



Appeal Decision

Site visit made on 16 November 2023

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2023

Appeal Ref: APP/L5240/W/23/3320440

8 Cedar Walk, Croydon, Kenley CR8 5JL

- 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 Rob Anderson (Nordhus Properties) against the decision of the London Borough of Croydon.
- The application Ref 22/03040/FUL, dated 11 July 2022, was refused by notice dated 10 November 2022.
- The development proposed is the demolition of existing garage and side extension, formation of access from Cedar Walk and the erection of two pairs of semi-detached dwellings (4 total) with associated parking and landscaping.

Decision

1. The appeal is dismissed.

Main Issues

2. These are the effect of the proposal on:
 - a) protected species, with specific regard to bats,
 - b) the character and appearance of the area; and,
 - c) pedestrian safety.

Reasons

3. Located at the eastern end corner of a cul-de-sac, 8 Cedar Walk is a large, detached house with a substantial rear garden. The proposal is to demolish the attached garage and side extension and erect 4, 2 storey, semi-detached houses in the rear garden. The proposal would include a new access road to the houses, with 2 parking spaces to the front of No 8 to serve the existing house.

Protected species

4. A Preliminary Ecological Appraisal (PEA) and Preliminary Roost Assessment (PRA) (Darwin Ecology, February 2022) was submitted with the application. This identified a soffit box in the side extension which is "sufficiently deep for a crevice dwelling bat to utilise". The side extension is to be demolished as part of the proposal. Therefore, the Council's ecological advisor requested that a bat emergence/re-entry survey would be necessary to determine the presence or likely absence of a bat (or bats).
5. The appellant claims that this is unnecessary and disproportionate. This is because no bat droppings were identified internally, and no bats were seen roosting inside at the time of the survey. However, the PEA and PRA stated that "internal access was not possible at the time of survey". This is contradictory evidence. Furthermore, the Council set out that Pipistrelle bats

- are known to use soffit boxes for roosting. These features may not provide access to, or leave any evidence (such as droppings), in any internal loft space, even if accessed.
6. The appellant asserts that the soffit board is the only potential roosting feature on the dwelling for bats, it is very small and unlikely to support significant numbers of bats. They also claim that no external droppings were identified, nor any scratch marks by the soffit boards or worn paint, that would indicate bats landing and climbing up under the features.
 7. Whilst this may be the case, bats are protected by law and their presence is a material consideration. Additionally, the PEA and PRA states the site has "excellent commuting opportunities via the boundary habitats which connect to a wider habitat network". Moreover, the survey was carried out at a sub optimal time when the species are not fully active or readily identifiable.
 8. Therefore, from the findings of the PEA and PRA, and its identified limitations, there is a reasonable likelihood of protected species being present. It is not unnecessary or disproportionate to request that either an internal inspection of the soffit box is undertaken, or that an emergence survey is carried out during summer months.
 9. Lastly, I also note that the PEA and PRA set out that the "survey data is valid for 12-18 months from the date the survey was undertaken". Given nearly 2 years old, the survey data would now be time expired.
 10. Circular 06/2005 advises that surveys should only be required by condition in exceptional circumstances. I do not have any exceptional circumstances before me. Consequently, I must apply the precautionary principle, and find that the proposal would cause harm to protected species. This would be contrary to Policy G6 of the London Plan (March 2021) (the LP) and Policy DM27 of the Croydon Local Plan (2018) (the CLP), which seek to ensure proposals have no adverse impact on protected species.

Character and appearance

11. The area has a leafy suburban residential character, containing typically large dwellings in substantial plots, contrasted with pockets of tighter knit dwellings to the north west and south east of the site. There are also examples of back land development. Frontages to Cedar Walk are typically open with no boundary features and dwellings are commonly 2 storeys tall.
12. The houses would be located at the far end of the rear garden, largely screened by No 8, such that they would be imperceptible from the street. They would also be subservient to the scale of No 8. This would be a similar arrangement to the dwellings under construction at 10 Cedar Walk, the opposite corner dwelling. This is a significant material consideration given its location, recent permission, and street layout.
13. The location and density of the proposal would not reflect the original development pattern. This is because the garden sizes would be smaller and there would be less separation between dwellings. However, the proposal would positively respond to the evolving pattern of development and varied distinctiveness in the area. Furthermore, the houses would fit comfortably on the plot, sitting in a block parallel with those on Wheat Knoll to the rear, retaining a more open pattern than at No 10. Indeed, there would be sufficient

separation distance and garden sizes to provide suitable living conditions for both existing and proposed occupants.

