The Planning Inspectorate

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/23/3317279
42 Estcourt Road, South Norwood, Croydon, London SE25 4SD

- 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 Mrs Joss Miller against the decision of the Council of the London Borough of Croydon.
- The application Ref 22/02494/FUL, dated 11 June 2022, was refused by notice dated 31 August 2022.
- The development proposed is the conversion of No.42 including loft conversion, and construction of 6 x 2 bed residential apartments across site frontage.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the appeal documents, the appellant has submitted amended plans which are materially different from the plans on which the Council made its decision in a number of respects, including elevated accesses and spiral staircases projecting to the rear as well as the layout of external amenity space. The planning appeals procedural guide[1] makes it clear that the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the Council and by interested parties at the application stage.

3. Having regard to the principles established in *Holborn Studios Ltd*[2], the proposal as shown on the amended plans is substantially different to what was considered by the Council when it made its decision. Therefore, in the interests of fairness, this appeal must be determined based on the plans on which the Council made its decision, and which have been subject to consultation. To do otherwise could unacceptably prejudice the interests of other parties.

Application for Costs

4. An application for costs was made by Mrs Joss Miller against the Council of the London Borough of Croydon. This application is the subject of a separate Decision.

[1] Procedural Guide: Planning Appeals – England 2023
[2] Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

Main Issues

5. The main issues are the effect of the proposal on:

- The supply of small family housing;
- The character and appearance of the area;
- The living conditions of future residents in respect of external amenity space;
- On-street parking and highway safety; and
- Fire safety.

Reasons

Small Family Housing

6. Policy DM1.2 of the Croydon Local Plan 2018 (the Local Plan) states that the Council will permit the redevelopment of residential units where it does not result in the net loss of 3 bedroom homes (as originally built) or the loss of homes smaller than 130m^2. This is in response to an identified need for 3-bedroom homes in the Council's area, and an intention to ensure that development does not reduce provision of this form of dwelling. The proposal would not include the provision of 3-bedroom homes, and the Council considers it conflicts with Policy DM1.2.

7. However, the submitted plans and the planning application form specify that the existing dwelling has a Gross Internal Floor Area (GIA) of approximately 150m^2 and 4 bedrooms, albeit with 1 of the bedrooms being a small single bedroom. This reflects my observations on my visit.

8. The master bedroom and a living room on the ground floor are located in part of the dwelling which has some characteristics of a side extension, including a step down in the ridge of the roof and its projection along only part of the side elevation. However, the appellant has specified that this part of the dwelling was constructed as part of the original building in the 1950s and has referred to supporting evidence from relatively recent alterations to the property, the uniformity of roofing materials and comments from the previous owner.

9. Conversely, the Council contends that the dwelling was originally a 3 bedroom property, and has provided plans from the 1930s which it considers indicate that a 2-storey extension was constructed to the side of a host building. However, the plans provided by the Council do not reflect the current circumstances of the site, including the design and location of windows, the roof design of the alleged extension, and the internal layout of the dwelling. Even allowing for the potential for subsequent alterations to the building, the discrepancies in the plans provided by the Council undermine the weight I can give them as conclusive proof that the element to the side of the dwelling is an extension to the original building. Similarly, I am not persuaded that the Council's plans show the whole building as originally constructed.

10. Based on what I have seen and read, I conclude that the dwelling as originally built was a 4-bedroom property and had a GIA in excess of 130m^2. The proposal would therefore not conflict with Policy DM1.2 of the Local Plan with regard to the supply of small family housing.

Character and Appearance

11. The appeal site consists of an end-terrace property with a garden projecting to the rear. Although there is some variation in the designs of dwellings within this and neighbouring terraces, the rear elevations of dwellings within them are of an understated residential character. At first floor level, the rear elevations of the dwellings have a relatively unaltered appearance and a consistent building line.

12. It is proposed to provide external amenity areas on roof terraces to the rear of the proposed flats at first floor level. Due to their design, projection and privacy screening these roof terraces would appear as incongruous features to the rear of the flats in contrast to the relatively consistent and understated form of nearby dwellings at first floor level. This obtrusive appearance would be apparent from the rear gardens of nearby dwellings as well as from a tram line to the rear of the site.

13. The appellant refers to balconies provided on blocks of flats in the surrounding area. However, these flats do not represent a direct parallel to the appeal proposal as they are located on self-contained sites which are purpose built as flats, rather than an infill development within terraces as is the case with the appeal proposal. The examples referred to by the appellant do not therefore lead me to a different conclusion on the harmful impact of the proposed roof terraces within the particular circumstances of the appeal site and its context.

