



## Appeal Decisions

Site visit made on 25 July 2023

by **David Murray BA (Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 18 October 2023**

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### **Appeal A Ref: APP/L5240/W/22/3305791**

#### **46 The Glade, Croydon, CR0 7QD**

- 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 All Saints Property Group Ltd against the London Borough of Croydon.
  - The application Ref 22/01881/FUL, is dated 6 May 2022.
  - The development proposed is the demolition of single storey dwelling and redevelopment with a new building to provide 8 dwellings (Class C3), with associated amenity space, integral refuse, cycle stores and external car parking.
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### **Appeal B Ref: APP/L5240/W/22/3312168**

#### **46 The Glade, CROYDON, CR0 7QD.**

- 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 All Saints Property Group Ltd against the London Borough of Croydon.
  - The application Ref 22/03970/FUL, is dated 23 September 2022.
  - The development proposed is the demolition of the existing property and construction of 4 no. 3 bedroom houses with parking spaces.
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## **Decisions**

### **Appeal A Ref: APP/L5240/W/22/3305791**

1. The appeal is dismissed.

### **Appeal B Ref: APP/L5240/W/22/3312168**

2. The appeal is dismissed.

## **Applications for costs**

3. An application for costs has been made by the appellant against the Council on both appeals. These are the subject of separate decisions.

## **Preliminary matters**

4. In appeal B the appellant has referred to amended plans which are said to have been submitted to the Council on the 21 November 2022 – that was before the appeal against non-determination was lodged on the 29 November 2022. The amended plans make minor changes to the footprint of the units; amend the design of the buildings by hipping the roofs of the end units; and make modifications to the proposed parking layout and location of the bin stores.

The Council has not referred to the amended plans in its statement and it is not clear that the amended plans were notified to the appropriate bodies and neighbours.

5. I have considered the amendments in relation to the principles established in the case of *Wheatcroft* as updated by *Holborn*. While the changes to the design and footprint of the houses do not materially change the substance of the proposal, the changes to the parking layout are quite different involving a reduction in the number of parking spaces and the layout plan shows a relocated bin store with a concentration of some 12 bins sited close to the boundary with the neighbouring property No.44 The Glade. This is a material change, however the local community has not been made aware of the changes or given the opportunity to make representations on these aspects. Accepting these plans with the appeal could therefore deprive these people of such consultation which would not be fair and I will not take these amendments to the original plans into account.
6. Also in appeal B it became apparent that the Council had not notified 3<sup>rd</sup> parties, including the Monks Orchard Residents' Association (MORA), of the application and they had not been given the opportunity to make representations. The parties were given a further period of 21 days to comment and I have read and taken account of the represents made.
7. On appeal A the appellant has submitted a signed and dated Unilateral Undertaking in respect of various contributions in connection with sustainable transport provision and related matters. I have had regard to this formal Obligation as a material consideration.

### **Main Issues**

8. Although the appeals are submitted against non-determination by the Council, the appeals are contested and the Council has indicated the principle objections. Therefore on both appeals the main issues are:
  - The effect on the character and appearance of the area;
  - The effect on the living conditions of neighbours;
  - The provision for parking and access and the effect on highway and pedestrian safety;
  - Whether the drainage system would be sufficient to mitigate flood risk.

Moreover, in appeal A there are also issues over the effect on trees and the lack of a contribution towards sustainable transport initiatives.

### **Reasons**

#### *Background*

9. The appeal site comprises a modest bungalow set in a garden which is generally more extensive than those of neighbouring properties. The surrounding area is mainly residential in character with detached properties adjacent to the site but with a wide range of residential styles elsewhere in the locality. These buildings tend to be two storeys in height. There are a number of trees along the northern boundary of the appeal site but these appear mainly to be growing in the garden of the adjacent property No.48 The Glade.

10. Both appeal schemes involve the demolition of the bungalow and the appeal A scheme proposes redevelopment with a cojoined pair of three storey buildings comprising 8 flats. In Appeal B a staggered terrace of four three-bedroom houses is proposed.
11. I note that the appeals follow a previous appeal decision where the redevelopment with a building comprising 9 flats was dismissed on the 22 September last year<sup>1</sup>. The inspector concluded that the proposal would harm the character and appearance of the area and not provide a satisfactory parking solution although the proposal would not harm the living conditions of neighbouring occupants.

