



Appeal Decision

Site visit made on 24 October 2023

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2023

Appeal Ref: APP/L5240/W/23/3319511

**Land and Premises Rear of 16 Green Lane, Fronting Carolina Road,
Thornton Heath CR7 8BB**

- 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 F Raymond of Denham International against the decision of the Council of the London Borough of Croydon.
 - The application Ref 22/00037/FUL, dated 15 February 2022, was refused by notice dated 30 September 2022.
 - The development proposed is alterations to existing building fronting Green Lane, Removal of rear structures and erection of a Part 2 / Part 3 storey building on land to the rear of 16 Green Lane (Facing Carolina Road) to provide 5 No self-contained dwellings consisting of 3 bedrooms and rear first floor amenity areas. Provision of associated cycle storage enclosure facing Carolina Road, and provision of associated refuse storage
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant has provided a unilateral undertaking which includes a contribution to sustainable transport. I have had regard to this in reaching my decision.

Main Issues

3. The main issues are:
 - The protection of employment land;
 - The effect on the character and appearance of the area;
 - The living conditions of nearby residents with regards to light, privacy and outlook;
 - The living conditions of future residents with regards to light, outlook and ceiling heights;
 - Accessible housing;
 - Vehicle parking;
 - Waste storage; and

- Sustainable drainage.

Reasons

Employment Land

4. In accordance with Policy SP3.2 of the Croydon Local Plan 2018 (the Local Plan), the Council has adopted a '4-Tier' approach to the retention and redevelopment of land and premises relating to employment activity. As set out in Table 5.1 of the Local Plan, Tier-4 consists of scattered employment sites, including employment generating sui-generis uses. The appeal site includes an open air hand car wash to the rear, and as such is an employment generating use.
5. Table 5.1 specifies that planning permission or limited residential development will be granted if it can be demonstrated that there is no demand for the existing premises or for a scheme comprised solely of the permitted uses. The proposal would retain a ground floor shop to the front, but would result in the loss of the car wash which is an employment generating sui-generis use.
6. The supporting text for Policy SP3 sets out that a marketing exercise including active promotion should be undertaken for at least 18 months at a price commensurate with the value of the site for its permitted uses.
7. The appellant has provided letters from a property consultant which refer to matters including a lack of demand for an open yard of this nature and the secondary location of the site away from the retail frontage. Reference has also been made to informal promotion of the site. However, these do not represent a marketing exercise of the form referred to in the development plan. Although this marketing exercise may be referred to in the supporting text rather than actual policy, this approach is a robust method of determining if the site can be retained for an employment use.
8. The use as a car wash would be of a different nature to an industrial or warehouse use, although the 'permitted uses' section of Table 5.1 specifically includes employment generating sui-generis uses. The appellant also indicates that the car wash employed 8 people at most. However, the level of employment generated by the car wash is appropriate for the scale of the site, and I am not persuaded that an industrial or warehousing use would generate significantly more employment. Therefore, even allowing for the nature of the permitted use, this should not be given less weight as an employment generating use compared to industrial or warehousing sites.
9. A further criterion in Table 5.1 is that the residential development should not harm the wider location's business function. The area is predominantly residential in character albeit with a small commercial centre on Green Lane. Although the proposal would result in the loss of an employment use on the site of the car wash, it would not harm the wider location's business function. However, this matter does not negate the requirement to demonstrate a lack of demand for the premises as an employment generating use.
10. In the absence of a robust marketing exercise to demonstrate that there is no demand for a permitted employment use, the proposal would lead to an unacceptable loss of employment land. It has therefore not been demonstrated that the redevelopment of the employment generating sui-generis use would accord with Policy SP3 and Table 5.1 of the Local Plan.

Character and Appearance

11. The appeal site is set behind commercial buildings along Green Lane, and would be primarily viewed within the context of the suburban residential area of Carolina Road.
12. The building line along this side of Carolina Road is well-defined, where dwellings are set back from the edge of the highway behind front gardens. Although buildings on corner plots may project beyond a building line, such as on the site opposite, the new dwellings do not project to the corner of the junction and are set behind No 16. Although the means of enclosure around the site project to the edge of the footpath, this is only at ground floor level and the building line of No 16 reflects the established streetscape along Carolina Road. The projection of the proposal beyond this building line would lead to an overdominant and enclosing feature in views along the streetscape.
13. Due to the degree of projection and the design of the proposed roofs, the new dwellings would have a particularly jarring relationship with the adjoining building of No 16. The gable roof would also not reflect the hipped roof design of dwellings along Carolina Road. The overhang of the upper floors of the proposal to the front of the site would add to its incongruous appearance.
14. The proposed bin stores located to the front of the dwellings would add clutter to the streetscape and would exacerbate the cramped appearance of the development. The proposed cycle store to the side of No 16 would also be an obtrusive feature in a particularly prominent location near the junction, and which would not sit comfortably either in relation to No 16 or the building line of the proposed dwellings.
15. The variations in window design on the main front elevation of the dwellings are poorly thought out, and would add to the incongruous appearance of the proposal. The provision of screens on the first floor terraces to the rear would also be a discordant feature, although I acknowledge that they would not be readily visible from the public realm.
16. The new dwellings would be lower than the total height of No 16, and the 3-storey dwellings would reflect the height of nearby dwellings on Carolina Road. But this would not be sufficient to mitigate for the unfortunate relationship with No 16 and the wider building line, and the cramped appearance of the development within the boundaries of the site.
17. The use of brick would reflect the materials used for the adjoining buildings on Green Lane, and would not be unduly out of character even allowing for the rendered facades on Carolina Road. The proposed use of yellow stock bricks would not reflect the character of the area, though this could be addressed by a condition regarding materials, which could also address the proposed roofing material.
18. Notwithstanding my conclusion in respect of materials, I conclude that the proposal would lead to significant harm to the character and appearance of the area due to its layout, massing and design. The proposal would therefore be contrary to the design and character requirements of Policies DM10 and SP4.1 of the Local Plan and Policies D3 and D4 of the London Plan 2021.

