



Appeal Decision

Site visit made on 7 September 2023

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: 28 MARCH 2024

Appeal Ref: APP/L5240/W/23/3318303

Armston Woodcote Drive, Croydon, Purley CR8 3PD

- 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 Mrs Karen Haizelden of Vita Group Ltd against the decision the Council of the London Borough of Croydon.
- The application Ref 22/05258/FUL, dated 19 December 2022, was refused by notice dated 3 March 2023.
- The development proposed is the demolition of existing detached dwelling house and erection of eight flats with associated car parking and landscape.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's decision notice indicates that no legal agreement was provided to provide contributions to sustainable transport. However, a draft unilateral undertaking has subsequently been submitted with the appeal. Nonetheless, this document was not completed or correctly executed. As it was considered acceptable by both parties, no further comments have been sought. I have had regard to this matter further in my assessment.

Main Issues

3. The main issues are:
 - the effect of the proposal upon the character and appearance of the surrounding area; and
 - whether the proposal makes adequate provision for any additional need for sustainable transport arising from the development, with regard to planning obligations.

Reasons

Character and appearance

4. The appeal site is a large plot of land located at the intersection of Green Lane, Woodcote Drive and Peaks Hill. It contains a two-storey house with an additional floor in the roof, along with a detached garage, which is set within a large garden area. As such, the building is typical of the development in the surrounding residential area, which is generally characterised by detached two and three storey dwellings of various styles and finishes. These nearby properties often have spacious gardens and are mostly from the early Edwardian to inter-War period and their designs reflect the varied development

of the area. These characteristics, along with the generally broad width of the highways, combine to give the street scene a strong rhythm and spacious feel. The street scene also includes mature trees and hedgerows which contribute to the lush green aesthetic of the neighbourhood. Indeed, there are three large trees located on the pavement adjacent to the appeal site that provide pleasant visual balance to the surrounding level of built form.

5. The proposed development would substantially increase the amount of built form in the area, as it would consist of a large building with 8 flats, an amenity/play space, and a rear parking area. In terms of scale, massing and density, the proposed development would be significantly larger when compared to the adjacent buildings and the existing dwelling. From the front elevation, the form of the building would be extended both vertically and horizontally, adding a significant amount of bulk. Although the height of the building would only increase modestly, the substantially larger scale of the new crown roof design would be a significant departure in design. However, the most significant alteration would be to the side elevations, as they would be substantially enlarged to accommodate the new dwellings. This enlargement would reduce the visual gaps and undeveloped spaces around the building and in doing so, would erode the sense of space that is a distinctive feature of the area's layout. In combination, these alterations would disrupt the balance and rhythm described above in terms of the design of the host building and the wide and open pattern of development in the surrounding area.
6. The footprint of the building would occupy a significantly larger section of the overall appeal site than before, such that the built form ratio would be higher than the majority of properties in the local vicinity. I recognise that the hardstanding at the frontage facing Green Lane already exists and that the proposed development would result in a minor increase in planting and shrubs at this elevation. However, the rear car park would involve a significant increase in hardstanding and built form, as it includes a cycle parking area and space for up to six vehicles. It would be highly visible from the highway, as it is located on a side elevation which is directly adjacent to Woodcote Drive. This visual effect would be intensified due to the replacement of the existing rear garage with an open entrance, through which the increase in built form would be visible from public views along the highway. While a dropped kerb and garage already exists at this location, this would not be visually equivalent to the proposed car park area. Consequently, notwithstanding the proposed planting and boundary treatment, the appeal development would be very readily apparent from the public domain such that it would have a significant influence on the street scene.
7. Accordingly, the proposed development would have a harmful effect on the appearance of the local area, which is characterised by buildings with a lower ratio of built form and wide-open spaces. The increase in hardstanding and associated vehicle parking area, would also erode the undeveloped areas at the rear of the appeal site and in so doing, would have a detrimental effect on the area's generally sylvan character.
8. In reaching this view, I have considered the fact that the level of hardstanding could be increased through the use of permitted development rights. However, there is no evidence before me that this increase would be equivalent to the proposed development in terms of form and function. This fallback position would not result in a similar increase in the number of dwellings at the appeal

site or permit a correlative increase in vehicles. Therefore, I find that the potential harm of this fallback position does not justify the additional detriment that would result from the proposed development.

