



Appeal Decision

Site visit made on 28 February 2024

by G Rollings BA(Hons) MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2024

Appeal Ref: APP/L5240/W/23/3325456

Karlynn House, 2a High Beech, South Croydon, CR2 7QB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Rajash Sood (Serona Capital Partners) against the decision of the London Borough of Croydon.
 - The application Ref is 22/00312/FUL.
 - The development proposed is demolition of existing building, erection of two storey building with accommodation in roof space and lower ground floor, comprising 6 flats, provision of associated parking, refuse and recycling and bike storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The postcode for the site address as given on the appeal form is "CR2 7BQ". All other sources, including the application form and decision notice, provide the postcode as printed in the above heading.
3. The spelling of the appellant's forename differs between the application and appeal forms. I have used the version on the application form.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the area, including its effect on the nearby conservation area and trees;
 - The effect of the proposed development on the living conditions of occupiers of 2b High Beech, with particular regard to outlook and privacy;
 - Whether the proposed development would provide appropriate living conditions for future occupiers, with particular regard to outlook and daylight;
 - The effect of the proposed development on sustainable travel and highway safety;
 - Whether the proposed development would make appropriate provision for refuse storage; and
 - The effect of the proposed development on local ecology and biodiversity.

Reasons

Character and appearance

5. A two-storey house occupies the appeal site, which slopes downwards from front to rear. High Beech is developed with mostly two-storey homes on large plots with a verdant overall character. Beyond the neighbouring dwelling of 2b High Beech, on which there is a tree preservation order, is the Croham Manor Road Conservation Area, which encompasses properties on that road and extends a short way into High Beech.
6. The development envisages a multi-storey flatted block which when viewed from High Beech would appear as a part-two and part-three storey brick, tile and glazed building. There is no one dominant style amongst the other buildings in High Beech, some of which appear large from the street and spread across the width of their site frontages. The proposed building would appear different than these existing buildings in terms of its modern style but would not appear out of place due to the diversity of styles on the street. The height of its three-storey element would draw the eye, but due to the slope of the street and surrounding land, its height would be in keeping with the street scene.
7. Due to the slope of the land, the building would appear larger from rear views, primarily in upward views from surrounding gardens. Much of the building's height and mass replicates that of the existing building on the site, with the exception of the higher element, which would have a four-storey height from ground level at the rear. This would effectively appear one storey higher than the existing dwelling, and project further towards the rear of the site. In views from the garden of 2b High Beech, this would appear against background vegetation and in other views, through or adjacent to growth or across the expansive rear gardens. The effect would not be unreasonably dominant or incongruous when compared with existing views.
8. There would be glimpses of the building from within the conservation area, including the entrance of High Beech, but these would be limited due to the curvature of the road, existing buildings and established, protected trees. Overall the development would not affect the character or appearance of the conservation area, the focus of which would remain directed to the buildings and linear views along Croham Manor Road, and there would be no detrimental impact on other views or features identified in the Council's adopted *Croham Manor Road Conservation Area Appraisal and Management Plan* (2013).
9. The appellant's *Arboricultural Method Statement* and Tree Protection Plan¹ expands the work of the previous *Tree Survey*² noting the presence of significant trees, including those with statutory protection. These propose measures to ensure that the canopies and root protection areas would not be harmed during the construction process. The proximity of trees would not affect subsequent habitation and I am satisfied that, were the appeal to succeed, no trees would be harmed.
10. I therefore conclude that the proposed development would not harm the character and appearance of the area, including its effect on trees, and that it would preserve the character and appearance of the conservation area. There

¹ Prepared by Arbtech, June 2023.

² Prepared by Ark Environmental Consultancy Ltd, December 2021.

would be no conflict with Policy D3 of *The London Plan* (2021) or Policies SP4, DM10, DM18 or DM28 of the *Croydon Local Plan* (2018) (CLP). Together, these policies seek high quality design that respects the development pattern of an area, preservation and enhancement of the character, appearance and setting of heritage assets, and protection of trees, amongst other considerations.

