



Appeal Decision

Site visit made on 6th February 2024

by Megan Thomas K.C. Barrister-at-Law

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 29.02.2024

Appeal Ref: APP/L5240/W/23/3321433

25 Linden Avenue, Coulsdon, Croydon CR5 3BT

- 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 Abbeyglen (Castlemaine) Limited against the decision of the London Borough of Croydon.
 - The application Ref.22/01992/FUL, dated 9 May 2022, was refused by notice dated 3 November 2022.
 - The development proposed is the construction of a building containing 9 no. flats with associated parking and landscaping following demolition of the existing dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant submitted 14 amended plans early in the appeal process. The modifications include an internal redesign to include a lift accessing all floors of accommodation, a purpose-designed wheelchair accessible unit on the second floor enabling the proposal to meet the minimum 10% requirement of the total number of flats, siting of a bin holding area near the entrance of the site for convenient access on collection day, re-orientation of all private balconies to face the front or rear of the site, introduction of privacy screens to balconies that protrude to prevent overlooking, introduction of obscured glazing to the flank elevations, automatic opening vents and risers for fire fighting and roof lights to the second floor units.
3. The amended plans were uploaded to the Council's Planning Register portal. Local residents were notified of the appeal and notified in respect of all documentation being available to view on the Council's portal. The Council has also had an opportunity to consider the amended plans although it has not submitted an Appeal Statement. In the light of this, I do not consider that anyone has been deprived of their right to comment on the plans or is prejudiced if I determine the appeal on the basis of the minor amendments.

Main Issues

4. The main issues in the appeal are the effect of the proposed development on the character and appearance of the area including in respect of loss of greenery; the effect on the living conditions of the occupants of no.24 Linden Avenue with regard to outlook and privacy and the effect on the living conditions of future occupants of the proposal with regard to outlook; whether

there is sufficient evidence on which to conclude that highway safety would not be unduly compromised; whether there is sufficient information on ensuring fire safety; whether bin collection arrangements can be achieved and whether there is building regulations M4(3) & M4(2) policy compliance on accessibility.

Reasons

Character and appearance of the area

5. The appeal site consists of a private drive off Linden Avenue which leads to a three-bedroomed bungalow with parking and a detached garage in front and a rear garden which extends up to the railway line immediately to the north. There are allotments on the land to the east. The private drive runs in between no.24 Linden Avenue and the rear of no.332 Chipstead Valley Road. Greenacres is the dwelling to the west of no.24 Linden Avenue. The western boundary of the appeal site has a common boundary with no.24 Linden Avenue and with a children's nursery (at the time of my site visit it was not clear if this was operating or not). There is a second children's nursery at or near to 332 Chipstead Valley Road.
6. The existing bungalow on the site is mostly hidden from Linden Avenue. The drive to it passes along the frontage of no.24 and then opens up to a small parking area, a detached garden and a grassed front garden to the bungalow.
7. Linden Avenue is made up primarily of detached and semi-detached dwellings which are generally one or two storeys high. There are some shared design characteristics such as tiled hipped roofs with gable elements and brick and render elevations. Pedestrian access can be obtained from the end of Linden Avenue to Woodmansterne railway station which is very close. The site is near a part of Chipstead Valley Road which features several shops and commercial uses. Buses run along Chipstead Valley Road. The site has a PTAL of 2 which is low.
8. The proposal would involve the demolition of the existing bungalow and the erection of a building with 3 storeys of accommodation (the top storey being within the roofspace). It would provide 9 self-contained flats and there would be 9 car parking spaces in a front forecourt including a blue badge space. Cycle parking would be inside the building.
9. The apartment block would consist of a front section with a rear section which would step in on both flanks. It would have a projecting front gable on the western end of the front façade which would sit forward of building line of no.24 Linden Avenue, but not to an exaggerated extent. Whilst it would sit lower into the ground than no.24 Linden Avenue, its bulk, scale, height, fenestration and massing would make it an imposing and incongruous building in this location. It would have no single storey elements and limited articulation.
10. It would appear particularly disharmonious in the row of dwellings formed by Greenacres and no.24. No.24 has a low eaves line whereas the eaves line on the proposal would be considerably higher. The contrasting appearance of the two would be stark. It would create an excessive step change in bulk and scale that would be visually incongruous with its surrounding context. No.24 sits comfortably in its plot whereas the proposal would appear squeezed in with a frontage that would not leave much visual space at the flank boundaries. I consider it would be an overdevelopment of the plot.

