



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: 22nd December 2023

Appeal Ref: APP/L5240/W/23/3319183

65 Donald Road, Croydon CR0 3EQ

- 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 Edward Adekoya against the decision of the Council of the London Borough of Croydon.
 - The application Ref 22/00433/FUL, dated 2 February 2022, was refused by notice dated 20 January 2023.
 - The development proposed is internal alterations, extension and extended dormer to rear to form HMO. Reconstruction of coach house to rear to form bedsit.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted an amendment to the appeal which would increase the size of the proposed bedsit. I have had regard to the interest of fairness and principles outlined in case law¹. While the Council has had an opportunity to comment on the amendment, third parties would be unfairly prejudiced if I were to accept it. Therefore, I have determined the appeal on the basis of the plans that were before the Council when it made its decision, and upon which the views of interested people were sought.
3. In light of the evidence before me, I sought the views of the main parties upon the framing of my main issues, and I am satisfied that no party was prejudiced in this regard.

Main Issues

4. The main issues are:
 - the effect of the proposed development upon the supply of three bedroomed homes;
 - the effect of the proposed development upon the character and appearance of the area;
 - the effect of the proposed development upon the living conditions of neighbouring occupiers at Nos.63 and 67 Donald Road, with particular regard to privacy;
 - whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to internal floorspace and privacy;

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]; Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin).

- whether the proposed development would provide adequate car parking and cycle parking; and
- whether the proposed development would provide adequate refuse and recycling facilities.

Reasons

5. It is necessary for me to set out some details of the proposal as this has a bearing on my findings.
6. The proposed plans show that the building at 65 Donald Road (No.65) would have 6 bedrooms with 2 x one person/one-bedroom spaces, and 4 x two person/one-bedroom spaces, and thus it would accommodate 10 persons. Therefore, as a House in Multiple Occupation (HMO) of more than 6 persons, it falls within the 'sui generis' use class.
7. The reconstruction of the coach house is proposed as a bedsit. However, the proposed plans detail a two-storey building to include a ground floor living and kitchen space, and a bedroom area with double bed (annotated as 'kitchen') and shower room to the first floor. The building would have separate access arrangements to the street and the proposed rear amenity space to serve No.65 would be bounded by an ungated close boarded fence. Therefore, the proposed bedsit would form a two person/one-bedroomed self-contained dwelling within its own plot.

Supply of three-bedroomed homes

8. Policy DM1.2 of the Croydon Local Plan 2018 (CLP) sets out that the Council will permit the redevelopment of residential units where it does not result in the net loss of three bedroomed homes (as originally built) or the loss of homes under 130m². Policy SP2.7 seeks to ensure that the need for homes of different sizes is met and includes a target for 30% of all new homes up to 2036 to have three or more bedrooms. Taken together, these policies generally seek to retain family sized housing stock in order to ensure socially balanced and inclusive communities.
9. My attention is drawn to the planning history of the site, with reference to a permission granted (ref 02/02037/P) for *alterations; conversion to form 1 one bedroom, 1 two bedroom and 1 three bedroom flats; erection of a single/two storey rear extension and replacement dormer extension in rear roof slope*. It is not clear whether this planning permission has been implemented in whole or part, and I was unable to see the inside the property at my visit. The Council states that it has no record that the appeal property has ever been used as a HMO, and that the lawful use of the property is a family sized unit.
10. For the avoidance of doubt, it is not the role of an Inspector dealing solely with a section 78 appeal to determine the lawful use of a property or site. This can only be determined by a lawful certificate application. I have dealt with the proposal as submitted.
11. In any event, the appellant does not suggest that the property presently comprises flats and states that the property has six bedrooms. Moreover, there is no compelling evidence before me to demonstrate that the appeal property was not originally built as a three bedroomed house.

12. While I understand the appellant's position regarding the existing size of the appeal property, there is a clear conflict with planning policy whereby its loss would adversely harm the supply of family housing, for which there is an evidenced need. Furthermore, the proposed bedsit would not result in a family sized dwelling of three or more bedrooms. Thus, it would not assist in meeting the target required under Policy SP2.7.
13. Overall, the proposal would provide smaller units of accommodation to meet the wider needs of all Londoners, but it would result in the loss of a unit that would otherwise be suitable for the needs of families.
14. I therefore conclude that the proposal would result in the unacceptable loss of a three bedroomed home as originally built, resulting in a net loss to the family housing stock, for which there is a more pressing need. It conflicts with Policies DM1.2 and SP2.7 of the CLP, whose objectives I have referenced above.