Living conditions of 2b High Beech (No. 2b)

11. No. 2b is set lower than the appeal property and is occupied by a bungalow. The siting of the proposed building would be similar to the existing dwelling on the site, with a similar side wall height, although this double-storey height would project further into the property than at present in the place of the existing single-storey raised conservatory.
12. This additional projection would be apparent in views from the rear garden and side passage of No. 2b, but the projection of the proposed building beyond the rear wall of No. 2b would be minor. The building would not appear overbearing in rearward views from No. 2b, but would so in views from the garden back to the house. Nonetheless, this would not create an enclosing effect or affect the occupiers of No. 2b to the degree that their living conditions would be significantly affected.
13. There would be overlooking of the garden of No. 2b from rear-facing openings in the new building. These would replicate views from the existing dwelling from which overlooking already occurs, although there would be a greater number of dwellings and new balconies on the rear elevation; as such, the incidence of overlooking is likely to increase when compared with the current layout. However, views would be towards the rear of the garden of No. 2b, and there would be no direct overlooking of patio areas or rooms of that property. The additional overlooking would not be of a level to justify dismissal on these grounds.
14. I therefore conclude that the proposed development would not result in significant harm to the living conditions of the occupiers of 2b High Beech, and there would be no conflict with London Plan Policy D3 and CLP Policy DM10, which require consideration of the amenity of the occupiers of adjoining buildings, amongst other considerations.

Living conditions of future occupiers of the development

15. Although the proposed dwellings meet the relevant standards in respect of room sizes, the Council has raised concerns on this issue with regard to the depth and layout of some rooms, citing insufficient levels of outlook and daylight within. Specifically, the depth of flat 1 would result in the kitchen being some distance from the nearest windows of the combined living/kitchen/dining area, and in flats 5 and 6 the kitchen would be a separate room with no windows.
16. CLP Policy DM10 requires new development to provide adequate sunlight and daylight to potential future occupants. It does not specifically identify outlook for future occupiers of development but does also not identify that such measures should be restricted to habitable rooms. The appellant has questioned the status of kitchens as habitable rooms. No evidence provided for this appeal defines a habitable room although the Council's officer report notes that the Council does not consider kitchens to be such, and that in its appeal

statement, that combined open plan kitchen and living spaces are. In the case of the latter and specifically flat 1, I am unconvinced that the kitchen space would have sufficient light to avoid gloomy and depressing conditions despite the south-facing windows, and this reason alone is sufficient to find in favour of the Council on this main issue.

17. For flats 5 and 6, I have taken into account the Council's evidence on ventilation and light and agree that kitchens are more pleasant when properly lit and ventilated, particularly when they are rooms in which occupiers spend a large proportion of their time. CLP Policy DM10 requires "adequate" sunlight and daylight of development, and in the absence of more compelling evidence, I consider that the level of light in these rooms would be inadequate.
18. Therefore for the reasons given above, I conclude that the proposed development would not provide appropriate living conditions for future occupiers, with particular regard to outlook and daylight, and that there would be conflict with CLP Policy DM10.

Sustainable travel and highway safety

19. The Council's three reasons for refusal on this issue related to: a perceived underprovision of car parking spaces; the failure to make adequate provision for cycle parking within the site; and the absence of a legal agreement offering a contribution to improvements to sustainable transport to alleviate traffic generation caused by the development. I shall consider each of these matters in turn.
20. The development would provide five off-street car parking spaces. London Plan Policy T6 sets an approach to car parking provision that matches public transport accessibility, which in this instance is very poor. It is therefore reasonable to expect a level of provision close to the maximum parking provision set out in London Plan Policy T6.1, which is up to 1.5 spaces per dwelling. The Council considers the provision of seven on-site spaces to be appropriate.
21. Although the appellant has demonstrated that there is a low overall car ownership rate within the area, I consider that the very poor transport accessibility level of this site would encourage car use and therefore consider the greater, rather than lesser, provision of on-site spaces to be appropriate. It is clear that suitable provision cannot be provided on the site, and therefore any additional car parking demand would need to be accommodated on roads. High Beech is a narrow road with limited safe on-street parking opportunities.
22. Any attempts to park in High Beech in the immediate vicinity of the property would restrict the already narrow road width and potentially harm highway safety, particularly given the curved nature and poor limited visibility along parts of the road. The nearest street with plentiful and suitable parking opportunities is Croham Manor Road, which is a short walk from the appeal property. The appellant's Parking Stress survey indicates a low on-street occupancy rate and available space for additional parking. Nonetheless, I am not convinced that any future occupiers unable to secure a space on the appeal property would park in Croham Manor Road, particularly given that there is no line of sight between the two, and an uphill walk from the latter. Although there are two potential parking spaces in High Beech, these are sheltered and

