of semi-detached forms within the area. The gap between the proposed block and No.16 would be wider than that of the prevailing character.
9. The main parties are in dispute as to the depth of the proposed block. The maximum depth would be 17m according to the Council, and just over 16m according to the appellant. The Council states that the depth of surrounding properties is about 13m at first floor level, but this does not take account of properties with rear extensions. The rear projection to the proposed block would not occupy its full width. Its side elevation facing that of No.16 would thus be about 14.1m deep, which would be about 1.3m greater than the depth of No.16.

10. Consequently, in comparison to the prevailing character of built form, the width and depth of the proposed block would not appear overly wide or deep, and thus the proposed footprint would not be substantially excessive, and it would not appear incongruous within the street scene.
11. The proposed block height would be greater than its immediate two storey neighbour at No.16. Due to the stepped character of the area and the relatively wide gap between facing side elevations this relationship would not appear unduly discordant.
12. The detached property at No.66 Heathhurst Road (No.66) occupies the corner plot opposite to the appeal site, but due to the stepped character of the area, the proposed block would appear to be significantly shorter than it. The proposed landscaping strip to the corner of the appeal site along Heathhurst Road would be about 4m wide, considerably shallower than that opposite at No.66. However, the proposed block would include a gabled bay to face No.66, which would reflect the gabled bay to that at No.66, creating a harmonious relationship.
13. The proposed block would appear much taller than the neighbouring two storey detached property at No.49 Heathhurst Road (No.49). However, it would appear substantially lower to the built forms further beyond No.49 to the south-west. A substantial gap would remain between the rear of the proposed block and the built form at No.49, due to the intervening area of proposed private amenity space. Thus, the height of the proposed block would not appear unduly discordant.
14. Taking account of all of the above factors, the proposed development would not appear unduly discordant to the development pattern and layout of the area, due to its overall scale, height, width, depth and siting and its relationship to surrounding built forms. Its scale, height and mass would not be unduly discordant to the character of the area. The overall design of the proposed block, which includes architectural detailing and forward projecting gables would be sympathetic to the prevailing character and appearance of the area. The submitted plans which detail the existing and proposed street scenes support my findings in this regard. Consequently, the proposed development would not result in inappropriate densification.
15. The appellant refers me to Policy DM10.11 of the EP. Regardless of whether the draft policy proposes a more permissive stance to intensification, the appeal site lies outside the area where this draft policy applies.
16. I therefore conclude that the proposed development would not harm the character and appearance of the area. The development therefore accords with Policies SP4 and DM10 of the CLP; and Policies D1 and D3 of the LP. Taken together, these policies seek (among other things) to ensure the best use of land by following a design led approach; to encourage incremental densification to achieve growth in the most appropriate way; to encourage development that is a minimum of three storeys; that development proposals are of high quality and respond positively to local character and distinctiveness, with regard to various factors including scale, height, massing, appearance, development patterns, and building types, forms and proportions.

Sustainable transport improvements and enhancements

17. Policy SP8.12 of the CLP seeks to enable the delivery of electric vehicle charging points throughout the borough in order to improve air quality and decarbonise private transportation over the plan period. Policy SP8.13 of the CLP requires new development to contribute to the provision of electric vehicle charging infrastructure, car clubs and car sharing schemes.
18. The appellant submitted an appeal decision¹ which found against the Council in that there was insufficient justification that a planning obligation would pass the statutory tests². However, the Council submitted a more recent judgement³ where it was found that financial contributions required by Policies SP8.12 and SP8.13 satisfied the statutory tests. In light of the more recent case law, it is clear that the financial contributions sought in the case before me would meet the statutory tests. I am therefore satisfied that a planning obligation is necessary in this case. The Council has confirmed that it is satisfied with the UU submitted by the appellant, and I find no reason to consider otherwise.
19. I therefore conclude that the proposed development would make acceptable provision for sustainable transport improvements and enhancements. It accords with Policies SP8.12 and SP8.13 of the CLP, whose objectives I have set out above.