#### *Policy Context*

12. The development plan includes the Croydon Local Plan 2018 (CLP) and the London Plan 2021. The appellant also refers to the Croydon Suburban Design Guide SPD (Supplementary Planning Document) to be read in conjunction with the CLP. The SPD appears to have been adopted by the Council in April 2019 but withdrawn in July 2022. The Council's Officer report makes no reference to it. Even though the guidance in the design SPD is said to have been used by the appellant in preparing the scheme of development for the site, I can only take account of current development plan and related documents. Other parties refer to a 'Revised Local Plan' but this does not appear to be part of the development plan or have reached a stage in the preparation process where much weight can be given to it.
13. From my reading of the applicable policies in the development plan and national guidance there is no policy objection in principle to the demolition of the existing bungalow and its replacement by new development. The determining issues are therefore site specific. CLP Policy DM10 on 'Design and Character' indicates that proposals, whilst seeking to achieve a minimum height of 3 storeys, should nevertheless (in summary) respect the local development pattern and the appearance of the area in terms of scale, height, massing and density.

#### *Effect on character and appearance*

14. In assessing this effect I have taken account of the appellant's references to other small clusters of terraced properties along The Glade and nearby the site and I looked at these at my visit. The character of the immediate environs of the site is formed by detached properties, mainly of two storey height but including two bungalows and a chalet bungalow.
15. The representation made by the MORA on both appeals puts forward an assessment of the area and the proposed schemes in terms of the density of surrounding development by postcode but such mathematic and formulaic assessment is too prescriptive and not easily read on the ground. I have based my assessment of this issue mainly on the Council's and the appellant's description of the character of the area and my own observations at the site visit.

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<sup>1</sup> APP/L5240/W/22/3295431

### Appeal A scheme

16. In this scheme I am concerned that the scale and form of the three-storey building would have an imposing and visually harmful effect on the street scene. Although the bulk of the building is proposed to be broken up into two entities, each would be out of scale with the neighbouring properties. Moreover, the flank wall of each building would be sited close to the party boundary and given the close visual gap between the two entities, there would be a considerable mass of building bulk across the site frontage.
17. As the proposed building blocks would be sited well forward of No. 48 and due to the bend in The Glade, this building bulk would be particularly prominent in the street. Further, the impact would not be softened by the trees in the garden of the neighbouring property, more likely, the proximity of the building to the site boundary could have an adverse effect on the retention of the nearest tree.
18. The design of the flats also includes the use of inset balconies on the front and rear elevations. This design feature is not characteristic of the area and would accentuate the visual impact of the blocks and their appearance in the street scene. Finally, the submitted layout plan and Street View shows that the frontage of the site would be visually dominated by hard surfaced parking and access with little space available for landscaping and softening or for the accommodation of the trees which overhang the front of the site.

### Appeal B scheme

19. In this scheme the four houses proposed have a more traditional two storey form. Although accommodation is proposed in the roof space lit by dormer windows these are modest in scale and do not give an impression of three storey development. The submitted street scene elevation shows that the general height of the houses would be consistent with the neighbouring ones. The building footprint would extend across much of the site with only minor gaps at each flank to accommodate a side path, but the scale of building would be visually reduced by the staggered footprint of the building which takes account of the change in building line formed by No's 44 and 48.
20. I recognise that there would be a much greater building bulk across the site compared to the existing bungalow which also lies in a plot wider than other local houses. This would result in a change to the appearance to the environs of the site. However, I noted at my visit many other examples locally of small terraces of about 3 or 4 houses which have been part of or have been successfully introduced into the local street scene.
21. Notwithstanding this, I do have concerns that the design of the terrace with gable ends would be visually dominating in the street scene and would be at odds with the adjoining properties which have hipped roofs. It is apparent that the appellant's designers have a similar view given the submission of the amended plans in September 2022 showing a hipped roof at each end of the terrace. However, I have not been able to accept these plans for the reasons set out in paragraph 5 above. I have also considered whether similar amended plans could be submitted in response to a condition imposed on a permission, but the amendments as drafted raise other concerns over the layout and I cannot be certain that acceptable changes can be secured. It would therefore not be appropriate to impose such a condition on a permission on appeal.

