



Appeal Decision

Site visit made on 4 July 2023

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th December 2023

Appeal Ref: APP/L5240/W/22/3305726

19 Ashburton Road, Croydon CR0 6AP

- 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 Marlpark Homes Ltd against the decision of the Council of the London Borough of Croydon.
- The application Ref 22/00983/FUL, dated 3 May 2022, was refused by notice dated 16 June 2022.
- The development proposed was originally described as “the ‘change of use’ from an outbuilding under ‘C3 - single dwelling houses’ use, to a separate C3 use – single dwelling house’ for the purposes of Accessible Accommodation for and on behalf of Croydon Housing Initiatives Department. The proposal also makes external, fenestration, and internal alterations.”

Decision

1. The appeal is allowed and planning permission is granted for alterations to the building at the rear of the site and change of use from storage and leisure into a self-contained dwelling, at 19 Ashburton Road, Croydon CR0 6AP in accordance with the terms of the application, Ref 22/00983/FUL, dated 3 May 2022, subject to the conditions in the attached schedule.

Procedural Matters

2. The description of development on the application form is very detailed and includes superfluous wording relating to the proposal’s effects. I have therefore used the shorter description from the Council’s decision notice as the basis for the grant of planning permission in the paragraph above, which is shorter and describes accurately the development. This coincides with the appellant’s description on the appeal form and I am satisfied that assessing the appeal on this basis would cause no prejudice to any party. I have, however, had regard to the longer description in the appellant’s application form in determining this appeal.
3. The Council has confirmed that the Croydon Suburban Design Guide Supplementary Planning Document 2019 (SPD), cited by the appellant has been revoked and should not be treated as a material consideration. As such, I have not taken account of the SPD in determining this appeal.
4. Two other appeals¹ at the same site and relating to the same building are the subject of separate decisions.

¹ APP/L5240/W/23/3315790 and APP/L5240/W/23/3315535

Background and Main Issues

5. In light of the Council's refusal reason and the representations of interested parties, I consider that the main issues are:
- The effect of the proposed development on the character and appearance of the area, including whether it would preserve or enhance the character or appearance of the East India Estate Conservation Area (the CA).
 - Whether the proposed development would provide appropriate living conditions for future occupiers of the proposed dwelling, with particular regard to the outlook from the open plan kitchen, dining and living area.

Reasons

Character and appearance, including the CA.

6. The appeal site lies within the CA, and I have had regard to my statutory duty under s72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing its character or appearance.
7. I have had regard to the Croydon Council - East India Estate Conservation Area Appraisal and Management Plan – Supplementary Planning Document (2014) (the CAA), and find that the character, appearance and significance of the CA is derived from the relationship between the area's distinctive linear street pattern and the rows of generally traditional residential buildings that front onto them. Set on mostly consistent building lines, with generally long and narrow gardens to the rear, the rows of buildings give the CA an attractively formal and well-ordered character and appearance, with a relatively spacious rear garden scene.
8. The existing outbuilding, whilst not readily visible from vantage points accessible to the public at large, is visible from nearby properties, including the gardens and the upper floor windows in Number 19 Ashburton Road (No 19), and the nearby flats. The scale and appearance of the outbuilding, whether lawful or not, detracts from the character, appearance and significance of the CA, that I have described above. I note that the respective Inspectors reached broadly similar conclusions in their determination of appeals submitted in 2019² (the 2019 appeal) and 2021³ (the 2021 appeal).
9. I acknowledge that a residential dwelling in this back garden location would not be consistent with the pattern of development in the area and that the CAA states that development in back gardens will generally not be permitted due to the potential disruption to the area's character and loss of green spaces. However, a large outbuilding already exists on the site and would likely be retained if this appeal fails. It is within this context that I have assessed the proposal.
10. The scale of the existing outbuilding would be reduced, and the design altered from that previously found to be unacceptable by an Inspector when dismissing the 2019 appeal. The reduced scale of the appeal building would restore part of the appeal site to garden and enhance the sense of spaciousness in the garden scene, which is an important characteristic of the CA. The proposal would have

² APP/L5240/W/19/3242553

³ APP/L5240/W/21/3266452

a green roof with fewer roof lights set in an irregular pattern and a simple pattern of relatively small and uniformly sized window openings set in the recessed part of the south facing elevation. The pattern and sizes of these windows, including the 2 high level windows in the east elevation, would not be overly domestic in appearance. The entrance door would be set into the recessed side return to face away from No 19, and the nearby flat block at College Court, and therefore not particularly visible from nearby properties.