Other Matters

20. Interested parties raise a number of other matters. The presence of restrictive covenants pertaining to the land is a private matter between relevant parties and does not impact upon the planning merits of the proposal. The provision of an additional crossover would be located more than 10m from the junction of Brambledown Road and Heathhurst Road and thus it would not result in conflict with other road users. The main parties agree that the proposed development meets the standards for internal space and external amenity space required by the LP, and I find no reason to find otherwise.
21. The daylight and sunlight analysis submitted demonstrates that there would be no unreasonable loss of daylight and sunlight to No.16, and I find no reason to consider otherwise. From the evidence before me, the main parties agree that there would be no adverse impact to neighbouring privacy to No.49 due to the separation distance to the proposed development; and that the proposed block would not appear overbearing when viewed from the neighbouring windows of habitable rooms within the rear and side elevations of No.16. I find no reason to consider otherwise.

Conditions

22. I have considered the conditions suggested by the Council, comments from the appellant including pre-commencement, and in light of Planning Practice Guidance. For clarity, precision and to ensure compliance with the PPG, I have undertaken some amendments, editing and rationalisation. Where conditions require compliance prior to the commencement of development, the appellant

¹ APP/L5240/W/21/3281590

² as per Regulation 122 (2) of the Community Infrastructure Levy Regulations 2010

³ [2022] EWHC 3318 (Admin) Whiteside, R. (On the Application Of) v The Council of the London Borough of Croydon

has provided their written agreement to their terms as per section 100ZA of the Town and Country Planning Act 1990 (as amended).

23. Conditions 1 and 2 respectively impose a time limit for commencement and detail the approved plans to provide certainty and precision to the permission.
24. Condition 3 is a pre-commencement condition to ensure that a Construction Logistics Plan is in place prior to any construction or demolition works in order to protect the reasonable amenity of neighbours during the demolition and construction phase, to ensure public safety and the safe operation of the highway network.
25. Condition 4 requires compliance with the Ecological Appraisal in the interests of protected species and biodiversity. I have imposed condition 5 to protect trees during the construction period in the interests of both the character and appearance of the area and biodiversity. Condition 6 is necessary to ensure a detailed sustainable drainage scheme to provide adequate drainage, to manage flood risk and ensure highway safety.
26. Condition 7 is reasonable and necessary to ensure that the external materials and finishes to the development are agreed, in the interests of the character and appearance of the area. I have imposed condition 8 to ensure that a suitable landscaping plan is implemented and established, in the interests of the character and appearance of the area, and to ensure suitable provision of private amenity space for future occupiers.
27. Condition 9 is necessary to ensure compliance with fire safety standards in the interests of future occupiers. I have imposed conditions 10, 12, 13 and 14 in the interests of the amenities of future occupiers. These conditions seek to ensure that electric vehicle charging points, car parking spaces, bicycle spaces and refuse storage facilities are in place prior to occupation. Conditions 10 and 13 are also imposed in the interests of sustainable transport. Condition 11 is required to ensure that external lighting does not harm protected species, and also in the interest of the safety of future occupiers.
28. Conditions 15 and 16 are imposed in order to meet policy requirements for the provision of accessible and adaptable dwellings to meet the needs of particular groups, and to ensure that sustainable construction measures are included in the development.

Conclusion

29. For the reasons given, I conclude that the development accords with the development plan, read as a whole. No material considerations have been shown to carry sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, the appeal should be allowed and planning permission should be granted, subject to the conditions that I have set out in the attached schedule.

J Moore

INSPECTOR

Schedule of Conditions - APP/L5240/W/22/3312631

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P2-X; P3-K; P4-G; P1-A; P5-C.
- 3) Prior to the commencement of development, including any works of demolition, a Construction Logistics Plan (CLP) shall have been submitted to and approved in writing by the local planning authority. The CLP shall provide for:
 - a) Hours of construction;
 - b) Hours of deliveries;
 - c) Parking of vehicles associated with deliveries, site personnel, operatives and visitors inside the site;
 - d) Facilities for the loading and unloading of plant and materials inside the site;
 - e) Swept paths for manoeuvring and turning of large vehicles inside the site; to leave the site in forward gear;
 - f) Details of any site hoardings;
 - g) Details of the precautions to guard against the deposit of mud and substances on the public highway;
 - h) Dust control methods;
 - i) Condition survey.