Character and appearance

15. The appeal site is in a residential area, where properties are predominantly two storey back-to-back terraced forms with gabled roofs, in long and narrow plots with relatively shallow frontages and deep rear amenity spaces. Some terraced rows are fairly short in width, with a narrow passage between rows, often gated. Rear dormers are not uncommon.
16. The appeal property is unusual in a number of respects compared to the prevailing character. Its plot is marginally wider and its principal elevation includes a garage door. I was unable to see the rear of the appeal site at my visit, but the evidence before me demonstrates that there is an undercroft behind the garage door, leading to the former coach house, which is in a dilapidated condition. There is little evidence before me to demonstrate the scale and design of the former coach house. The Council states that other properties in the area have single storey outbuildings within their rear amenity spaces.
17. The Council raises no concerns with the regard to the proposed extensions and alterations to the existing building at No.65, and I find no reason to disagree.
18. As set out above, the proposal would result in the subdivision of the appeal site. Due to the siting of the proposed bedsit within the rear of the appeal site, the plot remaining to No.65 would be significantly shorter, and its rear amenity space would be much shallower. In addition, the plot serving the proposed bedsit would be of a much smaller size and a squarer shape than the prevailing character, with a deep private amenity space to the front, and no rear amenity space. Both plots would thus be highly discordant to the wider character of the area.
19. The proposed reconstruction of the coach house would result in a two-storey dwelling of about 7m in height, sited tightly to the back of the plot. Due to its detached form and mono pitch roof, together with its scale, height, width, depth and siting, the proposed bedsit would be incongruous to the prevailing built form and development pattern, undermining the character of long and narrow rear gardens/amenity areas. While the proposed bedsit would not be seen from the street, it would be seen within private views from the neighbouring rear elevations and rear amenity spaces of the terraces along Lancing Road.

20. I therefore conclude that the proposed development would significantly harm the character and appearance of the area. It conflicts with Policy DM10 of the CLP, which seeks to ensure that the siting, layout and form of new development respects the character and appearance of existing areas.

Living conditions - neighbouring occupiers

21. The front elevation of the proposed bedsit includes windows to the first-floor that would be within about 10.4m of the rear elevations of Nos.63 and 67 Donald Road (Nos.63 and 67). Whilst views into rear amenity spaces are not uncommon in back-to-back terraced patterns of development, the close separation distances would enable overlooking to the first 10m of the rear private amenity space of Nos.63 and 67.
22. I therefore conclude that the proposed development would unacceptably harm the living conditions of neighbouring occupiers, with particular regard to privacy. It conflicts with Policy DM10.6 of the CLP, which seeks to ensure that the amenity of neighbouring occupiers is protected.

Living Conditions – future occupiers

23. There is no dispute that the proposed HMO would meet the relevant floorspace standards. However, the proposed bedsit would fall to be considered against the minimum standard of 58m² required for a two-storey dwelling with one bedroom for two persons as set out within *Technical housing standards – nationally described space standard 2015* (THS). The proposed bedroom area would be about 44m², and thus it would be well short of the standard.
24. While the appellant states that the proposed dwelling is for use by a single person, this is not demonstrated on the submitted plans. A condition to control the occupation of the proposed bedsit to one person would not meet the relevant policy tests for the use of conditions. For example, it would be unreasonably onerous for the local planning authority to enforce.
25. The proposed rear extension to No.65 would align with the rear elevations of Nos.63 and 67 and would include windows to the first-floor. There are also windows within the first-floor rear elevations of Nos.63 and 67. Having regard to the close separation distances between the proposed bedsit, the proposed rear extension to No.65 and the rear elevations of Nos.63 and 67, the degree of overlooking by neighbouring occupiers into the private amenity space serving the proposed bedsit would be significant.
26. I therefore conclude that the proposed development would not provide acceptable living conditions for future occupiers, with particular regard to internal floorspace and privacy. It conflicts with Policies SP2 and DM10 of the CLP and Policies D3 and D6 of the London Plan 2021 (LP) and the THS. Taken together, these policies and standards seek to ensure that development is of high-quality design; that new homes provide adequately sized rooms in accordance with standards and deliver appropriate privacy, in order to ensure that new homes are fit for purpose.