9. In relation to the bin store, it would be located on the front elevation, however, it would be adequately screened and due to the low height of the structure, would not be visually intrusive.
10. The evidence refers to other development in the surrounding area. I have taken these developments into account in terms of any influence on the character and appearance of the area, so far as I am able to based on the information before me. However, I am not aware of the full circumstances of those other cases, and I am not persuaded that the character of the local area has fundamentally changed as a result of these developments. In any event, each scheme must be considered and determined on its individual merits.
11. For these reasons, therefore, the proposed development would be harmful to the character and appearance of the host building and the wider area. Consequently, in this regard, it would not constitute high quality design or respect the existing development pattern, contrary to Policies DM10 and SP4 of the Croydon Local Plan (2018). It would also not respond to the existing character of the area and be of high quality, contrary to Policies D3 of the London Plan (2021).
12. The Council's refusal reason alleges conflict with Policy D4 of the London Plan (2021). However, no harm has been found in relation to the Design and Access Statement, the design review process or the masterplan and design codes. location and design of refuse facilities. This policy has therefore not been determinative with regard to this main issue.
13. The Council's refusal reason alleges conflict with Policy DM13 of the Croydon Local Plan (2018). However, no harm has been found in relation to the location and design of refuse facilities.

Sustainable Transport - Planning Obligations

14. The appeal site has a Public Transport Accessibility Level (PTAL) of 1b, which is considered extremely poor. The proposed development would significantly increase the number of dwellings from one to eight at the appeal site. The Council has determined that the proposed development will not result in significant parking problems. However, this is contingent on a contribution of £1,500 per unit (in total £12,000) being paid towards sustainable transport improvements. The monies would be utilised towards on-street car clubs and/or highways changes, such as traffic orders, car club infrastructure, and the expansion of electric vehicle charging points in the specified area. The funding will also be used for improvements to walking and cycling routes.
15. No completed planning obligation has been submitted which would secure the above sustainable transport contribution. An indicative draft of a unilateral undertaking (under s106 of the Act) has been submitted, however, the appellant does not agree that this obligation would meet the appropriate tests¹. They state that there is not any up to date, explicit evidence on what harm to highways safety might arise directly as a result of the proposed development, and what specific measures would be provided to mitigate such harm. As a

¹ Regulation 122 of The Community Infrastructure Levy Regulations 2010

result, they do not consider that the payment of this contribution would be necessary. They have referred to a recent appeal decision in their evidence². This decision was determined on 2 September 2022. Although it was not a main issue, that Inspector found that it had not been demonstrated that the sustainable transport obligation was necessary. This was because it had not been shown what harm would be caused by increased traffic generation, nor how the financial contribution would overcome that harm. They were also unable to identify a development plan policy which would require such a contribution.

