



Appeal Decision

Site visit made on 31 October 2023

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2023

Appeal Ref: APP/L5240/W/23/3321539

46 The Glade, Croydon CR0 7QD

- 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 All Saints Property Group Ltd against the decision of the Council of the London Borough of Croydon.
 - The application Ref 22/05049/FUL, dated 5 December 2022, was refused by notice dated 30 March 2023.
 - The development proposed is demolition of existing property and construction of 2 no. 3 bedroom houses and 2 no. 2 bedroom houses with parking spaces.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's fourth reason for refusal refers to the absence of a legal agreement for contributions towards sustainable transport initiatives. During the appeal, the appellant submitted a unilateral undertaking (UU), pursuant to section 106 of the Town and Country Planning Act 1990. The Council has been given the opportunity to comment upon the deed and I am satisfied that no party has been prejudiced in this regard.
3. The appellant states that the Council's Supplementary Planning Document *SPD2 Suburban Design Guide* has informed the proposal and acknowledges that this document has been revoked. For the avoidance of doubt, this revoked document has no bearing on my consideration of the appeal.
4. At the time the appeal was submitted, two linked appeals¹ were pending for the appeal site. These linked appeals were subsequently decided in October 2023, and the decision was submitted to the appeal. I accepted this late evidence as it is clearly material to the case before me.

Background and Main Issues

5. The appeal site is the subject of three previously refused schemes, all dismissed on appeal². Each scheme included the demolition of the host property with differences in terms of the number of properties proposed, and other factors such as site layout, property forms and design. Although I am not bound by previous decisions, I consider that my decision is consistent with these previous decisions.
6. Having regard to all of the evidence before me, the main issues are:

¹ APP/L5240/W/22/3305791 and APP/L5240/W/22/3312168 (linked)

² As footnote 1, and APP/L5240/W/22/3295431

- the effect of the proposal upon the character and appearance of the area;
- the effect of the proposal upon the living conditions of neighbouring occupiers, with particular regard to outlook;
- whether the proposal would provide acceptable access for vehicles and cycles; and
- whether the proposal would make adequate provision for any necessary sustainable transport initiatives.

Reasons

Character and appearance

7. The appeal site comprises a modest bungalow and detached garage in a plot that is comparatively larger than its two storey detached neighbours at 44 and 48 The Glade (No.44 and No.48).
8. The appeal site is in a residential area with a wide variety of property forms, predominantly two-storey. The area also includes several short-terraced rows, including a staggered terrace form (47-51 Ham View) adjacent to the rear boundary of the appeal site. Despite this variety, the area feels open and spacious, due to the presence of deep and predominantly open frontages, variations in building lines, deep pavements, grass verges and street trees. Roof forms also vary, but are predominantly hipped, and thus the gaps between built forms at the upper storey level make a positive contribution to the open character of the area.
9. The appeal scheme would result in four dwellings in a staggered terraced formation. The central two dwellings (plots 2 and 3) would be three bedroomed three storey units, and their front elevations would align. The outside terraced forms would be two bedroomed two storey dwellings, with plot 1 sited behind the central pair, and plot 4 sited forward of it. The staggered formation and design of the front elevation of the proposed terrace would include a varied building line and projecting gabled form that would reflect the design of other property forms along The Glade.
10. The height of the proposed terrace would be commensurate with neighbouring built form. Due to its width, and a small gap of about one metre to the side boundaries, the proposed terrace would appear as a wider built form of development than its immediate neighbours, with narrower plots. However, the terrace width and plot depths would not be significantly different to other terraced rows in the area. The depth of the proposed dwellings would be about 15m, comparatively deeper than other properties, but the overall plot ratios would not be unduly discordant to those in the wider area.
11. The proposed hipped roof to the outer plots of the terrace would conform to the predominant roofscape of the area, and that of its immediate neighbours. It would also maintain the characteristic gap between built forms at the upper level, unlike other examples of terraced forms with pitched roofs and narrow gaps elsewhere on The Glade, which detract from the character of the area to some degree. While the proposed roof would include a flat section above the two central dwellings to include proposed pv panels, this would not be unduly discordant.