Car Parking and Cycle Parking

27. The appeal site is within an area with a Public Transport Accessibility Level (PTAL) of 2, which means that the appeal site has relatively poor access to public transport. The appellant does not dispute that the appeal site is located within a controlled parking zone and within an area of high parking stress. During my visit, I saw that the street includes parking controls for permit holders (N2 zone) with other parking bays for pay and display parking.
28. There is a proposed car parking space indicated on the submitted plans, and this would satisfy the requirement for 0.75 spaces to serve the proposed bedsit as set out in Policy T6 of the LP. There are no proposed spaces for future occupiers of the HMO. Given the low PTAL value of the appeal site, the proposal is likely to result in future occupiers of the HMO being reliant on a private car. While the appellant suggests that the proposed development would accord with the principle of car-free development, the proposal was not submitted in such terms, and there is no mechanism before me to secure a car free development.
29. In such circumstances, the proposal could result in additional parking demand which would exacerbate existing parking stress. Given the narrow nature of the road, with parked vehicles along both sides, this could result in drivers undertaking reversing manoeuvres for a considerable length, increasing the risk of collision between highway users.
30. Policy T5 of the LP requires that sui generis uses are considered 'as per most relevant other standard'. However, neither of the main parties have clearly set out how they have calculated their respective positions. Applying the standard for use class C3-C4 as set out in table 10.2 of the LP, I am satisfied that 11 spaces would be required and thus the proposed 8 spaces would fall short of that standard.
31. The proposed plans detail a cycle rack within the frontage of the property. There is no evidence before me to demonstrate if and how the proposal would meet the requirements of the London Cycling Design Standards. For example, it is not clear whether this cycle parking would be safe, secure and enclosed.
32. I therefore conclude that the proposed development fails to demonstrate adequate provision for car parking and cycle parking. It conflicts with Policies DM29 and DM30 of the CLP and Policies T4 and T5 of the LP. Taken together, these policies seek to ensure that the transport impacts of development are assessed and appropriately mitigated; that development reduces the impact of car parking; does not have a detrimental impact upon highway safety; promotes measures to increase the use of cycling; and provides cycle parking in accordance with standards, in order to encourage more sustainable modes of transport.
33. I note that the Council's reason for refusal in regard to this main issue did not refer to Policy T5 of the LP, although that policy is referenced in another reason for refusal. However, as set out above, it is clearly relevant to this main issue.

Refuse and recycling facilities

34. The appellant does not dispute the size requirements for bin storage as set out by the Council. Bins are detailed on the submitted plans within the frontage of No.65, but their capacity is not demonstrated. While the appellant states that

covered storage can be provided, the details of any bin store are not before me.

35. The proposed location for bins would also serve the future occupiers of the proposed bedsit. The proposal includes a single storey side extension to part of the flank of No.65, leaving a fairly narrow gap along the side of No.65. The route between the proposed bedsit to the bin storage area would be via a gate leading to the gap, and then across the area proposed for a car parking space, which could be obstructed by a parked vehicle. Such a route would not be convenient or easily accessed by future occupiers.
36. I therefore conclude that the proposal fails to demonstrate adequate refuse and recycling facilities. It conflicts with Policy DM13, which seeks to ensure that refuse and recycling facilities are treated as an integral element of the overall design of a development; and that such facilities are (amongst other things) visually screened, adequately provided, safe, conveniently located and easily accessible by occupants.
37. I note that the Council's reasons for refusal in regard to this main issue refer to Policy DM30 of the CLP and Policy T5 of the LP, which refer to car and cycle parking. Therefore, these policies are not relevant to this main issue.

Other Matters

38. My attention is drawn to the handling of the planning application and the time taken to determine it. Such matters do not affect my consideration of the appeal or the planning merits of the proposal.
39. The proposal would deliver a new dwelling and small sized units of accommodation to assist in meeting wider housing needs. The delivery of further units of accommodation would assist in the government's objective to boost the supply of homes, net of the family sized unit that would be lost as a result of the proposal. These benefits would be of limited weight. Further limited economic benefits would arise from the construction process and from increased expenditure within the economy.

Conclusion

40. 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