



Appeal Decision

Site visit made on 3 April 2024

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 April 2024

Appeal Ref: APP/L5240/W/23/3331110

14 St Andrew's Road, Croydon CR0 1AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Michael Pogorelow, Danube Developments Ltd against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 23/02800/CONR.
 - The application sought planning permission for demolition of office building; erection of single/two storey building comprising 2 one bedroom and 1 two bedroom dwellings; provision of associated cycle and refuse stores without complying with a condition attached to planning permission Ref 18/00794/FUL, dated 24 September 2019.
 - The condition in dispute is No. 13 which states: *Prior to the first occupation of the development the developer shall enter into Highway Agreement(s) to secure the removal of the redundant crossover directly at the site of the site on St. Andrew's Road and restore the dropped kerb to a full kerb. The agreed works shall be carried out prior to the first occupation of the new dwellings and shall be implemented in accordance with such approved details.*
 - The reason given for the condition is: *To promote highway efficiency.*
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission was granted in 2019 for the demolition of an office and the erection of a part single/part two storey building to accommodate 3no. flats at the appeal site (Ref 18/00794/FUL). This permission was subject to several conditions, including condition 13, which required restoring a full kerb to an existing vehicle crossover directly in front of the site, on St Andrew's Road, prior to first occupation of the flats. The Council considered this condition to be necessary in order to prevent vehicles accessing the appeal site because the development was car-free and in the interests of highway efficiency.
3. The appeal development has been built and is occupied. However, the vehicular crossover has not been restored to a full kerb. Therefore, the development has been carried out without complying with a condition subject to which planning permission was granted, and an application has been made retrospectively to remove the condition.
4. The main issue in this appeal is whether the condition is necessary and reasonable with particular regard to highway safety and car parking provision in the area.

Reasons

5. The appeal building is set back from the road and accessed through a gap between No.13 and No.15 St Andrew's Road (Nos. 13 and 15) across a pavement with a dropped kerb. St Andrew's Road is one-way with parking bays restricted to permit holders or pay and display. Between the parking bays, and in front of the dropped kerb to the appeal site, are single yellow lines which restrict on-street parking Monday to Saturday 09.00 to 17.00 but allow parking at other times.
6. If the dropped kerb across the access to the appeal site was removed and a kerb reinstated along the pavement edge, vehicles would be likely to park on the street during some of the times vehicles are permitted to park there, which would block vehicular access to the site. Although this would require a cyclist to dismount and find a gap between parked cars or walk with their bicycle a short distance along the pavement, this would not be an unusual occurrence, particularly in terraced streets with on-street parking, as is the case along St Andrew's Road. No robust evidence has been provided to substantiate the appellant's claim that such a manoeuvre would be unsafe or adversely effect highway safety.
7. The development at the appeal site is modest and cyclist movements are likely to be limited. Moreover, the existing vehicular crossing encourages vehicles and cyclists to cross the pavement, which could result in an increased risk to pedestrian safety. Furthermore, although there is a street light on the pavement close to the dropped kerb, I observed at my site visit that there was sufficient room for pedestrians to safely pass along the pavement.
8. The planning permission for 3no. flats at the appeal site was assessed on the basis that it would be car free. Therefore, no assessment was carried out regarding the highway implications of the use of the narrow gap between Nos. 13 and 15 to access the development and no evidence has been provided by the appellant in this regard. Consequently, I cannot be certain that the use of the access by vehicles, facilitated by the vehicular crossover, would not be harmful to highway safety, even though I acknowledge there was a previous business and garage at the site.
9. In addition to highway safety, the Council's reason for refusal also refers to the requirements of Policy DM30 of the Croydon Local Plan 2018 (the Local Plan) to reduce the impact of car parking in development located in areas of good public transport accessibility or areas of existing on-street parking stress.
10. Whilst the Council has provided no quantitative evidence to support its claim that the area suffers from significant on-street parking stress, neither have I been provided with survey information from the appellant showing that there is parking capacity. In the absence of site-specific survey evidence from either party, I am reliant on my own observations. At the time of my site visit late afternoon on a weekday, albeit a snapshot in time, all parking bays on St Andrew's Road and surrounding streets were occupied by cars. I have little doubt that there would be increased levels of on-street parking in the evenings and at weekends. From the evidence available, I conclude that this is an area where competition for on-street parking space from residents is high.
11. Furthermore, although not referred to in the reason for refusal, the Council's officer report and statement identifies that the appeal property has a Public

Transport Accessibility Level (PTAL) of 6b which means that it benefits from excellent public transport links. Policy T6.1 of the London Plan 2021 sets out that new development in such areas should be car free. This matter has not been addressed by the appellant.

12. At my site visit I saw that there was a car parked at the appeal site behind a gate. Other evidence provided indicates that cars have been parked at the site on previous occasions. This demonstrates to me that if the vehicle crossover on St Andrew's Road remained, occupiers or visitors to the appeal property would be likely to continue to park at the site.
13. Compliance with the condition would be likely to prevent parking on the appeal site since there would be no access off St Andrew's Road. While it would still be possible to achieve a car-free development at the site even if the current vehicular access was retained, the physical presence of an access from St Andrew's Road would be likely to encourage parking at the site, as currently evidenced. I recognise that the reinstatement of the kerb would be likely to result in an additional on-street parking space and the objective of the London Plan in highly accessible locations is to prevent the dominance of vehicles on streets and promote active modes of travel and public transport. Nevertheless, this would not outweigh the adverse effects of retaining the vehicular crossover, which serves to discourage occupants and visitors to the appeal site from using public transport, walking or cycling in this highly accessible location.
14. For the above reasons and on the basis of the evidence presented, I find the condition to be reasonable and necessary to make the development acceptable, having regard to highway safety and car parking provision in the area. Accordingly, I find that the removal of the condition would result in conflict with Policies DM29 and DM30 of the Local Plan which together, amongst other matters, seek that development does not have a detrimental impact on highway safety for all users. These policies also seek to promote measures to increase the use of public transport, cycling and walking.

Other Matters

15. The appellant has drawn my attention to land registry documents that relate to a right of way to pass over the gap between Nos. 13 and 15 St Andrew's Road with or without a vehicle in order to access the rear of No. 15. However, matters related to ownership of the land and rights of access would be separate to and would not ultimately influence the assessment of the planning merits of the proposal.

Conclusion

16. The proposal would conflict with the development plan taken as a whole as well as the Framework. There are no material considerations of sufficient weight that would indicate a decision other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

A Veevers

INSPECTOR