



Appeal Decision

Site visit made on 21 September 2023

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2023

Appeal Ref: APP/L5240/W/23/3317955

9 Cedar Walk, Kenley, Croydon CR8 5JL

- 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 Ragan Jain, on behalf of MERA Real Estate, against the decision of the Council of the London Borough of Croydon.
 - The application Ref 22/03107/FUL, dated 22 July 2022, was refused by notice dated 10 November 2022.
 - The development proposed is demolition of rear extension, detached garage and outbuildings to the existing house allowing access to the rear and the construction of 2 new dwellings with associated private amenity, refuse, bicycle storage and 6 car parking spaces.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of the occupiers of neighbouring properties, with particular regard to outlook and privacy;
 - Whether the proposal would provide appropriate car parking provision and adequate access, with particular regard to accessible and inclusive design; and
 - The effect of the proposal on protected species, with particular regard to bats.

Reasons

Character and appearance

3. The appeal site comprises a detached two storey dwelling and its associated curtilage, including a large wedge-shaped rear garden area. The site is located at the end of a residential cul-de-sac and is flanked by similar dwellings either side that are positioned at an oblique angle, facing the turning head. The street is lined by a mix of detached two-storey houses and bungalows.
4. Dwellings along the street often fill most of the width of their plots. However, they are typically set back from the footpath by predominantly unenclosed front gardens and driveways. Plot sizes are also generous, providing considerable areas of soft landscaping, which further softens the built

- development. This gives the street a spacious and verdant appearance, in keeping with its suburban character and that of the wider area.
5. The appeal proposal would introduce 2 two-storey dwellings into the rear garden of the appeal property. These would be sited perpendicular to the host dwelling and have a relatively square footprint, compared to many of the existing dwellings on the street. The dwellings would also be positioned close to the rear boundary of the site, closing the gap to neighbouring dwellings on Wheat Knoll.
 6. The proposal would therefore considerably erode the sense of spaciousness in this part of the street and the surrounding area. The siting and orientation of the proposed dwellings would be out of keeping with that of neighbouring dwellings and the prevailing pattern of development in this area. Despite sitting on slightly lower ground to the host dwelling, their size would be considerable in the context of their location, and they would not appear subservient to the host dwelling.
 7. Due to their position behind the host dwelling, the proposed dwellings would be well screened in distant views looking down Cedar Walk. However, in closer views they would be visible in the gap created for vehicular access, as well as from neighbouring properties and from the streets to the rear. The proposed access road and additional vehicle parking would also be visible from Cedar Walk and would have an urbanising effect on this part of the street.
 8. Elements of additional screening would be provided by existing and proposed tree and shrub planting. However, some of the existing vegetation appears to be beyond the site boundary, and therefore not within the appellant's control. Some is deciduous in nature, and so will be less effective in winter months.
 9. My attention has been drawn to 4 dwellings under construction at the time of my site visit within the former rear garden of the neighbouring dwelling at 10 Cedar Close. The full details of that case are not before me. However, while I recognise their siting to the rear of No 10 is similar to that of the appeal proposal, development of this form is not a prevailing characteristic of the area. The evidence also indicates that that decision was made with regard to guidance within the Council's Suburban Design Guide Supplementary Planning Document (SPD), which has since been revoked. This does not therefore lead me to a different conclusion on this main issue.
 10. I conclude that the proposal would harm the character and appearance of the area. It would be contrary to Policies DM10 and SP4 of the Croydon Local Plan 2018 (the Local Plan), and Policy D3 of the London Plan March 2021 (the London Plan). These policies, among other provisions, seek to ensure development proposals are of a high quality and have regard to development patterns, layout and siting; respect, enhance and strengthen local character; and positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions.
 11. The proposal would also conflict with paragraphs 126 and 130 of the National Planning Policy Framework (the Framework), in respect of their aims of achieving good design and ensuring developments will add to the overall quality of the area, are visually attractive as a result of good architecture and

layout, are sympathetic to local character, including the surrounding built environment and landscape setting, and maintain a strong sense of place.

