



Appeal Decision

Site visit made on 20 February 2024

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th March 2024

Appeal Ref: APP/L5240/W/23/3323331

7 Bramley Avenue, Coulsdon, Croydon CR5 2DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr R Best, Bequest Property Group Ltd. against the Council of the London Borough of Croydon.
 - The application Ref is 23/01280/FUL.
 - The development proposed is the demolition of existing detached dwelling house, garage and outbuildings and replacement with a block of eight new apartments over 2 floors plus roof and lower level; associated landscape and parking.
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Decision

1. The appeal is dismissed and planning permission for the demolition of existing detached dwelling house, garage and outbuildings and replacement with a block of eight new apartments over 2 floors plus roof and lower level; associated landscape and parking, is refused.

Preliminary Matters

2. The Council issued a delegated report in June 2023 and subsequent appeal statement in December 2023 which provides clarity in terms of the reasons why the Council would have refused planning permission had it been able to do so. The main issues below are taken from the appeal statement.

Main Issues

3. The main issues are the effect of the proposal on:
 - the character and appearance of the area.
 - the living conditions of the neighbouring occupier at 5 Bramley Avenue with particular regard to outlook.
 - protected species and habitats with regard to bats.

Reasons

Character and appearance

4. The area is characterised by predominantly 2-storey detached dwellings, set in large plots with front and rear gardens. The land rises from east to west along Bramley Avenue and consequently the appeal site is set at a higher level than houses to its east. The rear gardens on this side of the street slope down to the south, away from the rear elevations of the houses. The rear building line along this part of Bramley Avenue is fairly consistent. Whilst the detailed design of

dwelling in the area is varied, there is consistency in their scale and mass. The generous plots, along with the topography and far-reaching views to the south, give the area a spacious and verdant character and appearance.

5. The appeal proposal would replace the existing dwelling with a 4-storey building containing 8 flats. The building would read as 3 storeys from the street, with the 4 storeys apparent from the rear due to the change in land levels.
6. A proposal for the appeal site was recently dismissed at appeal¹. The Inspector found that the proposal would be uncharacteristic of, and out of keeping with, the scale and form of other nearby dwellings, particularly on Bramley Avenue. The proposal before me has been reduced in its width and depth compared with the previous appeal scheme, along with some adjustments to the detailed design.
7. Despite the reduction in depth of the proposed building, the height and bulk when viewed from the rear would be out of scale with the buildings in the surrounding area. The 4 storeys projecting significantly beyond the prevailing rear building line along this part of Bramley Avenue would result in a bulk and mass that would be overly dominant and at odds with the character and appearance of the area.
8. Whilst I acknowledge that this bulk and mass would not be highly visible from many public vantage points, there are views into the site from Bramley Avenue. Views of the appeal site are particularly apparent through the gap between the appeal site and No. 9 Bramley Avenue, from where the depth of the proposed building would be appreciable and at odds with the other buildings in the vicinity.
9. The character of the area is informed by the pattern of development which is not necessarily visible from the street, and the proposal would be visible from rear gardens and from surrounding houses. This was acknowledged by the Inspector in dismissing the previous appeal, where it was considered that the effects of the height, scale, mass and bulk when experienced from neighbouring properties would nevertheless be harmful to the character and appearance of the area. Notwithstanding the reduction in the width and depth of the proposed building, I consider that this is still the case.
10. Policy DM10.1 of the Croydon Local Plan 2018 (CLP) also sets out an expectation of a minimum of 3 storeys for new development on brownfield sites. This is, however, subject to the surrounding context. In this case, the local pattern of development and the scale, height and massing of the immediate area are such that the proposal's height and bulk would be out of context; it would fail to respond to the prevailing pattern and form of development.
11. In terms of the detailed design and use of materials, given the variety of styles and building forms in the area, the contemporary interpretation of the Arts and Crafts style would be appropriate. It would be in line with the approach of Policy DM10.1 of the CLP which requires new development to respect the appearance, materials and built features of the surrounding area. The absence

¹ Reference APP/L5240/W/23/3316242 dated 6 September 2023.

of harm identified in relation to the detailed design holds neutral weight in my determination of the appeal.

