



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: 4th January 2024

Appeal Ref: APP/L5240/W/22/3310644
2A Addiscombe Avenue, Croydon CR0 6LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against the failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Qasim Gulamhusein against the Council of the London Borough of Croydon.
 - The application Ref: 22/03187/HSE is dated 28 July 2022.
 - The development proposed is two storey side and rear extension of the existing house.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Costs Decision

2. An application for costs was made by Mr Qasim Gulamhusein against the Council of the London Borough of Croydon. This application is the subject of a separate decision.

Preliminary Matters

3. This appeal is against the non-determination by the Council of the application in the statutory time period, because the Council considered that the application was invalid in respect of the provision of local list documentation.
4. The application dated 28 July 2022 was received by the Council on the same date. I am advised that the Appellant was sent an Invalidation Letter by the Council on 5 August 2022. The Council's Non-Validation Notice listed one reason for invalidation which referred to the requirement for a Phase 1 Ecological Survey, given that the site is adjacent to a Site of Nature Conservation Importance, in order to identify any impacts that the proposed development might have on protected species and their habitats.
5. There followed a lengthy exchange of correspondence between the Applicants and the Council regarding the non-validation notice, but this did not resolve the matter.
6. The original application was submitted with a Bat Scoping Report and Preliminary Ecology Appraisal (Appraisal) dated 30 September 2021 which had been prepared for an earlier application on the same site, relating to the demolition of the existing dwelling and construction of two replacement dwellings in the form of two residential blocks of flats with alterations and associated hard and soft landscaping works. The Appellant has provided an

- update note dated 27 June 2022 also undertaken by the same ecologists. I am not entirely clear of the status of this document although the Appellant has indicated that it was submitted alongside the September 2021 Appraisal.
7. The Council advises that its Validation Checklist requires applications to be accompanied by an ecological assessment where there may be possible impacts on wildlife and biodiversity in accordance with relevant legislation and policies.
 8. The statutory tests at Section 62 (4A) of the Town and Country Planning Act 1990 and Article 11 (3) (c) of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015 relating to the information that a Local Planning Authority may require to support an application are that the information requested must be:
 - *reasonable having regard, in particular, to the nature and scale of the proposed development; and*
 - *about a matter which it is reasonable to think will be a material consideration in the determination of the application.*
 9. The Appellant has questioned whether the site is adjacent a Site of Nature Conservation Importance (SINC), but the Council has provided an extract from its Local Plan Policies Map showing that the eastern boundary of the site is along the boundary of the Addiscombe Railway Park & Selsdon & Addiscombe Railsides SINC. The Appellant has drawn my attention to a review of SINC's that was undertaken on behalf of the Council in 2014 but as that is not reflected in the adopted Local Plan and there is no substantive evidence to show that the Council formally adopted the recommendations of that report, I do not agree with the Appellant's conclusion that the site no longer falls adjacent a SINC. As a result, I consider that it was reasonable for the Council to seek for the application to be accompanied by an ecological assessment.
 10. The Appellant has drawn my attention to the fact that a Preliminary Ecology Appraisal was not required on a nearby site in Addiscombe Avenue. I understand that this was for a lawful development certificate. I have not been provided with the full details of that application, but a lawful development certificate which, amongst other matters, seeks to establish whether planning permission is required for proposed works is materially different to an application for planning permission. It does not persuade me that it automatically follows that an appraisal was not required for this site.
 11. In terms of the second statutory test, I consider that it was reasonable for the Council to consider that matters pertaining to biodiversity and protected species and flora would be a material consideration in its determination of the application.
 12. The application was supported by an ecological assessment albeit one prepared for a different scheme. The issue therefore seems to me to be whether the Council should have accepted the submitted Appraisal. Whilst I share the Council's view that it would always be preferable for an application to be accompanied by material which has been prepared for the specific proposal the subject of the application, it is necessary to consider the information provided

and its relevance to the proposal the subject of the application, namely extensions, alterations and remodelling of the existing house.

