



Appeal Decision

Site visit made on 27 September 2023

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2023

Appeal Ref: APP/L5240/W/23/3318281

Land at the rear of 16 Lancaster Road, South Norwood, London, SE25 4AJ

- 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 Richard Barnes against the decision of the London Borough of Croydon.
- The application Ref 22/04017/FUL, dated 27 September 2022, was refused by notice dated 13 December 2022.
- The development proposed is erection of 2 x 2-bedroom dwellings with associated refuse and cycle storage and formation of vehicular access.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that Address Line 2 on the application form refers to South Northwood. However, this appears to be an error, as the appeal site is located within South Norwood. I have therefore used the address set out on the appeal form in the banner heading above.
3. Both parties refer to some confusion regarding the labelling of an Oak tree on separate versions of the Tree Constraints Plan, Impact Assessment Plan and Tree Protection Plan. For the avoidance of doubt, my references to tree T7 relate to a mature Oak tree detailed within Appendix 6 of the Arboricultural Report¹ (Arboricultural Report) and shown on the Tree Constraints Plan, Impact Assessment Plan and Tree Protection Plan that also form part of this Appendix.
4. As part of the appeal, the appellant provided an amended site plan, which demonstrates that the proposed access to the side of 16 Lancaster Road could be enlarged to provide a width of approximately 3.8 metres throughout. The Council and interested parties have had an opportunity to comment on the amended site plan as part of the appeal proceedings and therefore no party would be prejudiced by my consideration of it as part of the appeal. Moreover, I note that the site access could have achieved a similar width with no amendments, by vehicles driving over the proposed grass verge, which would be flush with the carriageway.
5. The Council considered the amended site plan to potentially address its reason for refusal relating to highway and fire safety. Nonetheless, it raised a new concern regarding the existing on-street parking and whether it would obstruct a fire appliance from being able to manoeuvre onto the site access from

¹ BS 5837 Arboricultural Report Impact Assessment and Method Statement at Land to the rear of 16 Lancaster Road, South Norwood, London, SE25 4AJ, prepared by Crown Tree Consultancy, dated 27th September 2022.

Lancaster Road. In response, the appellant has provided a swept path analysis² to demonstrate that a fire appliance could manoeuvre onto the access regardless of the on-street parking. This information does not amend the proposal. The Council were afforded an opportunity to comment on it and consider it to satisfactorily demonstrate that the proposed development would not be detrimental to highway safety and access by emergency services and would achieve an adequate standard of fire safety for the future occupants. Accordingly, it is satisfied that its reason for refusal relating to highway and fire safety has been addressed. From the evidence before me and my observations on site, I am of the same view.

Main Issues

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

- The character and appearance of the area, with specific regard to a protected tree, and whether the proposal would preserve or enhance the South Norwood Conservation Area; and
- The Borough's Housing Supply, with particular regard to delivering three-bedroom properties.

Reasons

Character and Appearance

7. I recognise that a similar development on the appeal site was previously approved by the Council, Ref: 19/00438/FUL. This development was never begun, and the permission has now lapsed. Since this approval, the appeal site has been incorporated into the South Norwood Conservation Area (SNCA). I have therefore approached this appeal in the context of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires special attention be paid to the desirability of preserving or enhancing the character and appearance of the SNCA.
8. Lancaster Road is a relatively long road, made up of a mixture of houses and purpose-built blocks of flats. It has a wide carriageway and generous pavements, with most buildings set back from the highway. This creates an open and spacious character. Trees and other plants in the frontages of the buildings also add greenery to the street scene.
9. The section of Lancaster Road where the appeal site is located, comprises 2-storey semi-detached houses on one side of the road and, predominately, 3-storey historical residential villas on the opposite side. The villas are large, detached houses set on substantial plots. They have an additional basement level and most also have rooms in the roof. It was evident on my visit that some of the villas have been divided into more than one residential unit.
10. There is a large degree of consistency within the two distinct groups of houses and villas in terms of their set-back from the highway, scale, form, and materials. This creates uniformity in the street scene and adds positively to the character and appearance of the area. There are also regular gaps between the houses and villas that provide rhythm and add to the sense of spaciousness.

² Appendix 2 of Appellant Rebuttal Statement by Pegasus Group; Drawing No: SK01, drawing dated 24/07/2023.

