



Appeal Decision

Site visit made on 5 December 2023

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 February 2024

Appeal Ref: APP/L5240/W/23/3324218

Land to the rear of 26 Warham Road, London, Croydon CR2 6LA

- 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 Bluefield Estates Ltd against the decision of the Council of the London Borough of Croydon.
 - The application Ref 22/01073/FUL, dated 14 March 2022, was refused by notice dated 8 March 2023.
 - The development proposed is described as the erection of a single family dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. It has been brought to my attention that the Suburban Design Guide has been revoked in September 2022. It is incumbent upon me to consider the most relevant and up to date information in reaching a decision. Therefore, I have not considered this document in my decision. The appellant has had the opportunity to comment on the implications of revocation for the appeal and, as such, I am satisfied that the appellant has not been prejudiced by this approach.
3. There has recently been a revised National Planning Policy Framework (the Framework) published by Government. The parties have had the opportunity to comment on this as part of their appeal submissions. I have had regard to the revised Framework in my decision.

Main Issues

4. The main issues are the effect of the proposed development on:
 - highway safety;
 - the living conditions of the occupants of 24 Warham Road and 1 Barham Road, with regard to privacy and outlook; and
 - the character and appearance of the area.

Reasons

5. Warham Road contains detached, semi-detached and terraced dwellings as well as blocks of flats which sit on plots of different sizes. The buildings include Victorian dwellings and purpose built blocks, so they display a range of designs and detailing including their roof form, sizes, heights, materiality, and

colouring. In terms of layout, whilst the area is characterised primarily by linear development fronting the road, back-land development is established in the vicinity, and it comprises car parks and garages serving flats as well as residential development. Access to the rear developments is either under croft or between buildings.

6. The appeal site comprises part of the rear garden on 26 Warham Road (No 26) which is surrounded by residential gardens. There is a narrow road adjacent to the site that provides access to the rear garden of No 28 Warham Road (No 28) which is used for informal parking.

Highway safety

7. Policy SP8 of the Croydon Local Plan 2018 (CLP) encourages car free development where there are high levels of public transport accessibility level (PTAL). In addition, this policy requires new development to contribute to the provision of electric vehicle charging infrastructure, car clubs and car sharing schemes. Policy T4 of the London Plan 2021 (LP) states that mitigation through financial contributions will be required to address the identified adverse transport impacts where appropriate.
8. The site is within a controlled parking zone and an area with a PTAL of 5, which indicates very good access to public transport. Both parties are prepared to accept a car-free development, subject to the provision of a legal agreement restricting the future occupiers of the dwelling to apply for parking permits. This agreement would also secure a financial contribution towards sustainable transport initiatives in the area.
9. No legal agreement or planning obligation has been provided. Although the Planning Practice Guidance states that it is possible for a negatively worded condition to restrict development when a planning obligation or other agreement has not been entered into, it states that this is only suitable in exceptional circumstances. Such circumstances may apply in the case of particularly complex development schemes where there is clear evidence that the delivery of the development would otherwise be at serious risk. In this case, special circumstances are not apparent, and the limited scale and nature of the proposed development would not warrant its consideration as a more complex development. As such, there is no clear mechanism under which the proposed car-free element and financial contribution would be delivered.
10. The appellant has directed me to an appeal where the Inspector applied a condition securing a legal agreement. However, this condition appears to relate to the provision of a car-free development only, so it would not be directly comparable with this proposal where a financial contribution is also required.
11. In conclusion, the proposal would be harmful to highway safety, contrary to Policy T4 of the LP and Policy SP8 of the CLP. These policies seek to mitigate transport impacts and encourage car free development.

Living Conditions

12. 24 Warham Road (No 24) adjoins the appeal site. The proposed dwelling would be sited at a limited distance from the joint boundary with this neighbouring property. Additionally, due to the height to the eaves above the boundary wall, the dwelling would appear as a significant and conspicuous structure when viewed from the rear garden of this property. As such, the proposal would be

detrimental to the living conditions of the occupiers of No 24 when using their garden.