Living Conditions of Nearby Residents

19. The appeal proposal would introduce a 2-storey gable wall in close proximity to the side of 1 Carolina Road. There is a window in the side elevation of No 1 which the evidence suggests serves a bedroom. Due to the proximity and arrangement of the appeal site and No 1, the proposal would be likely to lead to an unacceptable loss of light to the side window as well as an overbearing relationship. This would lead to significant harm to the levels of light and outlook that residents of No 1 could reasonably expect. The appellant has provided no substantive evidence to demonstrate that the Council's concerns on this matter are unfounded.
20. The proposed dwellings would face onto flats on the opposite side of Carolina Road. A degree of overlooking is to be expected between front elevations facing the highway. However, due to the projection of the proposed dwellings towards the edge of the footpath, this would be likely to lead to an intrusive degree of overlooking into the windows of the flats opposite, particularly in respect of the views from the second floor windows of the proposal.
21. Based on evidence provided by the appellant, the Council now accepts that the proposal would not harm the living conditions of residents of 18 Green Lane. However, this does not negate the harm I have identified in respect of other nearby properties.
22. Notwithstanding my conclusions in respect of No 18, I conclude that the proposal would lead to significant harm to the residents of No 1 in respect of loss of light and outlook, and to the residents of the flats opposite in respect of loss of privacy. The proposal would therefore be contrary to the well-being and amenity requirements of Policies SP4 and DM10 of the Local Plan and Policy D3 of the London Plan.

Living Conditions of Future Residents

23. The ground floor of the proposed dwellings would have a single aspect. Due to the depth of the accommodation on the ground floor, this is likely to lead to a gloomy environment in the part of the accommodation to the rear. The overhanging element of the proposed front elevations would also reduce the amount of light entering this room. A skylight is proposed which would serve the kitchen and dining area, but the skylight itself would be overshadowed by the proposed buildings. I therefore consider that the Council's concerns on this matter are well founded, and the appellant has provided no substantive evidence to demonstrate otherwise.
24. The single aspect of the ground floor accommodation and the proposed overhanging structure would also lead to an oppressive outlook and environment for occupants on the ground floor.
25. The proposal would also fail to comply with the ceiling heights specified in the Nationally Described Space Standard (NDSS) and Policy D6 of the London Plan. As set out in the supporting text of the London Plan, this ceiling height is required to address matters of ventilation and spaciousness as well as light. The appellant contends that the shortfall is marginal, but I am mindful that the specified ceiling height is a minimum policy requirement. Given the concerns identified in respect of the poor quality accommodation on the ground floor, the

substandard ceiling heights would lead to a cramped and oppressive environment for residents.

26. The appellant considers that the upper floors of the dwellings would be dual aspect, but consideration of this matter does not lead me to a different conclusion on the harm I have identified.
27. I therefore conclude that the proposal would lead to significant harm to the living conditions of future residents in respect of light, outlook and ceiling heights. The proposal would therefore be contrary to the amenity and housing quality requirements of Policies D3 and D6 of the London Plan, and Policies SP2.8 and DM10 of the Local Plan. The proposal would also be contrary to the standards of the NDSS.

Accessible Housing

28. Policy D7 of the London Plan requires 10% of dwellings in residential developments to meet Building Regulations requirement M4(3) 'wheelchair user dwellings'. However, Paragraph 3.7.6 of the London Plan provides some flexibility to the requirements of Policy D7 on specific small scale infill sites such as the appeal proposal. I am mindful that a single dwelling on the site would be 20% of the proposed provision and that the constraints of the site are such that M4(3) compliance may be unduly onerous. On that basis, I conclude that the proposal would not conflict with Policy D7 of the London Plan in respect of wheelchair user dwellings insofar as it is relevant to small housing sites.
29. Policy D7 of the London Plan also requires all other dwellings to meet Building Regulations requirement M4(2) 'accessible and adaptable dwellings'. The Council refers to the widths of doorways, but it has not set out why this could not be addressed by condition. Subject to an appropriate planning condition, I conclude that the proposal would comply with Policy D7 of the London Plan in respect of the provision of accessible and adaptable dwellings.
30. For the above reasons, the proposal would also comply with Policy D5 of the London Plan in respect of inclusive design.