11. There are likely to be glimpses of the building from Chipstead Valley Road which, even though from a distance, would strike the viewer as out of step with what is locally distinctive and suitable for the suburban area.
12. The existing bungalow has a wide grassed front garden which contributes to the suburban character of the area. The vast majority of this would be converted to hardstanding to provide the 9 space car park. There could be a hedgerow on the eastern boundary but overall there would be very little opportunity to provide any meaningful alternative soft landscaping to enhance the setting of the building. Significant landscaping on the flank common boundaries appears unlikely given the narrow margins and the potential for vegetation obscuring the fenestration of ground floor flats. It remains important for the building to have an acceptable and attractive setting notwithstanding that public views of the forecourt of the building would be limited.
13. The loss of greenery would dilute the suburban character and is another factor which leads me to conclude there would be harm to the character of the area.
14. I have borne in mind that local and national policy that promotes effective and efficient use of land especially on sites in the built-up area like this one which is partially previously-developed land. However, environmental quality should be maintained and this proposal would not achieve that.
15. On this issue, I conclude that the proposed development would significantly harm the character and appearance of the area. It would be contrary to policies D3, D4 and D5 of the London Plan 2021 and policies SP4, DM10.1 and DM10.7 of the Croydon Local Plan 2018.

Living Conditions of Occupants of 24 Linden Avenue and of Future Residents of the Scheme

16. In respect of proposed unit 1.04 which is a first floor unit in the rear section of the building there was a concern that two of the three bedrooms would look out onto the private rear garden of no.24 but could not be obscurely glazed without causing unacceptable living conditions for the future occupants of that flat. I agree with the fact that without obscured glass the loss of privacy would have been unacceptable for no.24 and also that obscuring the two bedroom windows would not have been a solution to that as it would unduly harm flat occupants' amenity.
17. However, the amended plans have re-arranged the flats on the first floor so that there is no longer a three bedroomed property reliant on light and outlook on this elevation. One of the replacement bedroom windows within flat 1.04 would be angled away so that direct views of no.24's rear garden would not be possible. There would no longer be a second window on the first floor in that stepped back element. The first floor window in the proposed western elevation (the wider part of the building) would serve one of the two bedrooms in flat 1.01 and so it would be acceptable to fit that with frosted glass. No.24 has a first floor flank window on its eastern flank but both first floor windows which might compromise the privacy in that bedroom would be frosted. I agree that the amended plans would overcome the loss of privacy for the occupants of no.24 Linden Avenue whilst maintaining acceptable living conditions for the occupants in proposed flats 1.04 and 1.01.

18. The internal quality within flat 0.02 is in the Council's view severely impacted by its proximity to the boundary and its single north east facing aspect. On the amended plans, all ground floor flats (0.03, 0.02 and 0.01) would have satisfactory aspects even though some windows would be close to the boundary. Flat 0.02 would be a 1 bedroom 2 person flat and the bedroom would not have frosted glass. The living/kitchen/dining room would have two frosted glass windows but it would have a large south eastern facing window also which I consider would provide acceptable living conditions. Unit 0.03 is on the ground floor and has three bedrooms. It would have a satisfactory outlook and enjoy sufficient daylight. Unit 1.03 is on the first floor rear element with windows out to the allotments (one frosted) and out to the rear garden of the development. The future occupants of this three bedroomed flat would have sufficient acceptable outlooks and daylight.
19. Whilst it is not made entirely clear, the Council is concerned that the occupants of no.24 would have an unacceptable outlook from their rear garden. The appellant has anticipated this and submits that the set-back of the proposed building from the boundary and the lower ground levels would be, in combination, sufficient to avoid any overbearingness. I do not agree. The new building would have a significantly deeper footprint than the existing dwelling with the building extending approximately 22.6 metres from front to rear with about 11.7 metres of this depth sitting beyond the rear building line of no.24. albeit at a set back position of about 3.5m. This would result in built form of 3 levels of accommodation extending along the entire length of this neighbour's garden. I consider this would be overbearing especially given that no.24's garden does not extend back to the railway line but to the boundary with Coulsdon Nursery School.
20. On this issue, I have not found any unacceptable loss of privacy to the occupants of no.24 Linden Avenue and I have not found the living conditions of any future occupants of the proposed flats to be unduly compromised. However, I conclude that there would be unacceptable loss of outlook for the occupants of no.24 Linden Avenue when in their rear garden. There would therefore be conflict with policy D6 of the London Plan 2021 and policy DM10 of the Croydon Local Plan 2018.