12. Although the frontage of the proposed terrace would be shallower than that serving the existing bungalow and would include a larger proportion of hardstanding, it would not be significantly different to that serving other property forms in the area. Therefore, it would not appear unduly dominating within the streetscape.
13. The proposed materials include render, light brick and red roof tile, which would be in keeping with the area. There is no compelling evidence before me to demonstrate that render requires considerable maintenance, nor that the use of such materials should be resisted.
14. The proposed front dormers are modest and would be similar in design and scale to others in the area, for example those circa Nos.72-80 The Glade. The proposed windows include stone cils and thus provide some detailing. Furthermore, there is a wide variety of windows within the area in terms of size, proportion and detailing, and thus they would not be particularly divergent.
15. I have considered the evidence of both the appellant and interested parties which seek to demonstrate the character and appearance of the area and its density, as well as my own observations.
16. The representation on behalf of MORA includes an assessment of character and density based on postcode unit. However, this is a very mathematical and formulaic assessment which is not easily read on the ground, as a previous Inspector found. The area of assessment is a section of properties along one side of the street, as a postal delivery worker would experience on a delivery round. Thus, the postcode analysis is for a very small geographic unit which fails to take full account of the character and density of the wider area.
17. There is no compelling evidence before me to demonstrate that in the absence of locally produced design guides or design codes, the National Design Guide and the National Model Design Code have not been taken into account by the main parties, in accordance with paragraph 129 of the National Planning Policy Framework (the Framework).
18. Having regard to all of the above, I am satisfied that the staggered nature and design of the proposed terrace, together with its overall scale, bulk and mass would not appear unduly large, dominant or imposing, nor unsightly. The proposed development would integrate successfully into the immediate and wider townscape and street scene.
19. I therefore conclude that as a whole, the proposed development would not harm the character and appearance of the area. It accords with Policies H2, D4, D8 of the London Plan 2021 (LP) and Policies SP2, SP4 and DM10 of the Croydon Local Plan 2018 (CLP).
20. Taken together, these policies seek to achieve high quality design and place-making; to increase the rate of housing delivery from small sites and provide family housing to meet housing needs; to encourage three storey development; to ensure that development respects and enhances local character and contributes positively to the public realm and townscape; and respects certain factors with regard to the character and appearance of the surrounding area, including (but not limited to) development pattern, siting, scale, massing and appearance.

Living conditions – neighbouring occupiers

21. Due to its depth and siting, the proposed terrace would extend beyond the rear elevations of its immediate neighbours at Nos.44 and 48, whose rear elevations include windows serving habitable rooms.
22. The proposed flank elevation to Plot 4 would extend about 7.1m beyond the rear of No.44, to include about 4.1m of the second storey at a maximum height of about 9m (6m at eaves), and a further 3m serving the single storey sun lounge. Views from the rear windows of No.44 would include a proportion of the two-storey flank wall and the sun lounge. These views would be oblique or peripheral. A '45degree line' demonstrates that a reasonable outlook would be available to the occupiers of No.44.
23. The rear elevation of No.48 includes angled bays and a rear dormer, and its flank and rear elevations are angled away from the appeal site. The flank elevation includes windows at the ground and first floor level which are likely to serve habitable rooms, but they are not of substantial proportions. The siting of the proposed flank elevation to Plot 1 is such that it would begin at a point in line with the corner of No.48's principal elevation and extend beyond it for about 7.5m, to include about 4.5m of the proposed second floor and a further 3m to the proposed sun lounge. The maximum height would also be about 9m (6m to eaves).
24. Views from the side windows of No.48 would thus be direct towards the two-storey flank wall of the proposed terrace. However, this would be at some distance, about 5-6m, increasing towards the rear of the plot. A '45degree line' demonstrates that outlook from rear windows is acceptable, and views are angled away from the appeal site.
25. While the outlook from Nos 44 and 48 would be diminished compared to that experienced at present, the resulting degree of enclosure would not be so significant as to be overbearing or unacceptable, even from within their rear gardens, from which other views would be available.
26. The proposed development would not be a significant visual intrusion to occupiers of 47-51 Ham View, properties on the opposite side of The Glade and other surrounding properties, due to the separation distances.
27. I therefore conclude that the proposed development would not harm the living conditions of neighbouring occupiers, with particular regard to outlook. It accords with Policies DM10 of the CLP and Policies D3 and D6 of the LP. Taken together, these policies seek to ensure that development is of high-quality design that protects the amenities of neighbouring occupiers.