22. In relation to the frontage of the site this would have individual entrances to the houses and although there would be a hard surfaced area for parking, access and manoeuvring space, there is scope for landscaping and green areas. Communal bin stores are shown at the entrance to the site but with suitable screening and landscaping these need not be intrusive in the street scene. This proposal would not be out of context to the general array of local frontages as shown in the analysis in Appendix B of the appellant's Final Comments.
23. I am also satisfied that the scheme proposed in appeal B would have less effect on the existing trees along the boundary with No.48 and the siting of the bin store and improved access within the root protection area (RPA) of the trees can be addressed by conditions.

Overall

24. I conclude on this issue that while three storey development is proposed in Appeal A it would not meet criteria set out in Policies DM10 and SP4.1 as the scale, bulk and design of the flats proposed would not integrate well with the neighbouring properties or wider street scene and would harm rather than respect the character and appearance of the area. The appeal B scheme would also have a harmful effect on the character and appearance of the area but only in respect of the detailed design of the houses put forward which would not properly integrate into the local street scene.

#### *Effect on living conditions*

Appeal A scheme

25. The first part of this issue is concerned with the relationship of the proposal to the living conditions of the occupiers of the neighbouring residential properties No's 44 and 46. In terms of the effect on light to windows No. 48 had a blank flank wall facing the appeal site. At No. 44 there are two side facing windows in the flank wall although these appear to be secondary windows to the rooms as there is a corresponding window on the front and rear elevations. In terms of the main aspects of the properties front and rear the submitted layout plans in appeal A show that the footprint of the building does not encroach into a 45° line of sight drawn from relevant principal windows. This demonstrates that the position of the proposed building would not have a harmful effect on the light and outlook available to the occupiers of the neighbouring properties.
26. In terms of overlooking of houses and gardens it is proposed to have projecting balconies on some of the rear facing flats at first and second floor level. While No. 48 has a room in the roofspace with a dormer window at second floor level the use of projecting balconies would cause a material level of overlooking of the garden of No.48 and result in a loss of privacy for the occupiers. In relation to No. 44, while second floor windows are proposed in the new adjacent block of flats these windows would be positioned well to the rear of the back wall of this neighbouring property and would not have much of an oblique view of the main part of the house and garden.

The appeal B scheme

27. The submitted layout of this scheme shows that the footprint of the houses would not intrude within a 45° splay from the front and rear main windows in the neighbouring properties of No's 44 and 48 and so would not materially reduce the outlook from inside of these properties. Moreover, the height and

position of building bulk would not have a material effect on the general living conditions of the occupiers. Small dormer windows are proposed at second floor level but this is similar to what exists at No.48 and there would not be significant overlooking or a loss of privacy.

28. The Council also raises concerns about the quality of the residential environment for the occupiers of the flats in appeal A and in particular the lack of a footway from The Glade. However, while the design of the blocks lacks a sensitive entranceway the details of this design could be addressed by condition if all other aspects of the scheme proved to be acceptable.
29. Overall, I find that the scheme in appeal A would have a harmful and imposing effect on the living conditions of the occupiers of neighbouring residential properties, contrary to Policy DM10.6, but that the details of the proposal in Appeal B would not.

*Effect on pedestrian and highway safety*

30. The existing access from the appeal site to The Glade lies on the northern edge of the frontage and at the moment there are no parking restrictions on the highway in the vicinity of the appeal site. I also note that the site has a PTAL rating of 1a which the Council describes as extremely poor.

