
Appeal Decision

Site visit made on 8 November 2023

by C J Leigh BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2023

Appeal Ref: APP/L5240/D/23/3327085

16 Waverley Avenue, Kenley, Croydon, CR8 5BE

- 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 Joel Mitchell against the decision of the Council of the London Borough of Croydon.
 - The application Ref 23/00744/HSE, dated 22 February 2023, was refused by notice dated 12 May 2023.
 - The development proposed is a first-floor extension to form house from existing bungalow.
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Decision

1. The appeal is dismissed.

Main issues

2. The first main issue is the effect of the proposed development on the living conditions of adjoining occupiers. The second main issue is whether the proposed development makes adequate provision for matters relating to fire safety.

Reasons

Living conditions

3. The appeal property is a bungalow within a cul-de-sac which slopes gently downwards to the northeast. There is a mix of bungalows and two-storey dwellings along the road, with No. 16 lying between two properties.
 4. To the southwest of the appeal property No. 14 has windows in the side elevation that look towards No. 16, which I understand serve habitable rooms. Due to the change in levels this outlook is partly over the hipped roof to No. 16. No. 18 is to the northeast of the appeal property and has windows in the side elevation at ground floor in close proximity to No. 16; there are also windows at first floor side elevation.
 5. The proposals would see an additional storey added to No. 16, so forming a two-storey house. This would be a large increase in building mass at first floor and roof level in close proximity to the side windows at the two adjoining properties. This would have a significant effect on the outlook from those windows, and hence to the living conditions of existing occupiers. From what I
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have seen and read I also consider this close proximity of the buildings and the height and depth of the extension to lead to a likely impact on levels of light to the rooms of Nos. 14 and 18, which would be further harmful to living conditions.

6. The position of windows in the proposed development would not lead to any material loss of privacy to adjoining occupants, with obscure glazing also being shown for proposed side windows. However, it is the proximity, depth and height of the proposed extension that leads to harm to living conditions. Policy DM10 of the Croydon Local Plan 2018 Local Plan requires new development proposals to protect the amenity of adjoining buildings, and Policy SP4 requires, amongst other matters, development to be of a high quality which respects and enhances local character and contributes positively to the public realm. Policy D3 of the London Plan 2021 seeks a design-led approach for new development and Policy D6 requires, amongst other matters, that development provides for sufficient daylight and sunlight. It is my conclusion on the first issue that the proposals would conflict with these policies.

Fire safety

7. Policy D12 of the London Plan states that '*in the interests of fire safety and to ensure the safety of all building users, all development proposals must achieve the highest standards of fire safety*' and continues to set out six criteria to be satisfied. These criteria include matters that may relate to the layout and design of a proposed development, and the supporting text to the Policy refers to these matters potentially having a spatial implication on site planning.
8. The application made to the Council did not include any details in relation to fire safety. It is not clear to me whether the Council requested any such details either when the application was submitted or during the course of the application prior to refusing permission in order to allow the applicant to address this matter, which would appear to have been good practice. In any event, no further details were provided at the appeal stage as the appellant considers this could be dealt with by a pre-commencement condition requiring the submission of a fire strategy.
9. I do not agree this would be a suitable way to address this matter. The Planning Practice Guidance: Use of Planning Conditions states that '*if a detail in a proposed development, or the lack of it, is unacceptable in planning terms the best course of action will often be for the applicant to be invited to revise the application*' (paragraph 012). Policy D12 of the London Plan is clear that addressing the issue of fire safety may have spatial implications on the layout and design of a development.
10. It is therefore clear to me the Policy envisages that making provision for this aspect should be part of the planning stage of a development and not a matter to be considered only after permission is granted; simply put, with a lack of detail in addressing fire safety prior to granting permission, I have no reassurance such a matter can be satisfactorily addressed.
11. The absence of detail regarding fire safety at both the application and appeal stages is therefore contrary to Policy D12 as, without that information, I cannot be satisfied the requirements of that Policy are satisfied. Hence, on the second

main issue it is my conclusion on the information before me that the proposed development does not make adequate provision for fire safety.

Conclusions

12. I acknowledge the absence of objections to the proposals, and that the Council were not opposed to the scheme on the grounds of impact upon the character of the area. However, the conflict with the development plan arising from the two main issues outweighs these matters and hence, for the reasons given, the appeal is dismissed.

C J Leigh

INSPECTOR