



Appeal Decision

Site visit made on 9 April 2024

by H Miles BA (hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th April 2024

Appeal Ref: APP/L5240/W/23/3323088

217 Davidson Road, Croydon CR0 6DP

- 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 Trinity Square Developments against the decision of London Borough of Croydon.
 - The application Ref is 21/06378/FUL.
 - The development proposed is demolition of all existing buildings and the erection of a part 3, part 4 storey block of flats to provide 22 residential units (use Class C3), with landscaping; amenity areas; car and cycle parking; refuse and recycling stores; and access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning obligations have been submitted which include mechanisms that seek to provide contributions towards children's play facilities, air quality, carbon offsetting, sustainable transport, local employment and training, as well as a restriction on occupiers applying for parking permits, a S278 agreement for highways works, provision of a travel plan and affordable housing including early and late stage review mechanisms. I will return to these matters later in this decision.

Main Issues

3. The main issues are;
 - the effect of the proposed development on the character and appearance of the area,
 - the effect on the living conditions of nearby occupiers with particular regard to privacy,
 - the quality of living conditions for future occupiers with particular regard to outdoor space,
 - the effect of the proposed development on fire safety.

Reasons

Character and appearance

4. This part of Davidson Road is characterised by traditional two storey terraced houses which create a pleasant consistency in appearance and scale along this

road. The majority of the appeal site is accessed via a gap between two terraces. It includes a large warehouse which spans the site in close proximity to the rear gardens of 209-225 Davidson Road, with an open yard beyond. The site backs onto the railway line. The building is currently used as a joinery business and this is an established use. The site also includes the dwelling at no. 217 Davidson Road.

5. In a north easterly direction is Damsel house, a three storey block accessed via Canal Walk, and a terrace of three storey houses beyond. There are also two, two-storey blocks accessed from Davidson Road at nos 281 and 283. These buildings are all set behind the housing on Davidson Road and are visible in glimpsed views between terraces. They have a greater separation from the rear of properties fronting Davidson Road than the appeal building, and in the case of the three storey buildings this distance is further increased. Overall, the prevailing two and three storey height in this area results in an attractive consistent and modest character and appearance to this predominantly residential area.
6. The proposed development would introduce a four storey building which spans the majority of the width of the site. It would be set back further from the south east boundary than the existing building. The fourth floor would be recessed from the front elevation, clad in contrasting materials and would incorporate projecting dormer windows.
7. I am provided with evidence to show that the proposed building would not appear taller than existing development in views from Davidson Road or Canal Walk. Nevertheless, the fenestration articulating the four storeys would be evident, and the roof level would be visible. It would be clearly seen in the entrance to the site as well as from the surrounding properties at Davidson Road and Damsel House. The four storey height of the appeal scheme, even taking into account the massing and materials proposed at third floor, would be evident and this would be visually jarring against the existing prevalent two and three storey surroundings. It would harmfully disrupt the consistent and modest pattern of development in this area, unacceptably eroding this positive characteristic.
8. Therefore, the proposed development would be harmful to the character and appearance of the area. As such it would be contrary to policies D3 and D4 of the London Plan (2021) (London Plan) and policies SP4 and DM10 of the Croydon Local Plan (2018) (Local Plan). Together these seek high quality design that enhances local character and distinctiveness and, whilst seeking to achieve a minimum height of three storeys should respect the scale, height and massing of the surrounding area.

Living conditions of existing occupiers

9. The proposed development includes windows to bedrooms, living rooms and balconies to the elevation facing towards the rear elevations and gardens of the Davidson Road properties. The Housing Supplementary Planning Guidance (2016) (SPG) suggests minimum distances of 18-21m between habitable rooms.
10. There is dispute between the main parties regarding the distance between habitable rooms, whilst the separation is around 18m in most cases, there is a window in closer proximity (around 16.5m) which may serve a utility room. The

distance between terraces and habitable rooms is less than this. Some planting is proposed to the boundary with 209-215 Davidson Road, but this would not entirely screen these views.

11. The proposed development would result in main habitable room windows from multiple properties and the only private amenity space for some occupants in close proximity to the rear elevations and gardens of 209-221 Davidson Road. Even though the habitable room distances would mainly achieve the lowest target in the guidance in the SPG, these views would be at a greater height and more densely concentrated than any existing views towards these properties, distance to terraces would be closer, and this would provide new views towards neighbouring gardens, particularly to the spaces closest to the houses. This would result in unacceptable levels of privacy for these occupiers.
12. The existing warehouse is very close to the rear gardens at 209-225 Davidson Road. Although the proposed building would be taller it would have a greater separation distance. Therefore, taking this into account, the proposed development would not have a harmfully overbearing effect on these neighbouring properties.
13. There would be some improvement to existing living conditions if the existing use with its associated noise, dust, smoke and traffic were to cease. However, this is a long established use. Moreover, the proposed development does not represent the only way in which this outcome could be achieved. As such, although this would be an improvement to existing living conditions it would not outweigh the harm to privacy in this case.
14. Therefore, the proposed development would have a harmful effect on the living conditions of nearby occupiers with particular regard to privacy. As such it would be contrary to policies Policy D3 of the London Plan and policies DM10.6, SP4.1 and SP4.2 of the Local Plan. Together these require that new development should deliver high quality development, enhance wellbeing and should protect the privacy of adjoining occupiers with particular regard to habitable rooms in rear elevations and private outdoor space.