Vehicle Parking

31. The proposal would include no on-site car parking provision. The availability of on-street parking spaces in the vicinity of the site was very limited at the time of my visit, and I am mindful that I visited the site during the day whereas the peak demand for parking in this residential area would be during the evening and at weekends.
32. The appellant has submitted a parking stress survey which identifies an average occupancy level of 78.85%, which it considers provides capacity for further parking in the area. However, the Council has expressed concerns in respect of this survey, including the lack of measured maps to verify the number of spaces, the excessive extent of the area surveyed, and a lack of consideration of committed developments. On the basis of the evidence before me, the parking stress survey does not represent a robust assessment of parking capacity in this area.
33. The appeal site has a PTAL (public transport accessibility level) rating of 2, which reflects poor access to public transport. The appellant refers to the

proximity of train stations and bus services, as well as shops and services in the nearby neighbourhood centre. However, even given the matters referred to by the appellant, there is no certainty that residents of the proposed dwellings would not own a car.

34. Based on what I have seen and read, it has not been demonstrated that on-street parking provision in the area is capable of absorbing the increase in parking demand generated by the proposal. This would lead to an unacceptable impact on the highway network due to an increase in parking stress and reduce access to parking that residents could reasonably expect. The proposal would therefore be contrary to the parking and transport impact considerations of Policy DM30 of the Local Plan as well as Policies T4 and T6 of the London Plan.

Waste Storage

35. Bin storage would be provided to the front of each dwelling. Based on the evidence before me, the stores as indicated on the submitted plans would not be sufficient to house the number of refuse bins required by the Council. The appellant contends that this is a matter of detail, and that there is sufficient space for increased storage should this be required.
36. However, the space to the front of the dwellings is limited and the bin stores are located in a prominent position next to the pavement. Although it may be possible to provide increased storage, this would be likely to lead to an unacceptably cluttered and cramped appearance for the main façade of the development.
37. The Council also requires a minimum area of 10sqm for the temporary storage of waste, including bulky waste. The submitted plans do not indicate that such an area could be provided, even if this were required by a condition.
38. I therefore conclude that the proposal would not include suitable provision for waste storage, including refuse, recycling and bulky waste. The proposal would therefore be contrary to the design, refuse and recycling facility requirements of Policies DM10 and DM13 of the Local Plan.

Sustainable Drainage

39. The appeal site is located within Flood Zone 1, but there are areas within the immediate vicinity of the site with a medium to high risk of surface water flooding. Much, if not all, of the site is covered by hardstanding or built development, and the site currently makes no provision for sustainable drainage measures.
40. On that basis, there is potential for the development to contribute to sustainable drainage, including measures which would reduce the volume and speed of rainwater discharged from the site. However, although reference is made to the use of permeable paving, limited evidence has been provided with regard to the forms of sustainable drainage that could be provided given the constraints of the site. Although it may be possible to require some details by condition, the limited evidence provided regarding sustainable drainage does not demonstrate that this condition would be effective in ensuring that suitable measures are provided to attenuate or mitigate surface water flooding.
41. I therefore conclude that insufficient evidence has been provided to demonstrate that the proposal would make suitable provision in respect of

sustainable drainage. The proposal would therefore be contrary to Policies SI 12 and SI 13 of the London Plan and Policies SP6.4 and DM25 of the Local Plan in respect of flood risk management and sustainable drainage.

Other Matters

42. I am mindful of the benefits of the development. The proposal would contribute to the supply and mix of family housing in this area, and small windfall housing developments can make a valuable contribution to housing land supply. However, given the Council's housing land supply position this carries no more than moderate weight in favour of the proposal.
43. The proposal would also bring vacant previously developed land back into a productive use, although it has not been demonstrated that the site is not attractive to another employment generating use. The introduction of a replacement employment use could also address the unkempt and unsightly appearance of the site. The proposal would also make a financial contribution to sustainable transport, although this would primarily mitigate the impacts from the development itself. These matters therefore carry only limited weight in favour of the proposal.

Conclusion

44. Notwithstanding my conclusions in respect of accessible housing, the proposal would lead to significant harm in respect of character and appearance, the living conditions of future and nearby residents, and on-street car parking; and would not make suitable provision in respect of waste storage and sustainable drainage. The proposal would therefore conflict with the development plan when read as a whole in respect of design, amenity, parking and sustainable drainage matters.
45. There are no material considerations of such weight that indicate that the proposal should be determined other than in accordance with the development plan.
46. The appeal should therefore be dismissed.

David Cross

INSPECTOR