11. Once established the green roof would assist the building in blending in sufficiently with the surrounding gardens in elevated views from nearby buildings. Its maintenance could be secured by a planning condition. The simple pattern of relatively small window openings in the recessed south facing elevation, which would retain a high proportion of blank brick walling, would be sufficient to avoid the proposed dwelling from appearing overly domestic in its setting, or industrial in character.
12. To address the issue of light spillage, the glazing within the building could be controlled to prevent this during the hours of darkness, such that a separate residential use in this location was not readily apparent. I have no substantive evidence that it would not be practicable to detect a breach in the operation of the 'blackout' glazing technology or that observers would not be able to visually detect whether it was operating or not during hours of darkness.
13. Given the scale of the dwelling, the increase in levels of activity associated with its occupation would be commensurately low and compatible with this residential area. The visibility of the garden area of the dwelling where domestic paraphernalia is likely to accumulate, would be limited by a combination of its size and the screening effect of the tall boundary treatment and the building itself. The visibility of paraphernalia would not be inconsistent with the surrounding garden scene within this residential area.
14. For these reasons, I conclude on this issue that the appeal proposal would enhance the spaciousness of the appeal site and the contribution it makes to the character and appearance of the area. Taking the CA as a whole, the proposal would have a neutral effect thereby preserving the character and appearance of the CA. The proposal would be consistent with Policies D3 and D6 of The London Plan 2021 (the TLP) and Policies DM10 and DM18 of the Croydon Local Plan 2018 (the CLP), which are before me in evidence. Amongst other requirements, these policies seek to ensure that development is of a high-quality development that preserves or enhances the character, appearance and significance of heritage assets.

Living conditions of future occupiers

15. The principal outlook from the proposed dwelling's open plan kitchen, dining and living would be out through the glazed doors in the west facing elevation and over the garden. Views out from this room would take in the relatively long rear garden of the proposed dwelling, including shorter distance views of the boundary walls and the side wall of the building. Given the size of the proposed room and garden, I find that in most viewing angles from out of this room, the outlook of future occupiers would not be harmfully dominated by the existing boundary walls or the building's walls. It follows that the future occupiers would be provided with an appropriate outlook from this room.

16. Views out of the high-level windows would be somewhat restricted to views of the upper parts of nearby buildings and sky. Nonetheless they would provide a secondary aspect through which future occupiers would have a sense of the outdoors and the building's surroundings. The height above ground level of the high-level windows along with their narrow shape, would limit the ability of the users of the communal garden to see into the living areas of the proposed dwelling, ensuring satisfactory privacy levels for future occupiers.
17. The bedroom windows would face the opposing tall boundary wall across relatively short distances. However, given the nature of the accommodation within these rooms, I am satisfied that this would not cause harm to the living conditions of the future occupiers.
18. I conclude on this issue that the proposal would provide appropriate living conditions for future occupiers, with particular regard to outlook from the open plan kitchen, dining and living area. As such, the proposal would be consistent with TLP Policies D3 and D6, and CLP Policy DM10, which seek to ensure that housing developments provide future occupiers with comfortable and functional layouts, and deliver appropriate outlook taking account of the optimisation of site capacity and density.