Living conditions of future occupiers

15. Policy DM10.4 of the Local Plan requires between around 115sqm-125sqm of play space for this development. The GLA Play and Informal Recreation SPG (2012) explains that for this development, under 5s playspace should be provided on site, with the remainder provided offsite. In this case this would result in a requirement for 60sqm of on site play space.
16. The proposed development includes a communal area to the front of the proposed block which is 65sqm. This is annotated to include communal space including seating and children's play space which would encourage different age groups to mix as well as bike stores. The access to the bike stores would be across the play space. However, the requirement for space to access cycle parking is temporary, and the majority of the space would remain usable for a large part of the time. As such the location of the bike stores would not unacceptably compromise the quality or use of this space.
17. I am provided with a unilateral undertaking which seeks to provide a contribution of around £6850 towards the provision or enhancement of nearby children's play facilities off site. Such mitigation would be necessary to ensure

off site playspace would be provided in accordance with the policy standards set out above. I am provided with sufficient evidence in this case that this meets the tests and the amount is fairly related in scale and kind to the development proposed. Therefore, the proposed combination of on site and off site provision would provide appropriate play space for future occupiers.

18. Consequently, the proposed development would result in an acceptable quality of living conditions for future occupiers with particular regard to outdoor space. Therefore, it would be in accordance with policies DM10.4 and DM10.5 of the Local Plan and policies D3 and D5 of the London Plan which, in addition to the aims set out above, seek appropriate amenity and high quality communal outdoor space for future occupiers and inclusive design.

Fire Safety

19. The appellant has set out how the Council's specific concerns relating to the number of units accessing a stairwell, the insulation between balconies and terraces, and the operation and maintenance of evacuation lifts could be addressed. Given solutions have been suggested, I am satisfied that details of these matters could be dealt with via condition.
20. As such, the proposed development would result in an acceptable effect on fire safety. Therefore, it would not be contrary to policy D12 of the London Plan which requires development to achieve the highest standards of fire safety.

Planning Obligation

21. Together, policy H4 of the London Plan and policy SP2.4 of the Local Plan set a target for 50% of the homes on this site to be affordable, subject to viability. In this case a viability assessment, which has been verified by the Council demonstrates that the scheme would be unviable with 21% affordable housing. Nevertheless, the appellant has put forward this level of affordable housing. The planning obligation also includes an early and late stage review mechanism. Given the circumstances in relation to viability the proposed development would not be contrary to these policy requirements in this case and the provision of affordable housing would be a benefit of the scheme.
22. The planning obligation includes contributions towards carbon offsetting, air quality and sustainable transport including restrictions on access to parking permits. I am provided with sufficient evidence in this case that this meets the tests and the amount is fairly related in scale and kind to the development proposed. Highway works would also be secured via a S278 agreement and these are necessary to ensure that the development is implemented as proposed and to ensure highway safety.
23. However, I am not provided with substantive evidence which details how a local employment and training contribution and strategy would be necessary for the proposed development. As such I have not taken this obligation into account in my conclusions.
24. Nevertheless, other than the affordable housing discussed above, these provisions are required to mitigate the effects of the development. As such their overall effect would be neutral.

Other Matters

25. The Council have confirmed that the submission of the evidence with the appeal addresses the reason for refusal relating to pedestrian safety, refuse and cycle storage. I do not have detailed evidence that would lead me to a different conclusion to that which the Council and the appellant's professional advisors have reached on this matter.

Planning Balance

26. The proposed development would provide 22 new homes, 5 of which would be affordable along with the social and economic benefits both from future occupiers and the temporary effects during the construction phase. Given the scale and nature of the proposed development these would be important, but modest benefits.
27. I understand that the existing business on site would locate to an area where it can expand. However, there no substantive evidence that suggests that the proposed development is the only way in which this business could expand. Consequently, this does not weigh in favour of the proposed development. The living conditions for future occupiers and effect on fire safety would be acceptable, however the lack of harm in these regards are neutral factors which do not weigh in favour of the development proposed.
28. On the other hand, I have identified above that the proposal would result in harm to the character and appearance of the area and harm to the privacy of existing occupiers. This would have a serious effect on these occupiers and the surrounding area, and together would result in significant harm. As such the modest benefits would not outweigh these significant harms, contrary to the development plan.

Conclusion

29. The proposal would not accord with the development plan and there are no other considerations to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that this appeal should be dismissed.

H Miles

INSPECTOR