- perhaps more inconvenient, for similar reasons, than those in Croham Manor Road.
23. Alternative sustainable transport methods have been considered by the parties, including the provision of on-site cycle parking/storage. The appellant considers that details of provision could be specified via planning condition. However, the appeal plans indicate stepped or ramped access to any potential cycle storage and although cycle ramps could be provided, access would be unwieldy. Without clear details of a route I cannot be satisfied that this would be an attractive layout and not a potential barrier to encouraging cycle usage by future occupiers.
24. A completed planning agreement in the form of a unilateral undertaking has been provided by the appellant, in which the appellant would pay a sustainable transport contribution to the Council, to be utilised towards sustainable transport initiatives within the area. Having considered the agreement, I am satisfied that it meets the tests set out in paragraph 57 of the *National Planning Policy Framework* (2023). The submitted Unilateral Undertaking would secure the mitigation measures and infrastructure which are necessary to make the development acceptable.
25. Nonetheless, on this issue, the provision of a planning agreement is not sufficient to overcome the harm that would result both from the potential risk to highway safety and to sustainable travel through the barriers to cycle use. I therefore conclude that the proposed development would have a harmful effect on sustainable travel and highway safety, and would conflict with London Plan Policies T5, T6 and T6.1, and CLP Policies SP8, DM29 and DM30. Together, these seek to promote measures to increase the use of alternative transport modes and provide appropriate levels and types of parking, amongst other considerations.

Refuse storage

26. The plans indicate provision of an integral refuse store on the level 00 of the building. The Council considers the provision of opening doors to be impractical and that this would restrict the movement of bins for collection, and that the absence of a bulk collection area is unacceptable.
27. I accept the appellant's view that the bi-fold door design and two-metre clearance could allow sufficient manoeuvrability and that further details to demonstrate this could be provided in a planning condition. I am not certain, however, that a bulky storage area could be provided without a redesign that would affect internal living space, and for this reason I would not accept that this aspect would be a suitable planning condition specification. The appellant questions the necessity of this requirement, although given that this is part of an adopted planning policy which has been subject to examination in public, I do not consider a planning appeal to be an appropriate method to consider its appropriateness. In any case, given the Council's experience as the relevant authority, I am inclined to consider such a space to be necessary.
28. I therefore conclude that the proposed development would not make appropriate provision for refuse storage. It would conflict with CLP Policy DM13, which includes the requirement to ensure that the location and design of refuse and recycling facilities are treated as an integral element of the overall design.

Ecology and biodiversity

29. The appellant's Preliminary Ecological Appraisal and Preliminary Roost Assessment³ recommends that additional surveys are carried out, and from the evidence it appears that these have not yet been undertaken. Although I have taken account of the appellant's view that there could be a low chance of the site being a habitat or foraging route for protected species, I cannot discharge my responsibilities under relevant legislation including the Environment Act 2021 without being completely clear as to the likelihood or otherwise of such.
30. I have had regard to the appeal decision for another property in the borough where there was negligible potential for bats on or over the property, and the Inspector in that case allowed surveys to be undertaken at a later date.⁴ The existence of a moderate and therefore higher value habitat for roosting bats in the appeal before me means that the previous appeal does not mitigate my concerns.
31. Without the necessary information, I cannot be certain that the proposed development would not have a harmful effect on local ecology and biodiversity, and that there would not be conflict with London Plan Policy G6 and CLP Policy DM27. These policies require the management of impacts on biodiversity and no adverse impact on protected species, amongst other considerations.

Conclusion

32. Although I have found that the proposal would be acceptable in terms of its design, effect on the conservation area and trees and effects on the living conditions of surrounding occupiers, there would be harm in respect of the remaining main issues. Any benefit or absence of harm in respect of the aforementioned main issues, including that arising from the planning agreement, is not sufficient to overcome the harm that would result as a result of the proposal's impact on living conditions for future occupiers, highway safety and sustainable travel, refuse collection arrangements and ecology.
33. The proposed development would conflict with the development plan for the area and there are no material considerations to indicate that a decision should be made otherwise than in accordance with the plan.
34. For the reasons given above, the appeal is dismissed.

G Rollings

INSPECTOR

³ Prepared by Ark Environmental Consultancy Ltd, dated December 2021.

⁴ Appeal ref: APP/L5240/W/21/3279454I decision date 30 March 2022.