



Appeal Decision

Site visit made on 20 February 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 March 2024

Appeal Ref: APP/L5240/W/23/3328194

15 & R/O 17 Wattendon Road, Kenley CR8 5LW

- 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 Lee Clemson of Mantle Developments UK Ltd against the decision of the Council of the London Borough of Croydon.
 - The application Ref 21/04380/FUL, dated 19 August 2021, was refused by notice dated 1 August 2023.
 - The development proposed is described as "Construction of 8 new homes (4 pairs of semi-detached houses) in rear garden land of 15 & 17 Wattendon Road with associated access, parking & landscape. Partial demolition of integrated garages and extensions at 15 Wattendon Road to facilitate access."
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Lee Clemson of Mantle Developments UK Ltd against the Council of the London Borough of Croydon. This application is the subject of a separate decision.

Preliminary Matters

3. The address is indicated on the application form as "15 Wattendon Road, Kenley CR8 5LW". The decision notice and the appeal form cite the address as "15 & R/O 17 Wattendon Road, Kenley CR8 5LW" which I have used in the banner above as this is a more accurate description of the address.
4. The parties have confirmed that some revised plans were submitted during the consideration of the planning application. The plans which were under consideration at planning application stage were PL001 Rev.00, PL005 Rev.01, PL030 Rev.01, PL031 Rev.01, PL032 Rev.01, PL040 Rev.01, PL099 Rev.10, PL100 Rev.10, PL101 Rev.10, PL102 Rev.10, PL103 Rev.10, PL200 Rev.10, PL201 Rev.10, PL202 Rev.10, PL203 Rev.10, PL204 Rev.10, PL205 Rev.10, PL206 Rev.10, PL207 Rev.10, PL208 Rev.10, PL300 Rev.10, PL301 Rev.10, PL400 Rev.10 and, PL410 Rev.10. The Rev 10 plans show changes to the window design, balustrades, external materials and parking arrangements. There is reference to an online poll by a councillor, but I have limited evidence of any other consultation on them. As the modifications are minor, my consideration of them would not cause prejudice to interested parties. Therefore, I have determined the appeal based on the revised plans.

5. The appellant submitted a Unilateral Undertaking (UU) dated 19 January 2024 which provides a sustainable transport contribution. I have not sought comments from the Council on the UU but have had regard to it in my decision.
6. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties were not invited to make further comments.

Main Issues

7. The main issues are:

- the effect of the proposed development on the character and appearance of the area; and
- whether the proposal would create a need for mitigation in relation to sustainable transport.

Reasons

Character and appearance

8. The site is in a corner location on Wattendon Road within a suburban residential area. It comprises the sizeable grounds of a semi-detached bungalow, and part of the large rear garden of the adjacent dwelling. The site slopes down steeply to the rear, with trees and woodland along the rear boundaries which are visible from the road in large gaps between the buildings, providing a verdant backdrop. Hipped roof bungalows are predominant in the immediate vicinity with those along this part of Wattendon Road having long rear gardens. There are also larger dwellings in the wider area.
9. The proposal would remove parts of side extensions of the existing house to provide an access road to a development of eight dwellings to the rear. The Croydon Local Plan 2018 (CLP) clearly envisages infill and plot subdivision and rear garden development on planned estates of semi-detached houses to increase density and massing. However, a large part of the site would be developed with buildings, parking areas and the access road. This would create significant urbanisation on rear garden land, incongruous in this part of the road, which is characterised by houses with large, open gardens.
10. There are some cul-de-sacs in the area which have houses fronting both sides. As the access road would be alongside an existing bungalow with the new properties located on only one side of it, the proposed layout would fail to reflect the pattern of development in existing nearby cul-de-sacs and would not form a logical extension of Wattendon Road.
11. The proposed dwellings would provide a mix of two and three storeys of accommodation, with significantly smaller footprints than the existing properties. However, despite their traditional suburban design incorporating front catslide roofs and using local materials, because of their height and depth including large crown roofs, the proposed buildings would have a significantly greater scale and mass than the existing bungalows prevalent in the locality. Therefore, the size of the dwellings would be out of character with the existing houses close by.
12. The development has been designed to take account of the topography, where the houses would appear lower than the existing bungalows from the street.

However, due to the height and size of the proposed dwellings, large extents of roofs and walls would be clearly visible in the spacious gaps between the existing properties at 15-17 Wattendon Road and the houses on either side of them. Whilst the development would be set in spacious landscaping with separation to the boundaries and with woodland screening some rear views, the scale and position of the buildings would impinge on views of the trees which form a landscaped backdrop to development, eroding the character of this part of the road.

