



Appeal Decision

Site visit made on 23 November 2023

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 11.12.2023

Appeal Ref: APP/L5240/W/23/3323365

12A Haydn Avenue, Purley CR8 4AE

- 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 Charles and Mrs Rosemary Allotey against the decision of the Council of the London Borough of Croydon.
 - The application Ref: 22/02845/FUL dated 5 July 2022, was refused by notice dated 1 December 2022.
 - The development proposed is to demolish the brick built detached double garage and timber garden sheds on the land adjacent to the entrance gate to 12A Haydn Avenue. To erect a four bedroom detached house with hard standing for two car parking spaces.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - a) the effect of the proposed development on the character and appearance of the local area,
 - b) The effect of the proposal on the living conditions of adjoining residential neighbours, with particular regard to outlook and overlooking and loss of privacy, and
 - c) Whether the proposal would have a harmful effect on protected species.

Reasons

Issue a) Character and Appearance

3. The appeal site comprises a detached double garage and adjoining garden area which forms part of No 12A Haydn Avenue, and is set at the bottom of a long private drive which slopes steeply down from Haydn Avenue to serve the detached dwellings at Nos 12 and 12A Haydn Avenue. The appeal site is within a predominantly residential area and the siting of Nos 12 and 12A deviates from the general pattern of development of detached and semi-detached housing fronting either side of the roads in the local area.
4. The proposed dwelling would be significantly larger than the garage it would replace and would be of a contemporary design. However, there is a marked change in character and appearance from the predominant pattern of

development in the general locality with this small group of houses sited away from the main roads of Haydn Avenue and Old Lodge Lane to the east and to the west. No 12 and 12A Haydn Avenue are different to each other in their siting and appearance. Furthermore, there is also noticeable variation in the scale and massing between Nos 12 and 12A and in that context I consider that the proposed siting, massing and appearance for the new house would not appear out of place or visually obtrusive. As a result, I do not consider that there would be any harm to the character and appearance of the locality with the addition of a third property of different design, particularly given that it would be possible to accommodate parking and amenity space to serve the existing and proposed new house.

5. The Council has raised a concern about the proximity of the proposed dwelling to the site boundaries, but I consider that this would not be of a concern in terms of the effect on the character and appearance of the local area, taken on its own, because of the individual siting of the proposed dwelling in relation to the predominant pattern of development in the local area. However, it is a matter I consider further under my second main issue.
6. Given the siting of the proposed and the immediate context to it siting, I am satisfied that the proposed dwelling would not harm the character and appearance of the local area. There would be no conflict with Policy D3 of the London Plan, Policies DM10 and SP4.1 of the Croydon Local Plan as well as the National Planning Policy Framework (Framework) and in particular Section 12, all of which amongst other matters seek a high quality of design which respects the local context.

Issue b) Living Conditions

7. The proposed property would have existing residential properties and their gardens on all sides. No 12 Haydn Lane is situated to the east and is set at a higher level, with large windows at first floor level looking towards and over the appeal site. The front elevation of the proposed dwelling would have substantial levels of glazing, including to habitable rooms at both ground and first floor. Whilst I have noted that there have been some amendments to the window design since the pre-application submission, I cannot be satisfied on the information submitted that the design as submitted has satisfactorily addressed the relationship between the new dwelling and the neighbouring property at No 12, in terms of overlooking and loss of privacy, particularly taking into account the relationship between the existing and the proposed dwellings. In addition, a balcony is shown to one of the first floor, front bedrooms facing towards No 12 which would enable views directly towards No 12A. I therefore share the concerns of the Officers that there would be an unacceptable level of overlooking between windows in the two properties, which would be exacerbated with the proposed balcony on the front elevation of the proposed dwelling. This would materially harm the living conditions of the neighbours at No 12, in terms of loss of privacy.
8. The properties fronting Old Lodge Lane to the west of the appeal site are set at a lower level, and the two properties which are directly adjacent the proposed dwelling have shorter rear gardens than others adjoining, given the boundaries with the appeal site. I agree that the fenestration in the elevation of the proposed house facing towards Old Lodge Lane has been designed to ensure no overlooking and loss of privacy for the immediate neighbours. However, taking

into account their reduced rear garden lengths, I consider that there would be a harmful effect on outlook for these neighbours in Old Lodge Lane, particularly from their rear gardens, as a result of the mass of the largely solid wall sited so close to the common boundary.

9. I therefore conclude that the proposed house would have a harmful effect on the living conditions of the neighbours, particularly at No 12 Haydn Lane and in Old Lodge Lane, with particular regard to overlooking and loss of privacy as well as loss of outlook. This would conflict with Policies D3 and D6 of the London Plan and Policy DM10 of the Croydon Local Plan as well as the Framework and in particular Paragraph 130, all of which seek a high quality design which respects the amenities of existing and future occupiers.

Issue c) Protected Species

10. The application was not supported by any information to assess the presence or otherwise of any protected species on the site. Paragraph 99 of Circular 06/05 Biodiversity and Geological Conservation makes it clear that this should be established before any permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. Whilst I appreciate that this advice was published some time ago, it has not been superseded and indeed more recent guidance maintains the same approach. There are a number of exceptional circumstances where this approach may be varied but in the absence of any information in relation to protected species, this would not apply in this case.
11. The Appellant has invited a condition to be imposed to require such information to be the subject of a pre-commencement condition, but this would not be an acceptable or appropriate course of action to follow for the reasons set out above.
12. I therefore agree with the Council that in the absence of any information to assess the presence or absence of any protected species on the site, I cannot be satisfied that the proposed development would not have an adverse impact on ecological interests and protected species. This would not accord with Paragraph 99 of Circular 06/05, Policy G6 of the London Plan and Policy DM27 Croydon Local Plan in this regard.

Planning Balance and Conclusion

13. The principle of seeking to introduce a further house onto the appeal site is not at issue and I consider that the proposal would respect the character and appearance of the local area. It would also provide a further dwelling which would assist the Council in meeting its housing need. It is not clear from the information before me whether the Council is able to demonstrate a 5-year housing land supply and no detailed information has been provided to me. The Council has not commented. I am therefore unable to reach a conclusion on this matter.
14. Paragraphs 8 and 11 of the Framework make it clear that there is a presumption in favour of sustainable development which has three dimensions; economic, social and environmental. The proposed development would contribute 1 additional housing unit with associated, albeit small scale, social and economic benefits. However, and even if the Council were unable to

demonstrate a 5 year supply of deliverable housing sites, the adverse impacts I have concluded from the proposed development in terms of impact on the living conditions of existing neighbours and the potential harm to ecological interests and protected species which has not been proven, would significantly and demonstrably outweigh the benefits of permitting the scheme to proceed. The proposal is not therefore sustainable development for which there is a presumption in favour.

15. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that this appeal should be dismissed.

L J Evans

INSPECTOR