14. Overall, the proposal would respectfully optimise the site in a cohesive way considering other development on the street. Additionally, the design of the dwellings would be appropriate, respecting the scale, height, massing and appearance of the surrounding area.
15. The hardstanding would be substantial in area, but with suitable high-quality materials, this would not result in any unacceptable harm to the character of the area. There are also elements of soft landscaping that would break up the massing and ameliorate the effect. Indeed, when viewing the site from Cedar Walk, there would be a mixture of retained trees, soft landscaping and hardstanding, that would preserve the leafy character.
16. The Council claim that the dwellings at No 10 were allowed during the adoptive use of the now revoked Suburban Design Guide Supplementary Planning Document (SPD), and the revoking of the SPD is a considerable material consideration. However, the development plan has not changed, and SPDs are guidance only.
17. Consequently, the proposal would have an acceptable effect on the character and appearance of the area. This would be compliant with Policy D3 of the LP and Policies DM10 and SP4.1 of the CLP. Together these seek high quality development that optimises the capacity of sites, whilst respecting and enhancing local character.

Pedestrian safety

18. The access to the houses would be shared, but the Council claim that this would be unsafe for pedestrians, because it would not be segregated. Manual for Streets details that shared surface schemes work best in relatively calm traffic environments. The key aims are to encourage low vehicle speeds, create an environment in which pedestrians can walk, or stop and chat, without feeling intimidated by motor traffic; easy for people to move around; and promote social interaction.
19. Owing to the short length of the access, and it being taken from a cul de sac head, low vehicle speeds would be inevitable. Moreover, in the absence of a formal carriageway, motorists entering the area would tend to drive more cautiously and negotiate the right of way with pedestrians on a more conciliatory level. The layout would encourage social interaction and it would also promote inclusive mobility design measures because it would be level and convenient. Additionally, demarcation in the surfacing could help those with cognitive difficulties. This could be the subject of a condition. Therefore, a shared surface would be appropriate.
20. The dropped kerb to the front of No 8 is to serve this property, and additional dropped kerbs would be necessary for access to the site. This would be adjacent to the dropped kerb for No 7. Whilst the Council claims there is a locally adopted approach which limits dropped kerbs, I have been presented with very little evidence as to what this is or why there are such blanket restrictions on dropping crossing points.
21. Vehicles driving to the end of the street would be predominantly accessing Nos 8, 9 or 10, because all other dwellings have off street parking. Owing to this,

pedestrian and vehicular movements are likely to be low in the turning head. It would also be reasonable to assume that any increase in pedestrian movements from No 10 would take place on the opposite side of the street, and that pedestrians and motorists adopt a common sense approach to being aware of their surroundings. Therefore, considering the likely low speeds and low numbers, the addition of dropped kerbs would not lead to an unacceptably adverse risk for pedestrians.

22. Visibility splays could be required by condition, and although standard visibility splays may not be achieved, it is important to note that this is a cul de sac, the access is located at the end and, again, vehicle speeds would be low. This is even accounting for the increase in movements from No 10. Also, the appellant's evidence indicates that pedestrian intervisibility splays would be achievable at the entrance. This would ensure that vehicles exiting the site would clearly see pedestrians using the existing footways.
23. Therefore, the proposal would have an acceptable effect upon pedestrian safety. This would be compliant with Policies T2, T4 and D5 of the LP and Policy DM29 of the CLP. These seek to ensure suitable and inclusive site access that would promote sustainable travel, promote healthy streets and ensure proposals would not increase road danger.

Planning balance

24. The proposal would have an acceptable effect upon the character and appearance of the area and pedestrian safety. However, there would be a harmful effect upon protected species. Bats are protected by law and this provides a clear reason for refusing the development proposed. This would outweigh all other matters.

Other Matters

25. I have noted the many objections from residents. However, as the appeal is being dismissed, it has not been necessary to address these any further.

Conclusion

26. For the reasons set out above, I conclude that the appeal should be dismissed.

Katie McDonald

INSPECTOR