Living conditions

12. The proposed dwelling labelled "P1" would be located in close proximity to the shared boundary with the neighbouring property at 13 Wheat Knoll (No 13). The private garden space of No 13 features a neighbouring dwelling to its north and garages to its west. Its patio area is also confined to the north and east by the dwelling at No 13 itself. This is contrasted with the undeveloped nature of the southern boundary, which the principal rear elevation of the property faces.
13. In this context, and due to its proximity, height and considerable depth, the proposed dwelling at P1 would appear somewhat oppressive and have a harmful enclosing effect when viewed from within this neighbouring dwelling and from its associated patio and garden areas. This would erode the sense of openness and the outlook from No 13, to the detriment of the living conditions of the occupants.
14. The proposed dwelling labelled "P2" would also have a deleterious effect on outlook from the host dwelling at 9 Cedar Walk (No 9). However, given the different context, the sense of enclosure would likely be less acute.
15. In terms of privacy, the rear elevation of the proposed dwelling would sit perpendicular to the principal rear elevation of No 13. Due to this relationship, views between the proposed dwelling and this neighbouring dwelling and its associated patio and garden areas would be considerably oblique, thereby preventing any harmful direct overlooking. The use of opaque glazing to openings within the side elevation of the proposed dwelling would further protect the privacy of the occupiers of this neighbouring property.
16. Likewise, the privacy of occupants of No 9 would be maintained due to the oblique relationship to the proposed dwelling at P2 and through the use of appropriate boundary treatments and obscure glazing to its side elevation windows.
17. With respect to the neighbouring property at 8 Cedar Walk (No 8), given the distance of the proposed dwellings from the shared boundary and the orientation of this neighbouring dwelling, the proposed dwellings would not result in any undue loss of privacy or outlook for occupiers of No 8.
18. In conclusion, the proposal would have a harmful effect on the living conditions of the occupiers of neighbouring properties, with particular regard to outlook for Nos 9 and 13. While it would not result in harm to the living conditions of No 8, nor to the privacy of Nos 9 or 13, this does not outweigh the identified harm. The proposal is therefore contrary to Policy DM10 of the Local Plan and Policy D3 of the London Plan. These policies, among other provisions, seek to ensure that development protects the amenity of the occupiers of adjoining buildings and delivers appropriate outlook. In respect of this main issue, I have not identified conflict with London Plan Policy D5.

Car parking and access

19. The proposal includes a shared surface access road, leading from the end of the existing cul-de-sac to the proposed houses and parking areas. Given the small scale of the development, pedestrian, cycle and vehicular traffic using the

route would likely be low, as would the speed of vehicles in this area. The risk of conflict between users would therefore be somewhat limited. However, such shared spaces can be difficult to navigate or interpret for people with certain disabilities or visual impairments.

20. Policy D5 of the London Plan indicates that, among other requirements, development proposals should take account of London's diverse population, be convenient and welcoming with no disabling barriers, providing independent access and be able to be entered, used and exited safely, easily and with dignity for all. The policy also states that Design and Access Statements should include an inclusive design statement.
21. The information before me does not satisfactorily demonstrate that the diverse needs of all have been considered through an inclusive approach to the design of the shared spaces. The route is confined by walls, fences and planting for much of its length, with limited differentiation in surfacing. The extent to which the scheme would need to be altered to address such matters is not clear and so I do not consider this could be reserved to a planning condition.
22. There are other examples of shared surfaces in the immediate area, including at the adjacent site and nearby Lawford Gardens. The full details of these other examples are not before me however, and the evidence indicates they were determined in view of different local guidance. Ultimately, they do not indicate that the appeal scheme before me is acceptable in this regard.
23. I therefore cannot conclude that the proposal would comply with Policy D5 of the London Plan, which seeks to ensure development proposals achieve the highest standards of accessible and inclusive design.
24. In terms of car parking, the proposal would provide 6 off-street spaces. This would exceed the maximum parking standard of up to 1.5 spaces per dwelling for this type of development in this location, as set out in policy T6.1 of the London Plan. In the form considered by the Council, the proposal would therefore be contrary to this policy. These policies set out a strategic approach to parking standards, with the aim of encouraging greater use of non-car modes of transport.
25. However, altering the proposed parking provision to be policy compliant would likely require only very minor changes to proposed landscaping and boundary treatments. I am therefore satisfied that the use of planning conditions to resolve this would have been sufficient in this instance.
26. While the proposal could deliver an appropriate level of car parking provision, it has not been satisfactorily demonstrated that the proposed access arrangements would be adequate, with particular regard to accessible and inclusive design. The proposal is therefore contrary to Policies T2 and D5 of the London Plan. These policies, among other provisions, seek to ensure development proposals reduce the dominance of vehicles, are permeable by foot and achieve the highest standards of accessible and inclusive design.
27. In respect of this main issue, I have not identified any conflict with Policy DM29 of the Local Plan and Policies T4 and T6.1 of the London Plan. These policies, among other provisions, seek to promote sustainable travel and reduce traffic congestion, mitigate transport impacts and ensure car parking is restricted in line with public transport accessibility and connectivity.

