



Appeal Decision

Site visit made on 2 November 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th November 2023

Appeal Ref: APP/L5240/W/23/3321427

2 Abbots Lane, Kenley, Croydon CR8 5JH

- 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 Hill of South and Seventeen Ltd against the decision of London Borough of Croydon Council.
 - The application Ref 22/03282/FUL, dated 3 August 2022, was refused by notice dated 23 December 2022.
 - The development proposed is demolition of existing detached dwelling and redevelopment of the site to provide new residential accommodation, with associated landscaping, refuse storage, cycle and car parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A draft Unilateral Undertaking has been submitted with the appeal (the UU). Additional drawings have also been included among the appeal documents which demonstrate amendments to the layout of some houses and the point of access. The Council have had the opportunity to comment on these plans and, as they represent small scale changes to the development, I have taken them into account in the determination of the appeal.
3. Following its assessment of the information submitted with the appeal, the Council has confirmed that the fifth reason for refusal, relating to effects on protected trees, has effectively been addressed subject to the imposition of relevant conditions. As this matter is no longer in dispute, I have not included it as a main issue.

Main Issues

4. The main issues are:
 - The effects of the proposal on the character and appearance of the area;
 - Whether the proposal would be acceptable in terms of its accessibility;
 - Effects on highway safety, with particular regard to parking provision, site access and sight lines, as well as cycle and refuse arrangements;
 - Effects on sustainable transport measures.

Reasons

Character and Appearance

5. The area surrounding the appeal site comprises predominantly detached properties set within generous plots and set back from the road. Properties in the area vary significantly in their scale and appearance, demonstrating a variety of materials and architectural styles. Front gardens include soft landscaping and mature trees, often with extensive canopies. Together these attributes contribute positively to a spacious and verdant character in the area. The Council refer to the Borough Character Appraisal 2015, which acknowledges the suburban area with green wooded hillsides and the predominant residential character types comprising detached houses on relatively large plots. There are some exceptions to this prevailing character close to the appeal site, including developments at 8 and 12 Abbots Lane, which I return to below.
6. The appeal site slopes steeply from its high western edge to the road. The existing bungalow is set towards the front of the site but set back from the road behind a front garden and hedging, and is set in from the side boundaries. The appeal scheme would introduce a row of three, two storey terraced houses in a similar position to the existing bungalow, behind an extensive area of hard surfacing and parking. The verticality of the front elevations would emphasise the subdivision of the plot into more narrow housing units and together with the hard surfacing and associated paraphernalia to the front, including parking spaces, retaining walls, ramps and bin stores, would result in the loss of the green and spacious character at the front of the site. As a result of these features the development would appear in stark contrast with the prevailing character of the surrounding area. The proposed planting around the front of the site would be limited due to the size of the areas available, and would not adequately mitigate for, or lessen, the visual harm which would arise.
7. I acknowledge that the proposal for the front of the site draws on the recently completed development at 8 Abbots Lane, which appears visually prominent by reason of its scale and hard surfacing. The Council comment that this development had an earlier extant permission and that it was determined while the Council's Suburban Design Guide was a consideration, before it was revoked. It is reported that this document encouraged the evolution of the suburbs and intensification. Nonetheless, the development at no.8 now forms part of the streetscape of Abbots Lane. However, it clearly appears as an outlier and very different to the prevailing character. For these reasons taken together, I do not consider that it provides a justification for the further dilution of the positive attributes of the area's character. The circumstances surrounding 12 Abbots Lane would also appear to be substantially different, given the smaller plot size and the presence of other developments immediately behind it which already dissected the generous sized plots.
8. Turning to the proposed housing behind the front terrace, these would be interlinked and set in an L-shape around a communal garden and pathways. This is a pattern of development which is not characteristic of the surrounding area, and would significantly undermine its spacious qualities. While there are some examples of backland development in the wider area, including those on Welcomes Road as evidenced by the appellant, these are more traditional cul-de-sac typologies and generally appear to retain spacious qualities around the buildings. Welcomes Road also displays a different character with a stronger sense of enclosure, which would give rise to different visual effects.

9. While the proposed dwellings would be distinctly contemporary in their appearance, given the varied character of properties in the area I do not consider that the proposed design approach alone results in visual harm. The proposed pitched roofs of the front terrace would be adequately respectful of the surrounding roof forms.
10. In conclusion on this main issue, for the reasons given, the proposal would cause harm to the character and appearance of the area. The proposal would conflict with policies SP4 and DM10 of the Croydon Local Plan 2018 (the CLP) which require, among other things, that development respects and enhances Croydon's varied local character and contributes positively to landscape and townscape.
11. Insofar as this main issue is concerned and in the absence of evidence to the contrary, I do not find conflict with Policy D4 of the London Plan 2021 (the LP), which relates to how Council's should consider design issues.