Access

28. Vehicular access is proposed via a 6m crossover, which the Council considers would be difficult for pedestrians to negotiate and to safely stand while vehicles are manoeuvring. In this regard, a crossover of 4.5m with 0.5m ramps either side and a 0.5m ramp for the existing crossover at No.48 is considered appropriate, and I find no reason to consider otherwise.
29. However, a shorter crossover would impact on the swept path analysis. There is no compelling evidence before me to demonstrate that a revised crossover would result in any inability for vehicles to enter and exit the site in forward

- gear or perform parking manoeuvres. From the submissions before me, the main parties agree that these matters could be controlled by condition(s), to include a revised swept path analysis. I find no reason to consider otherwise.
30. The main parties are in dispute regarding access to the cycle parking for future occupiers. Policy T5 of the LP requires development proposals to help remove barriers to cycling and create a healthy environment in which people choose to cycle. It is clear from the explanatory text that the policy relies upon the London Cycling Design Standards (LCDS).
31. The Council also relies upon the Cambridge Residential Cycling Design Guide (the Cambridge Guidance). While this guidance is not referenced within any development plan policy or explanatory text before me, it is referenced within the LCDS. I note that the appellant does not challenge the Council's position that the Cambridge Guidance is considered best practice.
32. In considering the access to cycling parking, I note a discrepancy between the submitted plans. The site and ground floor plan (drawing ref 45E) shows an enclosure line to the side path at the point where it adjoins the corner to the principal elevation of plot 4, but the proposed block plan (drawing ref 51), and indeed other proposed floor plans do not include this feature, suggesting an unenclosed entrance to the side path. Such enclosure is clearly not the intention of the proposal and could be controlled by a condition.
33. The proposed cycle stores would not be closely sited to the entrance of each dwelling, but within their rear private amenity space. Access for plots 2, 3 and 4 would be via a shared side path (the side path) along the full length of the side boundary to plot 4, where it would turn a corner to meet plots 2 and 3. The side path would be just 1.0m wide for a very substantial length. Thus, the route and gates would be about 20cms less than the 1.2m advocated in the LCDS.
34. Future occupiers of plot 4 would access their cycle store via a side gate at some distance along the side path. Future occupiers of plots 2 and 3 would be required to navigate further to the rear of the plot and turn a tight corner before reaching the gates to their rear private amenity spaces. These gates are sited very close to each other. In this regard, the ability for a cycle and cyclist to manoeuvre along such a substantial length of path with corners and narrow access, with or without any items carried would be significantly impeded.
35. The appellant suggests that the use of the access is confined to occupiers of three dwellings, with only six bicycles, and therefore there is unlikely to be any conflict between users. In any event, potential and/or actual conflict between users would form a barrier to the uptake of cycling.
36. Furthermore, I note that there is no compelling evidence before me to demonstrate that the side path is suitable for larger cycles including adapted cycles for disabled people as required by the LCDS. Cyclists with disabilities or larger cycles would thus be discouraged by such access arrangements.
37. Consequently, the proposal would not provide well located, conveniently and fully accessible facilities for future occupiers in accordance with the LCDS.
38. The Council states that the Cambridge Guidance requires that a cycle path between two structures that is more than 10m in length should be 1.5m wide. When judged against this guidance, the width of the access would be about

50cms short. Regardless of whether or not I accept that this guidance is relevant, it serves to demonstrate that an adequate width of access to cycle parking is required in order to remove barriers to cycling.