13. 1 Barham Road (No 1) would be located directly to the rear of the proposed dwelling. Despite its subservience to neighbouring properties, the proposal would still have two storeys. Its height would be the greatest in the direction of these neighbours, so the set in from the boundary would offer limited mitigation against the scale of the proposed dwelling. As such, the presence of the proposed dwelling would be harmful to the outlook of the occupiers of No 1.
14. Policy DM10 of the CLP seeks to prevent direct overlooking to the first 10m of neighbouring gardens. The northern elevation on the proposed dwelling would be V-shaped, so its windows would be angled and orientated towards the back of No 1's rear garden. Additionally, the proposal's first floor northern windows would have privacy screens on the side, directing views away from No 1's rear windows and first 10m of garden. The double height serving the living room would not have outlook from the upper level and, in addition, it would have timber style louvres on the front on its highest part. Taken together, these measures would ensure that the privacy of the occupants of No 1 would be maintained to an acceptable standard.
15. Concerns in terms of living conditions have been raised by the occupants of neighbouring properties, including 1a Barham Road (No 1a), No 26 and No 28. Given the proposed window position, relationship and distance to the closest neighbours, I am satisfied that the dwelling would not be unduly harmful to their living conditions.
16. Overall, while I am satisfied that the proposed development would have an acceptable effect on the occupants of No 1 in relation to privacy, I conclude that the proposal would be harmful to the living conditions of the occupants of No 24 and No 1 with regard to outlook. The proposal would be contrary to Policy DM10 of the CLP, which supports development that protects the amenity of the occupiers of adjoining buildings.

Character and Appearance

17. The proposal seeks to sever the land at the appeal site and construct a detached dwelling to the rear of the host building. Although No 1a would not be directly comparable with the appeal site since it has a street frontage, there are other instances of back-land development in the vicinity where the buildings are partially glimpsed through gaps between existing built form. Thus, an additional dwelling in this location, with limited visibility from public vantage points, would sit comfortably within the pattern of development of the area.
18. Policy DM10 of the CLP sets out that in the case of development in the grounds of an existing building which is retained, a minimum length of 10m and no less than half or 200m² (whichever is the smaller) of the existing garden area is retained for the host property, after the subdivision of the garden. On the evidence before me, the proposal would comply with the requirements of this policy. The size of the surrounding plots is varied and there are examples of smaller plots in the area, such as No 1a or the properties at Dene Court. Therefore, the proposal would integrate well within its context.
19. Concerns have been raised with the size of the proposed plot. However, the dwelling would retain some space to all its boundaries. As such, the scale of the

proposed dwelling would not appear disproportionate to the land on which it would sit.

20. Pedestrian access to the site would be via a long and narrow path that would run alongside the existing access road to the rear of No 28. This arrangement would not be dissimilar from the access arrangements to the existing back-land development in the vicinity. As such, the proposed access would not be harmful to the character of the area.
21. The proposal would adopt a contemporary design response, and materials. The surrounding dwellings vary in scale, shape and appearance so the proposal would read as an honest modern addition to the locality and, consequently, it would not appear at odds with the surrounding built form.
22. The waste collection point for the proposed dwelling would be located within the frontage of No 26, near the existing bin storage for this property. Therefore, this arrangement would not cause visual harm to the street scene.
23. In conclusion, the proposal would not harm the character and appearance of the area, in accordance with Policy D3 of the LP, Policy SP4 and Policy DM10 of the CLP. These policies support development that makes the best use of land by following a design-led approach that optimises the capacity of sites, respects local character and creates a high-quality built environment.

Other Matter

24. My attention is drawn to the boundaries of No 1a as shown on the submitted plans. However, this is a matter that falls outside my consideration of this appeal, so I have considered the proposal as shown on the submitted plans.

Planning Balance and Conclusion

25. The proposal would be acceptable in relation to other matters, including provision of adequate internal and outdoor space and access for fire appliances. However, these are neutral factors that neither weight for or against the development, as they only relate to the absence of harm.
26. The appeal proposal would deliver a net gain of one new dwelling within a short walk to South Croydon Local Centre and public transport. The site is a small one so the redevelopment could be delivered quickly. Further, it would support the Government's objective of significantly boosting the supply of homes, albeit the social and economic benefits associated with one single dwelling would be little. Taken together, these benefits attract limited weight in favour of the appeal proposal and do not clearly outweigh the harm that I have identified in relation to the living conditions of the adjoining neighbours and highway safety.
27. Overall, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations of sufficient weight, including the provisions of the Framework, to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

P Terceiro

INSPECTOR