Accessibility

12. Policy D7 of the LP requires relevant dwellings to meet Building Regulations requirement M4(2) and the supporting text sets out that many households require accessible or adapted housing to lead dignified and independent lives. It also describes that to comply with requirement M4(2), step-free access into the dwellings must be provided, and it gives circumstances where some flexibility may be applied. The access to the houses at the rear of the site would be via two sets of external steps with landing between and each served by an external platform lift. Individually, the vertical travel distance for each lift would be less than the maximum set out in the Building Regulations.
13. However, there would be no alternatives if one of the lifts were to stop working and the use of two lifts would very likely be cumbersome for future occupants, particularly during inclement weather and while waiting for the lifts to reach the required positions. In combination, this would result in the route to the properties at the back being unattractive to a variety of users, including those with pushchairs, older residents or those with reduced mobility, whether living on the site or visiting future occupants. There would also be parts of the site which would not be accessible to those with mobility issues, in particular the central communal garden.
14. The parts of the Building Regulations referred to by the appellant relate to the use of platform lifts in buildings other than dwellings, and to circulation within buildings, rather than outside them. As such this does not provide assurances that the proposed arrangements would be acceptable. While the layouts of most of the proposed houses would meet Part M4(2), this would not compensate for the lack of appropriate access to those at the back of the site. Given this matter is fundamental to the site layout here, it would not be reasonable to secure details by condition if the appeal were otherwise acceptable.
15. The proposal would not provide appropriate access to the dwellings at the back of the site, contrary to Policy D7 of the LP set out above. It would also conflict with LP Policy D5 and CLP Policy SP2 insofar as they relate to creation of inclusive neighbourhoods and meeting the needs of residents over a lifetime.

Highway Safety

16. Amended drawings have been submitted with the appeal to demonstrate that the site access on to the highway could be amended accordingly. However, while visibility splays could be improved by these amendments, it remains unclear what level of visibility would result or whether this would meet the required standard. Neither is there substantive evidence to demonstrate that the gradients of the access would be acceptable to facilitate the required visibility or safe exit from the site. While there are two existing accesses to the appeal site and these may not have caused accidents, the nature and use of the proposed access would be notably different. As such the existing circumstances do not provide reassurances that the proposal would be acceptable.
17. Small delivery vehicles would need to use the highway outside the site rather than accessing the site itself. Even if infrequent, this would add to the convoluted route through the site that delivery drivers would need to use, particularly to access those houses at the back of the site, which could take an extended period of time while stopped on the highway. This would be contrary to Policy T7 of the LP, which requires proposals to facilitate efficient deliveries and servicing, with adequate provision made off-street.
18. In respect of parking, the site has a Public Transport Accessibility Level (PTAL) of 1b, which indicates poor access to public transport. However, public transport and some local facilities are available around Godstone Road to the north, albeit the pedestrian routes to reach them vary in their condition and gradients. Accordingly, the LP sets a maximum parking provision of 1.5 spaces per each of the proposed dwellings, which would equate to nine spaces for the proposal as a whole. The proposal would provide 8 spaces including one accessible space and the Council suggest the maximum provision should be achieved.
19. Even if some additional on street parking were to occur as a result of the proposal, this is likely to be minimal. Parking is largely unrestricted on this part of Abbots Lane and, while it was only a snap shot of time during the day, at the time of my site visit there were ample opportunities for on street parking within a short walk of the site. There is not strong evidence to suggest this is not characteristic of other times of day. For these reasons, there is not evidence that the proposal would cause harm to local parking conditions nor to highway safety through its parking effects. For these reasons, the proposed level of parking would be compliant with the relevant standards and local plan policies.
20. With regard to cycling infrastructure, the appellant has demonstrated that additional cycle parking stands could be accommodated at the rear of the site and that the external staircases could accommodate a cycle ramp. On this basis I am satisfied that an appropriate solution to cycle parking exists.
21. Refuse storage is proposed close to the highway at the front of the site and this is a significant distance from those properties at the back of the site, and separated by the proposed two sets of steps. Despite the shortcomings of the refuse storage details, given the size of the site and based on the evidence it is likely that an appropriate solution could reasonably be achieved by condition if the proposal were otherwise acceptable.
22. In conclusion on this main issue, the proposal would have unacceptable effects on highway safety in terms of the safety of its access and its servicing arrangements. The proposal would conflict with policies T4 and T7 of the LP,

which require developments not to increase road danger and facilitate efficient deliveries.

23. For the reasons set out above, insofar as this main issue is concerned, there would not be conflict with CLP policies DM30, DM29, DM13 or SP8, nor with LP policies T4, T5 and T6 where they relate to matters of parking, cycling, refuse arrangements and sustainable transport.

Sustainable Transport Measures

24. The Council report that the development should make a financial contribution of £2,000 per unit towards improvements to sustainable transport, to comply with CLP Policy SP8.13. This obligation should be considered in light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 and in the Framework. Regulation 122 states that an obligation may only constitute a reason for granting planning permission if it meets the tests.
25. While the policy supports the collection of a contribution for this purpose and this approach has been upheld in the High Court, there is not evidence as to how the contribution has been calculated. As such I cannot be satisfied that it would be fairly and reasonably related in scale and kind to the development. Consequently, even though a completed legal agreement has not been provided, the financial contribution would not meet the relevant tests for a planning obligation. As such, the absence of a completed agreement does not weigh against the development.

Other Matters

26. The draft UU also contains obligations relating to parking permit eligibility and monitoring fees. However, as the agreement is not complete, and as the appeal is being dismissed for other reasons, I have not considered these matters further.
27. The proposal would contribute units of family accommodation to the Borough's housing stock and would contribute towards the national objective to boost the supply of homes. While this weighs in favour of the development it would not outweigh the harms identified above and the conflict with the development plan.
28. Where the proposal has been found to be policy compliant in other respects, including its quality of accommodation and effects on neighbouring amenity, these are neutral matters and do not weigh in favour of the scheme.

Conclusion

29. With the above in mind, there are no material considerations that are worthy of sufficient weight that would indicate a decision other than in accordance with the development plan. The appeal is therefore dismissed.

C Shearing

INSPECTOR