11. The 2-storey semi-detached houses opposite the appeal site are not within the SNCA. The significance of the SNCA, in so far as it relates to this appeal, is the architectural value of the residential villas, particularly as a group, and how their layout and composition relates to the evolution of the area.
12. The appeal site was once part of the generous plot serving the villa at No. 16 Lancaster Road. However, it has been physically separated from the villa by a close board fence and is no longer used by the occupants of No. 16 Lancaster Road. I saw on site that this type of physical separation between the villa and its original plot has also taken place at another villa close by. Nevertheless, despite the severance of the functional relationship, the historical relationship between the villas and their original plots is still appreciable from the wider pattern of development. This includes the houses to the rear of the appeal site on Avenue Gardens that are evident in some views and indicate the considerable depth of the plots.
13. The land slopes away from the highway towards the appeal site. Therefore, despite the appeal site being somewhat overgrown, the current condition of the site does not affect the open and spacious character of the area to any appreciable degree. Furthermore, there is an existing tree, referred to as T3 on the Tree Constraints Plan, which currently restricts views of and over the appeal site from Lancaster Road.
14. More importantly, whether open or overgrown, the absence of any built form on the appeal site is vital in preserving the historical layout of the SNCA, which is intrinsic to the evolution of the area. It is also an important feature of the grand, historical character of the villas, individually, as a group, and within the wider area. Thus, the appeal site contributes positively to the significance of the SNCA.
15. The proposal would unavoidably result in a significant amount of built form where there is currently none, which would harm the significance of the SNCA. The proposed dwellings would not only be visible from the neighbouring properties and their gardens, but would also be easily seen from Lancaster Road, as Tree T3 would be removed as part of the proposal. While the change in levels and scale of the proposed dwellings would ensure they were subservient to the villas, their position, fronting the gap between Nos 16 and 18 Lancaster Road would make them noticeable in the street scene.
16. This would significantly erode the gap between the villas, which would harm the spacious character and appearance of the wider area. It would also permanently disrupt the historical pattern of development and would harm the historical grand character of the villa at No. 16, which are both an important part of the significance of the SNCA. The proposal would therefore be contrary to the SNCA Appraisal and Management Plan³ (2022) (AMP), which advises that development between buildings or on backland sites behind existing buildings will only be acceptable where it does not disrupt the character, layout, and pattern of development.
17. While there are buildings to the rear of other properties on this side of Lancaster Road, the majority are single storey, small-scale outbuildings, for example domestic garages, which have a functional relationship with the buildings fronting Lancaster Road and are part of the same curtilage. The

exception to this is a recent development at No. 12 Lancaster Road, which consists of a 2-storey house. Nevertheless, I am of a similar view to the Council, that this development is an anomaly. This type of backland development is not a common feature of the area and further development of this type would result in considerable harm to the significance of the SNCA.

18. I am of the view that the external materials proposed for the dwellings, which would contrast with the materials of the villas, would help preserve the integrity of the villas. However, this absence of harm neither addresses nor outweighs the harm to the significance of the SNCA I have identified above.
19. There are several trees located in the neighbouring plot of No. 14 Lancaster Road, close to the boundary with the appeal site. As these trees are located within the SNCA, they are protected from indiscriminate felling. The Arboricultural Report (AR) submitted as part of the application proposes some light pruning of the Oak Tree (T7) to create a clearance of 2.5m from the proposed dwellings. It advises that the foundations of the proposed dwellings shall extend into the outer half of the theoretical Root Protection Area (RPA) of this tree, and the proposed bike store would extend into the very outer edge. It is also proposed to install a new fence and gate within the RPA of T7.
20. The villa at No.16 Lancaster Road and purpose-built block of flats at No.14 currently obstruct views of T7 from Lancaster Road. Nevertheless, T7 would be visible from neighbouring properties and is also visible from Avenue Gardens to the rear of the appeal site. It is a good size and height and makes a positive contribution to the greenery in the surrounding area. It also contributes to the historical pattern of development and grand character of the villas. The AR recognises the amenity value of T7 as moderate. It identifies the tree as mature and in a moderate to good condition. I have no substantive evidence before me to suggest that it would be unlikely to survive for many years.
21. The AR does not specify how much of the crown of T7 would need to be pruned to create a 2.5 metre clearance with the proposed dwellings. However, it describes the pruning as minor and only affecting the outer, tertiary branches. It also advises that it should be kept to a minimum to achieve the desired clearance. I am therefore satisfied that the proposed pruning would be unlikely to affect the viability of T7. Moreover, the crown of T7 is close to other trees along the boundary. Given this, the change to the form of the tree as a result of the pruning would be less noticeable than if the tree stood alone. It is therefore unlikely to result in appreciable harm to the character and appearance or visual amenity of the area.
22. The AR identifies that only a relatively small portion, less than 8%, of the RPA shall be affected by the proposal. In order to minimise the impact on the tree roots, it advises a pile and beam or pile and raft foundation to be installed where the building shall extend into the RPA. This, it considers, would make it possible to retain all significant roots and ensure that the root system will be able to supply the canopy with the required water and nutrients, meaning the proposal would not result in any long-term detrimental impact on the health of T7. It also considers the potential impact of the bike shed, which would affect less than 1% of the RPA to be negligible and provides guidance on the method of installation for the fence to ensure minimal impact on the roots.
23. Nevertheless, while the incursion into the RPA resulting from the proposal is not significant, BS 5837:2012 Trees in relation to design, demolition, and

construction – Recommendations (BS 5837) states the default position should be that structures are located outside the RPAs of trees to be retained. Although it recognises that technical solutions might be available that prevent damage to the tree(s), there should be an overriding justification for construction within the RPA. There is no such justification before me, particularly in terms of the bike shed, which it appears could easily be located on another part of the site. It may be that works within small portions of an RPA are not uncommon. However, given the lack of justification, the potential harm to T7, as a result of the excursions into its RPA, appear to be avoidable.