Highway and Pedestrian Safety

21. Linden Avenue is a no through road for vehicles. The proposed scheme would use the existing access from Linden Avenue which would extend for a length of about 26m with a width of about 3.28m to 3.39m. There are concerns about conflicts between pedestrians and vehicles on the access way and whether suitable visibility splays could be provided. I have had regard to the appellant's Transport Technical Note and the appellant's Appeal Statement but I am not persuaded that highway safety concerns can be set aside. I am mindful of the access being an existing one but it serves only one dwelling and would have to serve 9 if the scheme proceeded. The increase in pedestrian and vehicular traffic would not be trivial given the narrow accessway which would have to be negotiated.
22. The appellant suggests demarcating a pedestrian footway (1.5m) by a painted line to segregate it from vehicles but that would not leave sufficient room in my view for the two to pass safely. Whilst I have been referred to Manual for Streets paragraph 7.2.3, referring to carriageways being narrowed over short

lengths for a single lane as a traffic calming feature in lightly trafficked areas that does not properly reflect the situation here where pedestrians would merely be separated by a painted line. The accessway has brick walls on each side so there is little leeway for error. I am also not convinced that, even though there would be sign saying that priority is for vehicles entering the site, there would not be reversing back into Linden Avenue.

23. In terms of visibility splays, these are reliant on obstructions on private land being removed or not being erected. I am not therefore persuaded on the evidence before me that compliant visibility splays could be achieved.

24. On this issue, I agree with the Highway Authority that there is insufficient evidence on which to conclude that there would not be undue harm to highway and pedestrian safety from the proposal. I conclude that the proposal would be contrary to policies T4 and T6 of the London Plan 2021 and policies SP8, DM29 and DM30 of the Croydon Local Plan 2018.

Fire Safety

25. There was no specific Planning Fire Safety Strategy submitted with the application or appeal. The appellant accepts that a fire engine/appliance would need to stop within 45m of the property and that this cannot be achieved so an alternative arrangement such as dry risers would have to be provided. I note that the amended plans now refer to the provision of automatic opening vents and risers. However, the Council indicate that there are other requirements of policy D12 which need to be addressed and I note that the policy requires development proposals to meet the highest standards of fire safety. I am not therefore able to conclude that all necessary information has been provided on which to decide that the proposal would achieve the highest standards of fire safety. I conclude therefore that there is insufficient information on which to conclude that there would not be an unacceptable fire safety risk.

Refuse Collection Accessibility

26. The scheme proposes that the bin store is located at ground floor level within the building. I am satisfied that this would be an appropriate location for the bin store. On collection days bins need to be within about 20m of the road from which they are collected. On amended site plan no.200 Rev A, a bin holding area is shown on the accessway well within the desired 20m tolerance. The bins would have to be moved to that location on collection day each week. The holding area is within the 1.5m pedestrian lane on the access and so I consider that the bins could be located there without interfering with vehicular traffic movements on the accessway. Pedestrians would not be unduly inconvenienced and their safety would not be compromised by manoeuvring around the holding area when the bins were in place ready for collection on collection day.

27. On this issue I conclude that reasonable refuse collection arrangements could be provided without compromising safety. There would be no conflict with policy DM13 of the Croydon Local Plan 2018.

Accessibility

28. One of the amended plans (no.203 Rev A) has revised the internal layout of the second floor to provide for an M4(3) compliant unit to meet policy. A lift is also now provided in the building and is also shown on amended plans. I am satisfied that the flat would be an M4(3) compliant unit and the remainder of

the flats M4(2) compliant. There is no reason to refuse planning permission on the basis of lack of accessibility. There would be no conflict with policy D7 of the London Plan 2021.

Other Matters

29.I have taken into account a number of benefits that would flow from the grant of planning permission. There would be eight (net) additional new homes which would add to the housing supply and carries weight given the national imperative to boost the supply of homes, especially on small sites. The scheme would also provide a good mix of size of flats. The Borough has a need for family-sized units and the development would deliver a net uplift of 2 x 3 bed family sized units in compliance with policy DM1.2 of the Croydon Local Plan. In addition, economic benefits would flow from the construction works and from spending by future residents in the local economy.

Conclusion

30.I have weighed up the benefits of the scheme against the harms I have identified above, and I conclude that the harm would outweigh the benefits. There is conflict with the development plan and material considerations do not indicate that the plan should not have primacy in this instance.

31.Having taken into account all representations made, for the reasons given above, I dismiss the appeal.

Megan Thomas K.C.

INSPECTOR