The approved CLP shall be adhered to throughout the construction period for the development.

- 4) The development shall be built in accordance with the recommendations of the Ecological Appraisal dated 9 September 2021.
- 5) The development hereby approved shall be undertaken in accordance with the details contained within the Arboricultural Method Statement (AMS) dated September 2021. The tree protection measures detailed within the AMS shall be implemented prior to the commencement of the development and retained for the duration of the works.
- 6) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged

- from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - b) include a timetable for its implementation; and,
 - c) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 7) Prior to the commencement of above ground works, samples of all external facing materials and finishes; and detailed drawings in plan/elevation and section at 1:5 through all typical external elements/details of the facades including all openings in walls shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 8) Prior to the commencement of above ground works, details of both hard and soft landscape works shall have been submitted to and approved in writing by the local planning authority. The details shall include:
- a) existing trees and planting to be retained;
 - b) details of species, size and density of new planting and trees, and a maintenance scheme for a minimum period of 5 years from the date of planting;
 - c) boundary treatment and retaining walls;
 - d) hard landscaping including paths (showing level access to the dwellings) and open area(s) including details of materials (which shall be permeable as appropriate);
 - e) playspace;
 - f) replacement tree planting;
 - g) a timetable for implementation.
- The landscaping works shall be carried out in accordance with the approved details. The soft landscaping works shall be completed by the end of the first planting season following the completion of the development. All planting shall be maintained for a period of five years from the date of planting Any planting which dies or is severely damaged or becomes seriously diseased or is removed within that period shall be replaced by planting of a similar size and species to that originally provided.
- 9) Prior to the commencement of above ground works, a Fire Statement in accordance with Policy D12 A of the London Plan 2021 shall have been submitted to and approved in writing by the local planning authority. The approved Fire Statement shall be fully implemented prior to the occupation of the development.
- 10) No dwelling shall be occupied until details of works to provide electric vehicle charging points shall have been submitted to and approved in writing by the local planning authority. These details shall include:
- a) Routing of the cabling and the specification of the electric vehicle charging points;

b) Provision of electric vehicle charging points to serve 20% of car parking spaces, including one blue badge space, and passive provision for charging points for the remaining spaces.

c) An implementation plan.

The electric vehicle charging points shall be installed in accordance with the approved details before any part of the development is first occupied and retained thereafter.

11) No dwelling shall be occupied until details of external lighting works shall have been submitted to and approved in writing by the local planning authority. These details shall include:

a) Identification of areas that are particularly sensitive to bats and likely to cause disturbance to bats while foraging;

b) The position of external lighting fixtures; lighting plans, drawings and technical specifications.

The external lighting works shall be installed in accordance with the approved details and retained thereafter. No other external lighting shall be installed without the prior consent of the local planning authority.

12) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. P2-X for four cars to be parked and that space shall thereafter be kept available at all times for the parking of motor vehicles by the occupants of the dwellings and their visitors and for no other purpose.

13) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. P2-X for bicycles to be parked and that shall thereafter be kept available at all times for the parking of bicycles by the occupants of the dwellings and their visitors and for no other purpose.

14) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. P2-X for the storage of refuse and that shall thereafter be kept available at all times for the use of occupiers and for no other purpose.

15) All of the residential units within the development hereby approved shall be constructed and fitted out to comply with the Building Regulations 2010 (as amended) Optional Requirement M4(2) 'accessible and adaptable', apart from Flat 2 which shall comply with either the Building Regulations 2010 (as amended) Optional Requirement M4(3)(2)(a) 'wheelchair adaptable' or M4(3)(2)(b) 'wheelchair accessible'. Such provision shall be maintained for the lifetime of the development.

16) The development hereby permitted shall achieve a minimum water efficiency standard of 110/litres/person/day. No dwelling shall be occupied until details confirming the carbon dioxide emissions reductions, details of solar panels and water efficiency standards shall have been submitted to and approved in writing by the local planning authority.

END OF SCHEDULE