24. Furthermore, given the proximity of the proposed dwellings to T7, it seems to me that, despite there being no windows proposed facing the tree, there would be an inevitable need for more regular and potentially more extensive pruning than that required to construct the dwellings, in order to maintain sufficient clearance. This together with the excursions into the RPA could decrease the life expectancy of T7 and could also result in future pressure to remove the tree. The loss of T7 would harm the character and appearance of the area, as well as the significance of the SNCA, albeit this harm would be localised and limited.
25. For the reasons above, I find the harm to the significance of the SNCA would be less than substantial. As such paragraph 202 of the National Planning Policy Framework (the Framework) requires this harm to be weighed against the public benefits of the proposal.
26. In terms of benefits, the proposal would result in the provision of two dwellings, close to local services and facilities, which would make a modest contribution to the Borough's housing supply. It would also have modest social and economic benefits resulting from the construction of the new dwellings and their subsequent occupation, as future occupants would be likely to contribute to the viability of local services and facilities.
27. The appellant considers the proposal would also provide a heritage benefit by improving the appearance of the appeal site. Nevertheless, as concluded above, the appeal site in its current form, although overgrown, does not affect the open and spacious character of the area. Also, the absence of built form on the site makes an important contribution to the significance of the SNCA. Given this, any benefit arising from the more well-kept appearance of the site would be limited.
28. Paragraph 199 of the Framework gives great weight to the conservation of designated heritage assets including conservation areas. This is irrespective of whether any harm amounts to substantial harm, total loss or less than substantial harm. I must pay special attention to the desirability of preserving or enhancing the character and appearance of the conservation area. Given this, the modest contribution that the two dwellings would make to the housing supply, even when taking account of the social and economic benefits arising from their construction, subsequent occupation and accessibility to local services and facilities, does not outweigh the harm I have identified to the significance of the SNCA.
29. Accordingly, the proposal would conflict with Policies SP4, DM10 and DM18 of the Croydon Local Plan (2018) (Local Plan) and Policies D3 and HC1 of the London Plan (2021). These seek to ensure development is of a high quality that respects and enhances local character, including heritage assets. It would also

conflict with Policy DM28 of the Local Plan and Policy G7 of the London Plan (2021), which seek to protect and enhance existing trees, particularly those of value. Furthermore, it would be contrary to the AMP and Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990.

Housing Supply

30. Policy SP2.7 of the Local Plan seeks to ensure that a choice of homes is available in the borough that will address the borough's need for homes of different sizes. It seeks to achieve this by, among other things, setting a strategic target for 30% of all new homes up to 2036 to have three bedrooms or more. However, while this shows a strategic need for dwellings with three bedrooms or more, the policy does not specifically require 30% of the units within all new residential development to be three bedrooms or more.
31. The overarching aim of Policy SP2.7 of the Local Plan is to ensure that a choice of homes is available in the borough that will address the borough's need for homes of different sizes. I understand that data from an update to the Council's Strategic Housing Market Assessment (2019) shows Croydon to have a relatively high supply of 3-bedroom houses in the London context and recommends an appropriate mix of market housing to include 20-25% 3-bed properties and 45-50% 2-bed properties. This shows a considerable need for 2-bedroom properties.
32. Therefore, while the proposal would not help achieve the strategic target of 30% of all new homes up to 2036 to have three bedrooms or more, it would address the borough's more recent need for 2-bedroom properties.
33. Given this, whether or not the location of the appeal site would better suit dwellings with three bedrooms or more, and despite an under provision in dwellings of this size in recent years, the proposal would accord with the principal objective of Policy SP2.7 of the Local Plan to address the borough's need for homes of different sizes.

Conclusion

34. Overall, I have found that, although the proposal would not contribute to the borough's provision of 3-bedroom dwellings, it would address the borough's need for homes of different sizes. Nevertheless, while the proposal may be considered to represent a more efficient use of the appeal site, it would result in harm to the significance of the SNCA, including the potential loss of a tree of value, which is not outweighed by public benefits. It would therefore conflict with the development plan read as a whole.
35. Having had regard to all relevant material considerations, it has not been demonstrated that there are any of sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. The appeal is therefore dismissed.

Hannah Guest

INSPECTOR