

Appeal Decision

Site visit made on 8 February 2024

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI
an Inspector appointed by the Secretary of State

Decision date:

Appeal Ref: APP/L5240/W/23/3323980
4 Windmill Road, Croydon CR0 2XN

- 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 Ignatius Ebhogiaye against the decision of the Council of the London Borough of Croydon.
 - The application, Ref. 22/04083/FUL, dated 3 October 2022, was refused by notice dated 13 December 2022.
 - The development proposed is the erection of a 2-storey building to the rear of 4 Windmill Road to provide a 1 No. one bedroom flat and a 1 No. two bedroom flat.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (i) the effect of the development on the development pattern and character of the area; (ii) the adequacy of the living conditions for the occupiers as regards internal light, and (iii) the adequacy of arrangements to meet the potential increase in the demand car parking.

Reasons

3. On the first issue relating to the effect of the new building on the development pattern and character of the area, I observed on my visit that Windmill Road is a residential road stretching northeast for some distance to include a local shopping centre. The appeal property at No. 4 is a double fronted detached building, for the most part two storey but also including a small centrally positioned front dormer. However, to the rear there appears to be three main floor levels plus more use of the roof space than apparent at the front and also a basement with an external area at that lower level used for outdoor amenity. The Council says the building is in use as eight flats and this is not disputed by the appellant.
 4. At the front there is a paved frontage area shown on the application plans as accommodating four parking spaces, whilst at the side boundary with No. 6 there is a path into the rear of the site where there is an overgrown garden area showing no signs of having been maintained. Whilst this area may meet the quantitative requirements of Policy DM10.4(e) of the Croydon Local Plan 2018 ('the Local Plan') for existing residents, in its current form it does not offer any meaningful amenity in qualitative terms. As this area is proposed to be also used by new occupiers, if permission were to be granted it would be essential
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for the Council's suggested condition no. 6 to be imposed and enforced, in particular 6f).

5. The appeal scheme is to construct a two-storey building of contemporary design to accommodate two self-contained flats, with one bedroom on the ground floor and two bedrooms at first floor level. The building would adjoin the rear boundary and stretch the full width of the site to adjoin the flank boundaries with the rear curtilages of Nos. 2 & 6. Occupiers of the flats and visitors to them, including deliveries, would need to use the side pedestrian access from Windmill Road and across the area referred to as '*Rear Garden Shared Amenity*' on the submitted Location and Block Plan Drawing No. 21-005_010 Rev. A.
6. The OS base of this drawing shows a small part of the existing development pattern which including the surrounding area is essentially one of linear frontage development of residential property along the three sides of a triangle of land. The apex of the triangle is the site of the Baitus Subhan Mosque at the junction of Windmill Road to the north, with St James's Road to the south, and its base is formed by a third road, St James's Park, to the east.
7. I have noted the appellant's reference to the approved development to the rear of 9-11 St James's Park (Council ref. 16/00469/P) as setting a precedent for approvals of garden/backland development in this area. However, I consider that this approval does not diminish the validity of the Council's assessment of the backland. This is that in essence it is an open and undeveloped area in part formed by the generously sized rear gardens of the properties in the three roads, including mature trees and in some cases domestic single storey buildings.
8. In agreeing with this assessment I consider that if further development is to take place, in the absence of land assembly (as was proposed in the case above) it would appear difficult to achieve a sufficiently spacious and visually coherent development that would respond favourably to the existing development pattern and avoid detriment to the area's character.
9. As regards the specifics of this appeal, a two-storey building on an individual site and butting up to three boundaries with other properties would be likely to draw the eye of local residents as an incongruous development and be perceived negatively as harmful to the character and appearance of the area. In particular, it would be visually intrusive from the rear windows and gardens of neighbouring properties in both Windmill Road and from those opposite in St James's Road. I acknowledge that in some respects I give more weight to the site's constraints and the adverse effects of the proposal than did the Council during the evolution of this scheme from 'Pre-App' to application submission.
10. In that context I am aware that in principle the Council does not necessarily oppose a contemporary approach to the design. Nevertheless, I consider that as a backland site read against the traditional design and materials of the rear elevations of No. 4 and its neighbours, the new building would be out of keeping. This is not to criticise the contemporary design in itself, but to observe that in a position that is no more than the rear part of a modestly sized single back garden, the site is such that it has insufficient presence or status for the proposed building to read as a fully considered and design-led contrast with the nearby built form and external materials. And the fact that the building's

footprint would be awkwardly shaped to facilitate the siting of the building tight to three boundary fences reinforces the impression of a contrived layout that mainly serves the purpose of ensuring it is technically able to occupy a site that in reality is both too small and otherwise heavily constrained.

11. In coming to this view I have also had regard to the fact that with eight flats, only four parking spaces and outdoor amenity space of very limited merit other than for the basement flat, the overall site is already intensively used. And with its wholly rearward position that can only be reached by occupiers, deliveries, and trades via a narrow pedestrian access at the side of the main building, the proposed two-storey development of two more flats might reasonably be considered to breach the development capacity for the site of No. 4 as a whole.
12. On this issue and allowing for the fact that the street scene would not be materially affected, I therefore conclude that the appeal scheme would have an unacceptably harmful impact on the development pattern and character of the area in conflict with Local Plan Policies SP4 & DM10; Policies D3 & D4 of the London Plan 2021 and Government policy in Section 12 of the National Planning Policy Framework 2023. In coming to this conclusion I have had regard Policy H2 of the London Plan's support for well-designed new homes on small sites.
13. Turning to the two remaining reasons for refusal, as I have rejected the appellant's case on the first issue, I consider that these can be dealt with briefly. Firstly, as regards the adequacy of internal light for the proposed ground floor flat, ostensibly from an examination of the submitted plans the Council's concern is not unreasonable. However, I have noted the findings of the corrected Internal Daylight Assessment and do not regard this issue as a reason for a dismissal of the appeal.
14. In terms of parking, the Council favours a s106 Agreement to preclude residents of the proposed building from obtaining parking permits in the CPZ and from use of Council-run car parks. Conversely, the appellant argues that a condition to this effect would suffice and cites several examples where such a condition has been imposed.
15. The Planning Inspectorate's approach to this issue is that a condition should only be used in exceptional circumstances where the advice in the Government's online Planning Practice Guidance on the Use of Planning Conditions in paragraph 010 Reference ID: 21a-010-20190723 is met.
16. Having had regard to paragraphs 6.12 to 6.15 of the Council's appeal statement I consider on balance that its stance is more reasonable than the appellant's position. However, given that this matter is academic because of my view that a dismissal of the appeal is required as regards the first main issue, I see no need for further comment in this Decision.

Conclusion

17. For the reasons explained, and having had regard to all other matters raised, the appeal is dismissed.

Martin Andrews

INSPECTOR