39. Furthermore, paragraph 110 of the Framework requires that when assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; and safe and suitable access to the site can be achieved for all users. Paragraph 112 of the Framework also requires that applications for development give priority first to pedestrian and cycle movements both within the scheme and with neighbouring areas.
40. The appellant suggests that an increased width of 1.5m can be provided by a realignment of the rear garden fence line alongside plot 4, secured by condition. However, I am not satisfied that a width of either 1.2m or 1.5m could be achieved along the portion of the path that runs alongside the flank elevation of plot 4.
41. I therefore conclude that the proposed development would not provide acceptable access for cycles. It conflicts with Policies DM10.2, DM29 and DM30 of the CLP and Policies T4 and T5 of the LP. I attach significant weight to this conflict. Taken together, these policies seek to create well-designed public and private spaces with conveniently located cycle parking; to remove barriers to and increase cycling and create a healthy environment in which people choose to cycle; and to ensure that cycle parking and facilities are designed and laid out in accordance with the LCDS.

Sustainable Transport Initiatives

42. Policy SP8.12 of the CLP seeks to enable the delivery of electric vehicle charging points throughout the borough in order to improve air quality and decarbonise private transportation over the plan period. Policy SP8.13 of the CLP requires new development to contribute to the provision of electric vehicle charging infrastructure, car clubs and car sharing schemes.
43. The heads of terms pursuant to the UU before me have been agreed between the main parties, and as such the fourth reason for refusal is overcome as a matter of principle. However, the main parties have not reached agreement as regards the wording of the UU. There is no compelling evidence before me to demonstrate that the duly completed UU is not acceptable, and I find no reason to consider otherwise. Having regard to all of the evidence before me, I am satisfied that the obligation meets the statutory tests as per Regulation 122 (2) of the Community Infrastructure Levy Regulations 2010, and that a planning obligation is necessary in this case.
44. I therefore conclude that the proposed development would make acceptable provision for sustainable transport initiatives. It accords with Policy SP8 of the CLP, whose objectives I have set out above. It also accords with Policy DM29 of the CLP, and Policy T4 of the LP, which seek to ensure that all development does not have a detrimental impact on transport networks; and that transport impacts are assessed and mitigated.

Other Matters

45. The proposal would support the government's objectives to make efficient use of land and to significantly boost the supply of homes. It would deliver a net contribution of three family dwellings to meet the housing needs of Croydon, although it would be a relatively small contribution. As a small site, it could be built out relatively quickly. Such benefits would add limited weight in favour of the proposal.
46. The proposal would create commercial and employment opportunities both directly and indirectly during construction. These benefits could be localised if the proposal were to be delivered via a local 'SME Developer'. Future occupiers would generate additional household expenditure to support the economy, although this would be limited in scale to three additional households. These economic benefits would be of limited weight in support of the proposal.
47. The development would attract a Community Infrastructure Levy payment. However, the purpose of the levy is to address wider infrastructure needs arising from the development itself. It is unclear how additional Council Tax receipts as a result of the proposal would be used so as to benefit the general public. Therefore, any advantages in these respects would be of very limited weight.
48. A range of other matters have been raised by interested parties. However, as I am dismissing the appeal on a main issue, and consideration of these matters will not alter my decision, it is not necessary for me to address them directly.

Planning Balance and Conclusion

49. I have found that the proposal would be acceptable in regard to three of the main issues. However, it would not provide acceptable access for cycles, and therefore I conclude that the proposed development conflicts with the development plan, read as a whole. The harm I have identified, to which I have attached significant weight, does not outweigh the limited benefits of the proposal.
50. For the reasons given, I conclude that the development conflicts with the development plan, read as a whole. No material considerations have been shown to carry sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, the appeal should be dismissed.

J Moore

INSPECTOR