13. First, the submitted report had been prepared within 12 months of the application submission and was therefore relatively up to date. Furthermore, the update note was dated June 2022 and was therefore prepared within a very short time period of the application submission.
14. The Appraisal and Update Note both addressed a proposal that was more extensive than the application proposal. It addressed the proposed demolition of the existing house and garage and extensive redevelopment of the site, whereas this proposal seeks to extend the existing property albeit with extensive works to the existing dwelling. The report found that there was a low bat roost suitability in the main house and low potential for hibernation roost potential and overall, the suitability of the buildings to support bats was considered to be 'low'. The Update Note, following further investigation, recommended no further surveys were required but as a precautionary approach, that the works of demolition should be undertaken in the presence of a licensed ecologist. It is my understanding that the Appraisal was accepted as sufficient to validate the previous application under the Council's ref: 21/05397 and the Appellant indicates that it has been accepted in respect of subsequent applications.
15. In respect of the proposed works and, based on the information available, I consider that the extent of the works under the current proposal and those in the earlier application the subject of the Appraisal are not dissimilar in their footprint and site coverage.
16. Given the form of the works proposed in the proposal before me, that is alterations and extensions as opposed to demolition and new build, I consider that the submitted Appraisal, which did consider the existing dwelling and site, the ecological importance of the application site and identify any particular impacts that the proposed development including its construction and implementation may have on protected species and their habitats provided sufficient information to enable the application to be accepted and validated. I have noted that although the Appraisal did not refer specifically to the SINC it did consider the local context.
17. Whilst, and as indicated above, a bespoke appraisal would be the preferred route, given that the development before me proposes alterations and extensions to an existing dwelling, rather than its total demolition and a new build, and the extent of works in terms of site area and footprint would be little different to that assessed under the submitted Appraisal, I consider that in the particular circumstances of this case, the Appraisal should have been accepted and the application validated by the Council. It would have still been open to the Council to seek more information during the application process or, if it felt necessary, to refuse the application on ecological related grounds, but there was no justification, in my view, not to validate the application, given the information provided.
18. It is therefore my conclusion that the application should have been validated. I shall therefore continue to consider the appeal on the basis that it was validly made.

19. The National Planning Policy Framework (Framework) was revised in December 2023. Although some of the paragraph numbering has changed, I do not consider that there are any material changes in the Framework, pertinent to this appeal proposal. I do not therefore consider it necessary to seek the views of the Appellant or the Council on the revised Framework.

Main Issues

20. The Council has set out the main considerations it considers would have been raised had it validated the application. From all the information before me as well as my site visit, I consider that the main issues in this appeal are:
- a) The effect of the proposed development on the character and appearance of the existing property and on the local area,
 - b) The effect of the proposal on the living conditions of adjoining neighbours, with particular regard to loss of outlook and
 - c) The effect of the proposal on protected species and habitats.

Reasons

Issue a) Character and Appearance

21. The appeal property is a detached dwelling set back from the main terraced development fronting Addiscombe Avenue and within a predominantly residential area. At its south western end, Addiscombe Avenue leads off Everton Road with the side returns to properties fronting Everton Road forming the first part of Addiscombe Avenue, before the road bends to the north and is fronted by predominantly terraced houses. Although it is set back from the road frontage and stands apart from the adjoining properties, the appeal property is of a similar scale and massing to the predominant pattern of development in the local area. The appeal property as existing is therefore readily assimilated into the street scene.
22. The proposal would significantly extend and remodel the existing property so that its bulk and massing as well as its height would be very noticeably increased. It would become a double fronted property with side extension set back and at a lower level. The roof would be raised in height and remodelled to include a crown roof with dormers to the rear and a series of rooflights to the front to accommodate additional accommodation at second floor level. The resultant property would be very bulky in terms of overall massing and visually top heavy with the form of the roof proposed.
23. The resultant development would appear as a significantly larger development, and visually obtrusive in relation to the more modest pattern of development in the local area. Whilst the individual siting and orientation of the existing dwelling in relation to the general pattern of development in the vicinity is acknowledged, I consider that the proposed scale of increased massing, bulk and height and resultant form of the dwelling would not be satisfactorily assimilated into the street scene. It would appear visually discordant and overly prominent as well as out of character with the surrounding scale and form of development.