Other Matters

19. There are locally listed buildings to the west of the appeal site and fronting onto Outram Road, which the CAA⁴ identifies as Numbers 30-32. Based on the CAA, the significance of these buildings is derived primarily from their architecture, where they contribute to a group of villas which display a consistent scale, massing, height, fenestration and doorways, front garden and boundary arrangements.
20. The existing building on the appeal site is a low-rise structure set some distance away from these locally listed buildings, and separated from them by tall boundary treatments, and long rear gardens. There is relatively limited intervisibility between the appeal building and the locally listed buildings, particularly in the most important views of those buildings from Outram Road. Furthermore, the appeal proposal would reduce the scale of the existing building. For these reasons, I find that the appeal proposal would not harm the significance of the locally listed buildings.
21. I note the concerns raised by nearby occupiers about a loss of outlook, light and privacy arising from the appeal proposal. However, the proposed dwelling is a low rise structure with a smaller footprint than the existing building and it would not result in harm to the living conditions of nearby occupiers through a loss of outlook or light. Views out of the windows and doors in the proposed dwellings would generally, with the exception of the high-level windows facing No 19, face opposing tall boundary treatments and would not cause a harmful loss of privacy for the occupiers of nearby properties. It is noteworthy that the Council found similar in this regard.
22. Given its scale and low occupancy levels, the proposed dwelling would generate a relatively small increase in the levels of activity on the appeal site. Whilst this would occur close to nearby properties, it would not be dissimilar to existing activities within nearby gardens in this built-up area. Some noise and

⁴ Paragraph 6.5.6

disturbance would be expected during construction works, particularly due to the inclusion of some demolition works. However, the effects of this on the living conditions of nearby occupiers of residential properties could be appropriately mitigated by measures secured by condition through the agreement of a Construction Management Plan.

23. The footprint of the existing building would be reduced, and the proposed development would not result in an incursion beyond the existing footprint. Therefore, based on my observations and the evidence available, I find that the trees and planting growing close to the boundaries with the appeal site would not be harmed by the appeal proposal before me.
24. The accuracy of the drawings is not in dispute between the main parties. I am satisfied that the plans themselves are sufficiently accurate to allow a thorough assessment of the appeal proposal's impacts to be made. Demolition of the boundary wall to College Court, or the insertion of a gate into this wall, are not shown on the drawings, nor described as being part of either appeal proposal. As such, they form no part of my consideration in this appeal.
25. I am advised that parts of the appeal building and access to it are located on land not within the ownership or control of the appellant. However, no detailed or definitive evidence has been presented to demonstrate this to be the case and I note that the Council has received corrected information on land ownership. In any case, for the purposes of my determination of this appeal, matters related to the ownership of the land are separate to my assessment of the planning merits and have not influenced me.
26. For a single dwellinghouse, the distance over which future occupiers would be required to either wheel a loaded bin or carry waste and/or recycling to the bin storage area would not be excessively inconvenient. Based on the evidence submitted and my observations, the route between the proposed dwelling and the bin store would be along a hardsurfaced path on generally level ground. I note the Council had no objection in this regard subject to the imposition of conditions. Details of refuse storage arrangements to achieve good refuse management would be secured by condition.
27. In terms of additional parking pressure, the appeal site is located within a built-up area where services and facilities are readily accessible by modes of transport other than the car. Whilst that does not necessarily mean that future occupiers would not own a car, to my mind a car would not be likely to be essential for future occupiers to meet most of their day-to-day travel needs. As such a dedicated off-road parking space is not necessary. I have noted that the site lies within an area where on-street parking is controlled. Based on the evidence before me and my observations, I am satisfied that the proposal would not have a harmful effect on parking in the area leading to inconvenience to residents, traffic congestion or harm to the safety of road users. Suitable facilities for cycle storage could be secured by condition.
28. The necessity for mechanisms for harvesting rainfall and reuse of 'grey' water are not justified as a policy requirement of the development.
29. The proposals in the 2021 and 2022⁵ appeals had a small internal courtyard that contributed to an inadequate and oppressive outlook for future occupiers

⁵ APP/L5240/W/22/3293516

from the kitchen/dining/living rooms. By comparison, the appeal proposal before me does not include an internal courtyard and is therefore materially different to the proposals found unacceptable by the previous Inspectors. Whilst there are some broad similarities between this appeal proposal and those that were before the respective Inspectors in the previous appeals on this site, appeals are evidence and fact specific, and must be determined on their individual merits. I have determined this appeal on its own merits with careful regard to those previous appeals. Given the fact specific nature of this appeal case, I see no reasons why it would set a precedent for other back garden developments in the area.

30. This appeal follows several previous planning applications and related appeals for development at the site. However, all citizens have a right to submit planning applications and appeals for determination by the relevant authorities. The financial motivations of the appellant or other developments by the appellant, have not influenced my consideration of this appeal.

