

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: 12th March 2024

Appeal Ref: APP/L5240/W/23/3326535

Land adjoining 46 Elgin Road, Croydon CR0 6XA

- 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 Ms Sarah Haseeb against the decision of the Council of the London Borough of Croydon.
 - The application, Ref. 22/05248/FUL, dated 17 January 2023 was refused by notice dated 12 May 2023.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are (i) the effect of the proposed development on the character and appearance of the East India Conservation Area, and (ii) the adequacy of the proposed accommodation as regards family accommodation; people with disabilities, and fire safety.

Reasons

Effect of the Proposal on the Conservation Area

3. The appeal scheme is for a new dwelling within the East India Conservation Area and immediately adjacent to a period property in the form of the locally listed No. 46 Elgin Road. No. 48 on the other flank of the site is also locally listed albeit I note that it appears to include a modern two-storey extension on the side closest to the appeal site.
 4. An existing garage formerly part of No. 46 would be demolished and a single storey dwelling together with a basement would be erected in its place. The development would include land to the rear also previously part of the curtilage of former dwelling of No. 46 but with the building since converted to flats.
 5. In my appraisal of the appeal scheme I have had regard to the development plan policies in the London Plan 2021 ('the London Plan') and the Croydon Local Plan 2018 ('the Local Plan') and to Government policy in the National Planning Policy Framework 2023 ('the Framework'), in particular Section 16: 'Conserving and Enhancing the Historic Environment'.
 6. Both the appellant's and the Council's evidence make helpful references to the relevant policies in these documents. And in favour of the principle of the
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development these include Croydon's annual target for new homes and the need to make the best use of small sites. In the Framework there is a 'policy imperative' in favour of such development and taking the national and local policies for housing provision together I accept that the appeal scheme would make a useful, albeit incremental, contribution in this regard.

7. As part of that acceptance I recognise that in this case the site constraints have necessitated an innovative proposal and that London Plan Policy H2 does concede that the planning policies of Boroughs must recognise that *'local character evolves over time and will need to change in appropriate locations to accommodate additional housing on small sites'*.
8. However, Local Plan Policy DM18.4 requires a reference to the East India Estate Conservation Area Appraisal and Management Plan 2014 ('the CAAMP') in making decisions. This states that the construction of new dwellings in small gaps between buildings will not generally be permitted due to the likelihood of resultant over-cramped development and incongruous plot sizes in the context of the area's formal layout.
9. The relevance of this can clearly be seen on Map 2 of the CAAMP as the character and appearance of the conservation area is indeed one of a formal layout of parallel roads with a continuity of frontage development and back to back plots of a generally consistent size. And together with the period buildings this is a major factor in the conservation area's significance as a designated heritage asset.
10. The proposed development would not affect the street scene because of the proposal to erect a replica garage façade. However, the significance of the conservation area is not just about the street scene, important though that is. The development would be harmfully out of keeping with the spatial characteristics of the historic development pattern referred to above. This is due to the proposal being one of an especially narrow plot with its maximum width of 3.4m stretching to much of the depth of the adjoining garden of No. 46 (with the Council estimating this as including an addition of 11m to the existing built form) and including a significant excavation to accommodate a large basement.
11. Furthermore, if permission were to be granted, it would make it more difficult for the Council in all fairness to resist similar developments that over time would diminish the significance of the conservation area as a designated heritage asset through a combination of the contrived form of the development itself and an adverse effect on the setting of the donor buildings, be they listed, or locally listed as in this case.
12. I have taken account of all the matters raised in the grounds of appeal and in particular the appeal permission of 2014 on the same site. I agree that this is a material consideration, but whilst there are similarities with the circumstances at that time and between the applications, there are also important differences. And although I have given the desirability of consistency in decision-making appropriate weight, I take the view that my appraisal of the evidence on the current proposal outweighs a decision that the then applicant or a subsequent owner could have implemented at any time before late July 2017.
13. Overall on this issue, I find that the appeal scheme would fail to preserve the character and appearance of the East India Conservation Area in harmful

conflict with the relevant Local Plan SP4 and DM18 policies and with supplementary guidance including the CAAMP.

14. As regards Government policy in the Framework (latest revision December 2023), paragraph 208 says that where development would result in less than substantial harm (as in my view is the case here) the harm should be weighed against the public benefits of the proposal. In this case the benefits would be a minor economic fillip to the economy of the Borough and more significantly an additional home. I agree that the latter is not to be dismissed lightly, but having carefully weighed the planning balance I find that this advantage would not outweigh the harm caused to the conservation area.

Adequacy of the Proposed Accommodation

15. Under this heading there are refusal reasons relating to inadequate family accommodation; a failure to provide 'accessible' homes for people with disabilities and a failure to demonstrate fire safety. In respect of family accommodation, if this were to be a mandatory requirement of all new homes it would significantly diminish the supply and in many cases it is not practical to do so. As regards accessible homes, I agree with the appellant that compliance with M4(2) of the Building Regulations could have been the subject of a condition were permission to have been granted.
16. Finally, in respect of fire safety, the wording of London Plan Policy D12 links Fire Statements only to 'major' development proposals, although the supporting text explains why the issue should be addressed at design stage of all building works. In this case there may be an issue as regards the basement and it would have been in the applicant's interest to have sought advice and included it in the application. With that said, common sense indicates that if the proposal had otherwise been moving towards a permission this would have been a matter that the case officer would have raised at the application stage.

Other Matter

17. The Notice of Refusal also refers insufficient information as to the effect on trees. However, my site inspection was arranged as an unaccompanied visit, as the appeal form indicated that I could see all that I needed to from public land. As a result I am unable to assess the merits of this reason for refusal, but as will be clear from the reasons for my Decision this has not contributed to my dismissal of the appeal.

Conclusion

18. For the reasons explained above, the appeal is dismissed.

Martin Andrews

INSPECTOR