



Appeal Decision

Site visit made on 17 October 2023

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2023

Appeal Ref: APP/L5240/W/23/3316934

Land to the rear of 130 Brighton Road, Coulsdon CR5 2ND

- 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 Woodgreen Ventures Ltd against the decision of the Council of the London Borough of Croydon.
 - The application Ref 22/00143/FUL, dated 12 January 2022, was refused by notice dated 19 August 2022.
 - The development proposed is the creation of a single residential dwelling (C3 use) and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The fourth reason for refusal relates to the failure to provide adequate cycle storage provision for future occupiers. The appellant has since provided details of the proposed cycle store and the Council has confirmed that this overcomes this reason for refusal, and I have no basis to disagree. Therefore, my decision is based on the outstanding issues in the remaining reasons for refusal.
3. The submitted plans do not show obscure glazing to the rear windows. The appellant's Planning Statement refers to a potential condition for this and the issue of obscure glazing is also referred to in other appeal documents. I have dealt with the appeal based on the submitted plans but consider that potential option for an obscure glazing condition in my decision below.
4. There are references to previous and subsequent planning applications for residential development of the site (planning application refs 21/02288/FUL and 23/02353/FUL), but I must determine the proposal on its merits based on the plans before me.
5. The appellant's general dissatisfaction with the Council's approach and their interactions with the Council during the application process is a matter between those parties and it cannot have any bearing on my determination of this appeal.

Main Issues

6. The main issues are:
 - the effect of the proposed development on the living conditions of the occupiers of neighbouring properties, and whether acceptable living conditions would be provided for future occupiers, with particular regard to privacy; and

- whether adequate waste storage would be provided.

Reasons

Living conditions

7. The site comprises a disused, backland area accessed from a service road to the rear of Brighton Road. Much of it is set down from the road, sandwiched between existing ground floor extensions on the adjoining properties. The host property at No 130 Brighton Road (No 130) has a bakery on the lower levels with a ground floor rear extension and a dwelling on the first and second floors above. The wall of a commercial building lies on the opposite side of the service road, next to which is a three-storey block of flats.
8. The dual aspect dwelling would have a different profile and levels to the host building and the flat at No 130 has no access to an outside terrace. Whilst the London Housing Supplementary Planning Guidance 2016 is not intended to be adhered to rigidly and can sometimes limit housing types and restrict density, it refers to a minimum separation distance of 18-21m between habitable rooms as a useful yardstick for visual privacy. Despite the height difference between the windows in the existing building and the proposed house, the small separation distance between them would cause harmful overlooking by looking up from the proposed rear bedroom and down from the existing rear kitchen and bedroom in the flat at No 130.
9. The appellant would accept a condition requiring obscure glazed first floor rear windows which would address overlooking issues between the proposed and host dwellings. The box rear bedroom window would have a clear glazed top, bottom and sides and the room would be sufficiently lit. However, whilst there is a poor rear outlook, an obscure glazed main window to this large, second bedroom would create an oppressive environment. As this would not provide satisfactory living conditions for the future occupiers, it would not be reasonable to impose such a condition.
10. The existing residents of the host dwelling do not object to the proposal. However, the occupiers of this property will inevitably change over time whereas the development would be permanent and would result in inadequate privacy for the occupiers of this flat.
11. The rear obscure glazed bakery window and the existing rear extension would ensure no harmful overlooking from the commercial premises or between the rear rooms in the host dwelling and the proposed kitchen and study. Further, although users of the retained access walkway to No 130 would have views into the proposed rear courtyard and kitchen window, this would only relate to the passing comings and goings from one flat and would not cause unacceptable harm to the privacy of the future occupiers.
12. The angle of the existing flatted development on the opposite side of the service road to the road and the relative position of the proposed front bedroom windows to the flat windows would ensure no harmful loss of privacy to the front facing habitable rooms of the flats or undue overlooking of the proposed front bedroom. Further, the roof profile, set back of the roof terrace and relative position of the proposed building and existing flats would ensure no unacceptable overlooking between those using the proposed terrace and neighbouring habitable rooms.

13. Overall, for the above reasons, I conclude that the proposed development would harm the living conditions of the occupiers of the flat at No 130 and provide unacceptable living conditions for future occupiers, with particular regard to privacy. This would be contrary to Policy D6 of the London Plan 2021 (the London Plan) and Policies SP4 and DM10 of the Croydon Local Plan 2018 (the Local Plan). Together, these require developments to address qualitative aspects including providing privacy for residents, enhance well-being, protect the amenity of occupiers of adjoining buildings, and avoid direct overlooking at close range, amongst other things. It would also conflict with the National Planning Policy Framework (the Framework) which requires decisions to provide a high standard of amenity for existing and future users.

Waste storage

14. Bin stores for the host dwelling and proposed house would be provided in front of the building alongside the service road. There is no need for bin storage provision for the commercial unit at No 130 which does not use the site for this purpose.
15. The bin stores would meet some of the requirements in the Council's Waste and Recycling in Planning Policy Document 2015. However, no provision is made for the required 10sqm bulky waste area so that residents can present large items for collection without causing obstruction to building exits and general waste and recycling bins. Policy DM13 of the Local Plan also requires provision for the temporary storage of bulky waste.
16. The proposed bulk storage area within the dwelling would not have the same function as an external bulky waste area as it would not provide space to present the waste for collection. The appellant suggests a condition relating to waste storage details, but it is not clear how a bulky waste area could be accommodated, so this would not overcome the issue.
17. The separation of the bins from the proposed property and their sporadic use by the residents at No 130 would ensure that their position would not cause harmful overlooking of the occupiers of the proposed living room.
18. Overall, I conclude that inadequate waste storage would be provided. This would be contrary to Policy D6 of the London Plan and Policy DM13 of the Local Plan. Together, these require developments to provide adequate space for the temporary storage of waste (including bulky waste), amongst other things. It would also conflict with the Framework which requires developments to function well and add to the overall quality of the area.

Other Matters

19. The proposal would make more efficient use of poor quality, redundant land and contribute towards the supply of housing on a small, previously developed windfall site in Coulsdon District Centre, with good access to public transport, consistent with local, London and national planning policies. The appellant refers to small sites and overall housing targets in table 4.2 and Policy H1 of the London Plan and to the requirements for windfall units in the Local Plan. However, there is little evidence that the Council is not meeting the needs for housing in its area, including dwellings expected to come forward on small and windfall sites. Therefore, I give limited weight to these factors.

20. The proposal would provide some economic benefits associated with its construction and occupation and would provide inward investment in Coulsdon District Centre. However, as the proposal is for a single dwelling, those benefits would be modest and do not outweigh the harm I have identified.
21. The appellant notes that the development would not affect any heritage assets and the Council did not raise concerns in relation to several matters, including the principle of development, housing mix, character and appearance, internal and external space standards, flood risk and fire safety. There is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. Nevertheless, compliance with the development plan in relation to these matters is a neutral factor.
22. The appellant submitted a signed and dated Unilateral Undertaking (UU) which seeks to prevent future owners and occupiers from obtaining parking permits. Given my findings on the above main issues, it is not necessary for me to consider the issue of parking and I have not consulted the Council on the UU.

Conclusion

23. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

A Wright

INSPECTOR