24. I therefore conclude that the proposed enlargement and alterations would not respect the character and appearance of the existing building or of the local area. It would conflict with Policies D3 and D4 of the London Plan, Policies DM10 and SP4 of the Croydon Local Plan as well as the Framework and in particular Section 12, all of which seek, amongst other things for new development to be of a high quality design which respects the local context.

Issue b) Living Conditions

25. The western boundary of the appeal site backs onto the rear boundaries of properties in Everton Road and the front of the house faces towards the side of No 2 Addiscombe Road. Although not explained, the Council has specifically referenced the impact on No 6 Everton Road, which is mid terrace.
26. Whilst the proposed alterations and additions would add to the height and overall massing of the appeal property, I consider that there would be sufficient distance between the appeal property and the rear of houses in Everton Road that the proposal would not materially harm the outlook from rear facing windows and rear gardens in the properties in Everton Road, adjoining the site. This includes No 6 Everton Road, although I consider that the relationship with this property would not be materially different to the other properties in Everton Road which share a common boundary with the appeal property.
27. I agree with the Council that given the existing relationship between the appeal property and the neighbouring property at No 2 Addiscombe Avenue and taking account of the windows in that neighbouring property closest to the appeal site, there would be no material effect on the living conditions of the neighbours at No 2 Addiscombe Road.
28. I am therefore satisfied that there would be no material harm to the living conditions of the surrounding neighbours, including with regard to outlook. There would be no conflict with Policies D3 and D6 of the London Plan and Policy DM10 of the Croydon Local Plan which seek, amongst other matters, to protect the amenities of adjoining neighbours.

Issue c) Ecology

29. I saw at my site visit, as evidenced in the many photographs submitted by the Appellant that most of the trees within the site had been felled, and the aerial images, for example, on the cover page of the Appeal Statement, are not therefore up to date. I have also had regard to the extent of the proposed works which would be mainly within the hard landscaped area of the site.
30. The submitted Appraisal makes recommendations regarding the approach to development affecting the building, to ensure that any potential risk to the presence of bats in the building (which is regarded as low) is avoided. Had I been minded to allow the appeal, conditions could have been imposed to require further details of the development site working area together with a method statement for the works to ensure that there would be no harm to the adjoining SINC. The Council has acknowledged that this approach has been considered to be acceptable in respect of other applications relating to the same site.
31. I am therefore satisfied that were no other matters of concern, conditions could be imposed to ensure that there would be no harm to protected habitats and

species, together with enhancement measures. Subject to the imposition of these conditions, there would be no harm to protected habitats and species, including the adjoining SINC and no conflict with Policy G6 of the London Plan and Policies DM27 and SP7 of the Croydon Local Plan which seek to protect SINC's and impacts on biodiversity.

Other Considerations

32. I agree with the Council that were no other matters of concern and planning permission were to be granted, issues in respect of flood risk and fire safety could be addressed by conditions.

Planning Balance and Conclusion

33. I have accepted the application as validly made for the reasons set out above.
34. I have found that the proposed development would not harm the living conditions of surrounding neighbours, and subject to the imposition of conditions, I am satisfied that the proposal would be acceptable in terms of ecology and biodiversity. However, these findings do not outweigh the harm I have concluded to the character and appearance of the local area as a result of the proposed development.
35. The proposal would not accord with the development plan and there are no other material considerations to override this finding. For the reasons given above and having regard to all other matters raised, I conclude that this appeal should be dismissed and planning permission refused.

L J Evans

INSPECTOR