14. I conclude that, due to their location and design, the rear roof terraces of the proposal would lead to significant harm to the character and appearance of the area. The proposal would therefore be contrary to the design and character requirements of Policy DM10 of the Local Plan and Policies D3 and D4 of the London Plan 2021.

External Amenity Space

15. An extent of communal play space would be required by Policy 10.4(d) of the Local Plan which applies to all flatted development. The proposal would provide no communal play space and therefore conflicts with this Policy.

16. The appellant refers to public open space in the vicinity of the site, but this would not provide the same level of convenience and supervision as on-site amenity space and would therefore not be suitable compensation for the lack of on-site provision.

17. Reference is also made to other flatted developments which include none or minimal communal play space. However, it has not been demonstrated that these developments were permitted under the development plan policies that apply to the appeal site, and a lack of provision elsewhere does not therefore lead me to a different conclusion in respect of the policies that apply to the appeal before me.

18. The amended plans submitted by the appellant indicate that communal play space could be provided within the site. But for the reasons stated previously I consider that these amended plans go beyond what could be considered to be a minor amendment to the proposal and I have therefore not had regard to them in my consideration of this appeal.

19. The Council also expresses concern about the screening required for the roof terraces which would be detrimental to the living conditions of future residents of the upper flats. However, the screening could be reduced in a manner which would not harm the privacy of adjoining residents due to the degree of separation from the roof terraces and the relationship with rear gardens. Subject to such screening being secured by condition, I consider that the amenity space provided by the rear terraces would provide a suitable level of amenity for residents.

20. Notwithstanding my conclusion in respect of the proposed roof terraces, the lack of communal play space would mean that the proposal conflicts with the amenity space and housing quality requirements of Policy 10.4 of the Local Plan and Policy D6 of the London Plan.

Parking

21. The appeal proposal would make no provision for off-street parking, and would result in the loss of 2 off-street spaces which serve the extant site.

22. The appellant has submitted an on-street parking survey which identifies that on-street parking is at high stress. The availability of on-street parking spaces in the surrounding area 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.

23. The proposal is in a location with good access to public transport. However, although this may reduce the reliance of residents on the private car, there is no certainty that residents would not own a car. It has also not been demonstrated that there is a mechanism to limit the number of cars owned by residents.

24. The removal of a dropped kerb crossing would make further space available for on-street parking, but this would not be sufficient to compensate for the increase in parking demand likely to arise from the proposal.

25. I note the comments of the appellant and the Council in respect of the use of maximum parking standards as opposed to minimum standards. However, whilst that may be the case, this does not negate the harm arising from the existing levels of parking stress in this area and the extra parking demand generated by the appeal proposal.

26. The appellant refers to a previous planning permission[3] at the site which contained the same number of bedrooms as the appeal proposal. However, the evidence suggests that this previous permission related to a total of 3 dwellings (including No 42) rather than the 6 dwellings in the appeal before me. Given the opportunity for residents within the same household to share vehicles, I do not consider that the previous planning permission would lead to the same level of parking demand as the appeal proposal.

27. Based on what I have seen and read, the proposal would lead to an unacceptable increase in the existing high stress parking pressure in the area. This would be likely to result in inconsiderate parking and associated vehicle manoeuvres to the detriment of highway safety, and reduce access to parking that nearby residents could reasonably expect.

[3] Ref 22/00152/FUL

28. I therefore conclude that the proposal would not make suitable provision for the parking of vehicles and would result in an unacceptable impact on access to vehicle parking and highway safety. The proposal would therefore be contrary to the parking and transport impact considerations of Policies DM29 and DM30 of the Local Plan and Policy T4 of the London Plan.

Fire Safety

29. The appellant has submitted a Fire Safety Report (FSR) with the appeal documents. The Council has expressed concern that the FSR does not refer to the specific requirements of Policy D12 of the London Plan. However, although the Council refer to the relationship of the appeal proposal to the site boundaries and tram line to the rear as well as means of escape for upper floor residents, it has not identified any specific concerns as to why the appeal proposal would be inadequate in terms of fire safety given the detailed consideration of the Building Regulations within the FSR.

30. Based on the evidence before me, including the FSR, I conclude that the appellant has provided sufficient evidence to demonstrate that the proposal would achieve the highest standards of fire safety, and on that basis the proposal would comply with Policy D12 of the London Plan.

Conclusion

31. Notwithstanding my conclusions in respect of housing supply, the living conditions of residents regarding roof terraces, and fire safety; I conclude that the proposal would lead to significant harm in respect of character and appearance, the living conditions of residents in respect of communal amenity space, and parking provision and highway safety. The proposal would therefore conflict with the development plan when read as a whole in respect of design, amenity and parking provision.

32. I therefore conclude that the appeal should be dismissed.

David Cross

INSPECTOR