12. For the reasons set out above, the proposal would harm the character and appearance of the area and would run contrary to Policies SP4 and DM10 of the CLP and Policy D3 of the London Plan 2021. Taken together, and amongst other things, these policies require high quality design which respects and enhances local character. There would also be conflict with the similar aims set out in chapter 12 of the National Planning Policy Framework (the Framework) to secure high quality design.

Living conditions of neighbouring occupier

13. The adjacent detached dwelling at 5 Bramley Avenue sits close to the boundary with the appeal site. Due to the topography, it is at a lower land level. It does not extend any further into the rear garden than the existing house at the appeal site. Given the pattern of development on this part of Bramley Avenue, No. 5 has a very open outlook to the rear.
14. I acknowledge that as the proposal would sit within a 45-degree line taken from the neighbouring properties, there is unlikely to be a material loss of light to those neighbouring windows. The matter of outlook is not, however, contingent on development being within a 45-degree line of a neighbouring window.
15. Notwithstanding the reduction in bulk of the appeal proposal compared to the previous appeal scheme, there would still be significant bulk and massing extending into the rear garden, well beyond the rear elevation of 5 Bramley Avenue. The effect of this bulk at ground, first and roof level would be exacerbated by the higher land levels at the appeal site compared to its neighbour at No. 5.
16. Consequently, the proposal would result in harm to the open outlook of No. 5 through having an overbearing effect on the garden and rear of the house. This would lead to unacceptable loss of outlook for the occupiers of No. 5 Bramley Avenue. This runs contrary to the aims of DM10.6 of the CLP which amongst other things, requires developments to ensure that the amenity of the occupiers of adjoining buildings are protected.

Protected species and habitats

17. The Bat Emergence Survey Report (June 2023) submitted with the appeal is subsequent to the comments of the Council's ecology consultants requiring further information on bat habitats. The survey found that no bats were observed emerging from the residential building. One bat was observed commuting, but no other activity was observed or recorded. There is no recommendation for further surveys. The report concludes that ecological enhancement should be provided by adding a roosting feature to any newly built structure.
18. This report was considered as part of the previous appeal decision². There is no substantive evidence which indicates that I should come to a different conclusion with regard to the effect of the proposals on bats and their habitats. As such, with the mitigation proposed through the recommendation made in

² Reference APP/L5240/W/23/3316242 dated 6 September 2023.

the Bat Emergence Survey Report, harm to protected bats and their habitats would not be likely to arise as a result. Had the appeal been allowed, this matter could be addressed by an appropriate planning condition.

Other Matters

19. Although the Council cite privacy in one of the draft reasons for refusal, it is acknowledged in their statement of case that these concerns could be addressed through planning conditions requiring obscure glazing. I have no reason to disagree with this assessment.
20. The Council have indicated that had the application been determined, it would not have been refused in respect of the standard and type of accommodation, effect upon highway and pedestrian safety, provision of sustainable transport infrastructure, effects on trees, ecology and flood risk. I do not have substantive evidence to contradict the conclusions of the Council in these matters. The absence of harm means these are neutral considerations in my determination of the appeal.
21. I have had regard to other matters raised by interested parties. As I am dismissing the appeal on the main issues for the reasons given above, I have not pursued these matters further.

Planning balance and conclusion

22. I acknowledge that the appeal proposal would contribute to the Council's housing stock and would provide a good standard of accommodation in line with the standards set out in the development plan. Furthermore, the appeal proposal would involve the redevelopment of an existing small, brownfield site, for which there is both local and national policy support. There would also be some modest economic benefits arising from construction employment and subsequently from new residents using local services.
23. The harm I have identified to the character and appearance of the area and to the living conditions of the neighbouring property at 5 Bramley Avenue, outweighs the identified benefits. As such the proposal is contrary to the development plan read as a whole. The material considerations in this case do not indicate that the decision should be taken otherwise than in accordance with the development plan.
24. For the reasons set out above, the appeal is dismissed and planning permission refused.

L Francis

INSPECTOR