Appeal A scheme

31. For the appeal A scheme Council standards require a maximum of nine spaces on site whereas 7 spaces are proposed along with a space for motorcycle parking. However, since the submission of the Council's assessment the appellant has submitted a formal obligation to make a contribution of £12,000 towards sustainable transport measures, and this appears to be in line with the Council guidance on securing improvements to local sustainable transport. I am able to give weight to this Obligation and conclude that it is reasonable and necessary to make the development acceptable in the interests of promoting sustainable transport and it is fairly and reasonably related to the development proposed. Considered in the round I am satisfied that in principle the eight flats proposed would have adequate parking on site and make reasonable provision for the occupants to have access to sustainable forms of transport.
32. Nevertheless, the Council advises that no parking spaces can be formed on site as the access proposed is unacceptable as the crossover at 6m wide is too wide compared to the standard of 4.5m wide with 0.5m ramps at each side – making 5m in total. It is not clear from the Council's representations why this standard for a cross-over is so prescriptive; what harm to highway or pedestrian safety could arise with it; or why the details of the access could not be resolved by minor changes required by condition.
33. Of greater concern is the Council's objection to the new access being positioned at a point on The Glade almost opposite (i.e. within 10m of) the junction with Lorne Gardens. To my mind this would result in a conflict of traffic movements which would greatly exceed the present traffic movement from the site and where the existing access lies further away. As the proposal in Appeal A stands it has not been demonstrated that the development would have a safe access given the present highway layout including the junction with Lorne Gardens.

### Appeal B scheme

34. In terms of parking provision the Council advises that in principle the six spaces shown meets the maximum level for houses of the size proposed set out in the standards for this location. However, there is concern about the details of the scheme particularly the tandem nature of two of the spaces and the sight lines for pedestrians at the access.
35. On the evidence submitted it appears to me that there is adequate parking on site for the development proposed and the appellant's parking assessment reasonably shows that any small over-spill can reasonably be accommodated on local streets. Given that the proposal incorporates the existing access point and is located away from the junction with Lorne Gardens, as well as incorporating a crossover which meets the Council's standards, I am satisfied that there is not a fundamental objection to this proposal on highway grounds.
36. Overall on this issue I find that the appeal A scheme would have a detrimental impact on highway safety because of the conflict of movements with the junction of Lorne Gardens in close proximity to the proposed new access to the site. This scheme therefore conflicts with the provisions of CLP DM29

### *Whether increased flood risk*

37. The Council advises that the site lies in Flood Zone 1 and in an area with a medium surface water flooding issue. The appeal A scheme proposes permeable paving to vehicle areas and surface water run off will be to sustainable drainage systems to ensure that peak water run off post development will be no greater than present. The Council says that the present scheme does not include a SUDS strategy as required by CLP Policy 25.3. However, the Council has not shown that there are any unusual ground or watercourse conditions in the vicinity of the site. Given the overall extent of the site and the land available I am satisfied that, in principle, the development can be designed in accordance with the normal scope of SUDS to ensure that surface water run-off is managed on site and this issue can reasonably be dealt with by conditions. On this basis I find that neither scheme would conflict with Policy DM25.3.

### *Planning balance*

38. The two appeals have to be considered independently. On the main issues I have found that the appeal A scheme would be harmful to the character and appearance of the area because of the scale and design of the building block proposed together with the hard surfaced frontage. The proposal would not integrate well or positively in the street scene. This scheme would also harm the living conditions of neighbours by causing overlooking from rear facing second floor balconies and resulting in a loss of privacy. The scheme would also not have safe access given the close relationship with the existing junction with Lorne Gardens. These adverse effects mean that this scheme conflicts with the policies mentioned above.
39. In terms of the appeal B, I have found that this would also have a harmful effect on the appearance of the area but only because of the specific gabled design of the end houses which would be unsympathetic to the local character of the area. I have considered whether this limited harm could be addressed

by conditions but concluded that it was not certain that all the identified points could be addressed.

40. The harm that both proposals would cause has to be balanced with the benefits of development. Both schemes would make more effective use of land already developed, which is a general aim of local policy and the National Planning Policy Framework (NPPF), and appeal B would provide family housing which is much needed locally. Both proposals relate to a small site which could be built out relatively quickly, again a general benefit supported by the Framework in order to help boost the supply of new housing.
41. Nevertheless, these benefits do not outweigh the adverse effects that I have identified or the conflict with the relevant policies in the development plan. This indicates that the Appeals should not be allowed.

### **Conclusions**

42. For the reasons given above ai conclude that both appeals should be dismissed.

*David Murray*

INSPECTOR