Protected species

28. The appeal proposal is supported by a Bat Scoping Report¹. This assessed the host dwelling as having moderate suitability to support roosting bats. Notably, partially rotten soffit boxes within the rear extension have created crevices and openings that could be used by bats. Accordingly, two emergence / re-entry surveys were recommended to determine the presence / likely absence of roosting bats. These were not submitted with the planning application, nor have they been provided as part of this appeal.
29. Circular 06/2005² states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted. The need to ensure ecological surveys are carried out should only be left to coverage under planning conditions in exceptional circumstances. However, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development.
30. The evidence indicates that there is a reasonable likelihood of bats being present within the host dwelling. As the rear extension of the dwelling is proposed to be demolished, it is also reasonably likely that any bats that are present would be affected by the development.
31. The appellant maintains that demolition of the rear extension would be carried out in a responsible manner and additional survey work could be carried out during the forthcoming bat survey season.
32. There are no exceptional circumstances before me however that would justify reserving this matter to a planning condition. Moreover, in the absence of the required surveys, it is not clear whether additional planning conditions may be necessary to secure measures to protect bats.
33. Ultimately, I cannot be certain based on the evidence that the proposal would have no adverse impact on species of animal, or their habitat, protected under British or European law. Notably, the Council's ecological consultant submitted a holding objection for similar reasons.
34. Based on the information before me, I conclude that the proposal would have a harmful effect on protected species, with particular regard to bats. It is therefore contrary to Policy DM27 of the Local Plan and Policy G6 of the London Plan. These policies, among other provisions, seek to protect and enhance biodiversity, including protected species.

Other Matters

35. The proposal would reuse garden land in an existing urban area. It would therefore benefit from a degree of access to services and public transport, though the evidence indicates it has a poor Public Transport Accessibility Level (PTAL). It would contribute to housing delivery in the borough and provide a temporary boost in employment during construction. Additional residents may also contribute to the local economy and vitality of the community. Biodiversity

¹ Bat Scoping Report and Preliminary Ecological Appraisal, 2 November 2021

²ODPM Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and their Impacts within the Planning System, 16 August 2005

enhancements such as bat tubes and additional planting could also be secured. However, these benefits would be modest, given the small scale and context of the development.

36. Paragraph 69 of the Framework indicates that great weight should be given to the benefits of using suitable windfall sites within existing settlements for homes. Paragraph 119 of the Framework seeks to promote the effective use of land. However, given the harm identified, it has not been demonstrated that the appeal site is a suitable site or that the proposal would be an effective use of land.
37. I recognise that residential development in this location is acceptable in principle and, other than where set out above, I have not identified conflict with any other relevant parts of the development plan or national policy and guidance. However, the absence of harm or development plan conflict with respect to other relevant matters weighs neither for nor against the proposal.

Conclusion

38. The proposal would result in significant harm and development plan conflict with respect to its effect on the character and appearance of the area and the living conditions of the occupiers of neighbouring properties. I have also identified harm and development plan conflict with respect to the proposed access arrangements and the effect on protected species. While I am satisfied issues in respect of car parking provision could otherwise have been resolved through the use of planning conditions, I find that the proposal would nevertheless be contrary to the development plan, taken as a whole.
39. There are no material considerations that indicate the proposal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal should be dismissed.

Ryan Cowley

INSPECTOR