16. In response, the Council has referred to *The King (Stephen Whiteside) v The Council of the London Borough of Croydon v Stars Homes Ltd, Liberty Speciality Markets* [2022] EWHC 3318 (Admin) (the High Court Decision). This was determined on 21 December 2022. Although there was no particularisation as to how the contribution would be spent, the judge found that all that was required was that it would be spent towards sustainable transport initiatives. It was not necessary for there to be a high level of detail as to how the contribution was calculated or how it would be spent. Instead, it was enough for the payment to be directed towards initiatives in broad terms, for it to comply with the appropriate tests. It was held that given the increase in private car use for that scheme, a financial contribution to transport initiatives was required to make development acceptable.
17. The proposed development would increase the amount of private car use in the area, as it would add eight new dwellings where there was previously one. This increase in the number of occupiers would result in an equivalent need for sustainable transport options. In that regard, Policy SP8.3 of the Croydon Local Plan (2018) requires the Council to actively manage the pattern of urban growth to make the fullest use of public transport.
18. It is notable that the proposed improvements for the development in relation to sustainable transport are the same as those mentioned in the High Court Decision. Similarly, I recognise that there is no particularisation in terms of how the contribution would be spent. However, having considered the High Court Decision, I am not persuaded that this is essential. In broad terms, it is clear that the contribution would be used to mitigate the increased amount of private car use that would occur as a result of the proposed development. Policy SP8.3 requires the Council to actively manage the pattern of urban growth and make the fullest use of public transport. Consequently, notwithstanding the lack of detail on the level of harm that would occur, I am persuaded that this obligation complies with the appropriate statutory tests. It would be necessary in order to offset the increase in occupiers at the appeal site, would be directly related as it pertains to the proposed development alone and would be fairly and reasonably related in scale as the contribution is calculated on the basis of the number of new occupiers.
19. In reaching this view, I have considered the appeal decision, however, I note that this consideration was not dealt with as a main issue by the Inspector and there is limited information before me regarding the particular circumstances of this development. Additionally, the High Court Decision was determined more recently, in comparison with the appeal decision. For this appeal, it has also been possible to identify the harm that would occur as a result of the proposed

² APP/L5240/W/21/3288773

development. Thus, I have given this consideration limited weight on the basis of the information before me.

20. The draft unilateral undertaking aims to secure the payment of the sustainable transport contribution. However, I have concerns about the document itself, as it has not been executed and completed. Thus, it would not be possible for the Council to rely upon it to secure the contribution. I am therefore unable to take the undertaking into account in determining this appeal.
21. For these reasons, therefore, the proposed development would not make adequate provision for any additional need for sustainable transport arising from the development, with regard to planning obligations. Consequently, in this regard, it would conflict with Policy SP8.3 of the Croydon Local Plan 2018, as it would prevent the Council being able to actively manage the pattern of urban growth to make the fullest use of public transport.
22. The Council's refusal reason alleges conflict with Policy DM30 of the Croydon Local Plan 2018. However, this relates to development which would result in a loss of existing car parking spaces, a harmful effect on highway safety or where insufficient car and cycling spaces have been provided. No harm has been found in relation to these considerations. This policy has therefore not been determinative with regard to this main issue.
23. The Council's refusal reason alleges conflict with Policy T6.1 of the London Plan 2021. However, this relates to residential parking standards and the provision of infrastructure for electric vehicles at residential car parking spaces. No harm has been found in relation to these considerations. This policy has therefore not been determinative with regard to this main issue.
24. The Council's refusal reason alleges conflict with Policy SP8.15 of the Croydon Local Plan 2018. However, this relates to development within areas where there is a high PTAL³, whereas the appeal site is located within a low PTAL area. This policy has therefore not been determinative with regard to this main issue.
25. The Council's refusal reason alleges conflict with Policy SP8.16 of the Croydon Local Plan 2018. However, this relates to development within the Croydon Opportunity Area and there is no evidence before me that the appeal site is within that area. This policy has therefore not been determinative with regard to this main issue.

Other Matters

26. I have considered the benefits that would arise from the proposed development. The proposed development would provide a net gain of new dwellings on previously developed land, which could be built out relatively quickly. There would be some benefits through the associated economic uplift from the construction process and future spending of occupiers. There would also be an enhancement of local biodiversity. However, having taken these considerations into account, and the support given to them in the National Planning Policy Framework, I find that the benefits would be relatively limited. Given the scale and nature of the development proposed as a micro flat, these considerations neither outweigh the harm I have identified nor the conflict with the development plan.

³ Levels 5, 6a and 6b

Conclusion

27. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

S Lo

INSPECTOR