13. I note that Policy DM10.1 of the CLP states that proposals should seek to achieve a minimum height of three storeys. However, this is subject to it respecting the development pattern, scale, height, and massing, amongst other things, and, for the reasons set out above, I find conflict with Policy DM10.1 in this regard.
14. There is reference to a scheme nearby at Fair Oak Close where the Council has resolved to grant planning permission. The appellant considers that this is almost identical to the appeal proposal. However, as the Fair Oak Close scheme would be a smaller development of two storey dwellings on a street where similar height houses predominate, accessed via a spur road from the end of cul de sac, it would not be comparable to the proposed development.
15. The appellant cites support for the design by a majority of local residents, but this is not borne out by the number of objections to the scheme.
16. Overall, I conclude that the proposal would harm the character and appearance of the area. This would be contrary to Policy D3 of the London Plan 2021 and Policies SP4 and DM10.1 of the CLP. Together, these require developments to respond to local distinctiveness and respect local character, amongst other things. It would also conflict with the Framework which requires development to be sympathetic to local character.
17. Policies D4 and D5 of the London Plan relate to processes and actions required to deliver good design and to inclusive design. As these do not directly link to the harm identified, I find no specific conflict with Policies D4 and D5 in reaching my conclusion.

Sustainable transport

18. The site has a PTAL of 0 which means it has poor access to public transport. Kenley station is around 1.2km away.
19. Amongst other things, Policy SP8 of the CLP requires new development to contribute to the provision of electric vehicle charging infrastructure, car clubs and car sharing schemes. CLP Policy DM29 states that development should promote measures to increase the use of public transport, cycling and walking.
20. The Council states that a financial contribution of £12,000 (£1,500 per unit) is required to contribute towards sustainable transport initiatives in the local area. The appellant has submitted a UU which includes a sustainable transport contribution of £13,500 but there is no explanation why it differs from the amount required by the Council.
21. As the proposal would include electric vehicle charging points (EVCP) and parking provision in accordance with local standards, the appellant questions whether an obligation would be reasonable and necessary. The Council

indicates that the contribution would go towards a package of measures including the general expansion of the EVCP network, setting up street car clubs, and extensions and improvements to walking and cycling routes in the area. Given the location of the proposed development in an area with poor access to public transport, it is likely that there would be increased reliance on private vehicles. As such, mitigation would be necessary to make the development acceptable in planning terms, when considered against the requirements in Policies SP8 and DM29 of the CLP.

22. The High Court decision¹ accepted the Council's reasoning in arriving at the £1,500 per dwelling figure. That decision indicates that whilst it was based on a transport assessment study commissioned for Kenley ward, the figure was calculated on the basis that it could be applied across the borough. Further, the decision recognises that it is a modest sum, and in that case the Council's committee was entitled to take the view that it was fairly and reasonably related to the scale and kind of the development.
23. Therefore, in relation to the current proposal, I am satisfied that the Council's suggested financial contribution towards sustainable transport initiatives is necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development as required by the Framework and by the Community Infrastructure Levy Regulations 2010.
24. There is reference to an appeal decision in the Council's area² where the Inspector found that a financial contribution towards sustainable transport improvements had not been demonstrated to be necessary. In that case, the Council had not identified a development plan policy nor demonstrated the harm or how the contribution would overcome this and, as such, it is not comparable to the current proposal.
25. The UU makes provision for such a contribution. If I had been otherwise minded to allow this appeal, I would have sought a revision to the contribution amount from the appellant and the Council's comments on the document.
26. Consequently, I conclude that the proposal would create a need for mitigation in relation to sustainable transport and that the UU makes provision for this. As such, with an appropriate UU in place, it would comply with Policies SP8 and DM29 of the CLP. It would also accord with the Framework which requires the potential impacts of development on transport networks to be addressed.

Other Matters

27. The proposal would make more efficient use of land on a medium-sized windfall site in accordance with national planning policies. It would contribute eight dwellings towards the supply of housing in an existing urban area which could be delivered quickly, helping to relieve the pressure for housing in other more sensitive areas. There is no substantive evidence to demonstrate that the Council is failing to meet the needs for housing in its area which tempers the weight I have attached to housing delivery. Nevertheless, the provision of eight additional houses is a limited benefit of the scheme.

¹ Whiteside v the Council of the London Borough of Croydon [2022] EWHC 3318

² Appeal Ref: APP/L5240/W/21/3288773

28. There would be some economic benefits during the construction phase when the development would provide jobs and investment, and once occupied when future residents would support local shops and services. However, given the relatively small scale of the proposal, these benefits would be limited.
29. The Council does not raise concerns or find development plan conflict in relation to several other matters, including living conditions, unit mix, trees, flood risk, fire safety, parking, highways safety, bin store provision, community infrastructure levy contribution, biodiversity, trees, and landscaping. There is no compelling evidence before me that would lead me to reach a different conclusion to the Council on them. However, the absence of harm is a neutral factor in the planning balance.

Planning Balance and Conclusion

30. I have found harm to the character and appearance of the area. This is a planning harm which attracts considerable weight. The delivery of housing and the economic benefits carry limited weight, with the mitigation in relation to sustainable transport and the remaining matters only attracting neutral weight, which accordingly do not outweigh the harm I have found.
31. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

A Wright

INSPECTOR