Conditions

31. I have considered the Council's recommended conditions in accordance with the tests set out in the Planning Practice Guidance and Paragraph 56 of the National Planning Policy Framework. The appellant has given written approval to the pre-commencement condition. Where necessary I have amended the wording of the suggested conditions to ensure compliance with the tests. In the interests of certainty of the planning permission granted, the approved drawings are specified in a condition.
32. The location of the development site is in close proximity to nearby residential properties and gardens. To protect the living conditions of nearby occupiers a condition requiring adherence to a Construction Management Plan is necessary.
33. The appeal site is located in an area where on-street parking is controlled, and traffic movements were observed to be relatively low. Given the scale of the proposed developments, the evidence before me does not justify the necessity to control the parking of vehicles during construction. Furthermore, in the context of the proposal's scale, requiring dedicated facilities for the loading and unloading of plant and materials; precautions to guard against the deposition of mud on the public highway, or details of site hoardings, would be unreasonably excessive and unnecessary.
34. A condition controlling external materials and glazing is necessary to protect the character and appearance of the area. I see no basis on the evidence before me to require the agreement of these details before the commencement of development and have amended the wording accordingly.
35. Conditions requiring the provision of bin storage and cycle parking, and the management of storage and collection are necessary to ensure satisfactory servicing of the development and to preserve the character or appearance of the area.
36. A landscaping scheme, including details of the green roof, is necessary to ensure the development responds appropriately to the character and appearance of the area, and to ensure that boundary treatment protecting privacy is provided. I have required an implementation programme to be

agreed by the Council to ensure coordinated delivery of the various elements of the scheme.

37. In accordance with TLP Policy D12, a condition requiring adherence to the submitted fire safety details is necessary in the interests of safety.

Conclusion

38. For the reasons given I conclude that the appeal proposal complies with the development plan as a whole. Having considered all matters raised there are no material considerations that indicate that a decision should be made other than in accordance with the development plan. Therefore, the appeal should succeed.

G Sylvester

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: A100 Revision 04 Planning – Revision 3; A106 Revision 04 Planning – Revision 3; A107 Revision 04 Planning – Revision 3; A108 Revision 04 Planning – Revision 3; and A109 Revision 04 Planning – Revision 3.
- 3) No development, including demolition, shall commence until a Construction Management Plan, to include the following information, has been submitted to and approved in writing by the local planning authority:
 - a) Hours of demolition and construction;
 - b) Hours of deliveries; and
 - c) Dust control methods.

The approved Construction Management Plan shall be adhered to throughout the construction period of the development.

- 4) No development above floor slab level shall take place until details of the materials to be used in the external surfaces of the development have been submitted to and approved by the local planning authority. The development shall be constructed in accordance with the approved details and retained as such thereafter.
- 5) No development above floor slab level shall take place until a scheme for the glazing of the windows and rooflights of the development hereby permitted has been submitted to and approved by the local planning authority. The scheme shall include full details of the glazing, its method of operation and operating hours. The development shall be carried out in

accordance with the approved scheme, and thereafter retained and operated in accordance with the approved scheme.

- 6) No development above floor slab level shall take place until details of the following have been submitted to and approved in writing by the Local Planning Authority:

- a) cycle parking provision including the type of cycle stands.
- b) bin storage facility, including the size and number of bins.

The dwelling shall not be occupied until the cycle parking facility and bin storage facility have been provided in accordance with the approved details and thereafter kept available for the parking of cycles and storage of bins, and used for no other purpose.

- 7) No development above floor slab level shall take place until details of hard and soft landscape works, together with a programme for their implementation, have been submitted to and approved in writing by the local planning authority. Hard landscaping shall include hard surfaces, walls, fences or other means of enclosure. Soft landscaping shall include species, size and density of new planting, including details of the green roof. The hard and soft landscape works shall be carried out in accordance with the approved details and the approved implementation programme. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the local planning authority gives its written consent to any variation.
- 8) The dwelling hereby permitted shall not be occupied except in accordance with a Waste Management Plan, specifying how refuse from the site would be managed and collected, that has first been submitted to and approved in writing by the local planning authority.
- 9) The development shall be carried out in accordance with the fire safety details provided in the Design, Access, Planning and Fire Statement dated March 2022.

End of schedule