



Appeal Decision

Site visit made on 13 February 2024

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 May 2024

Appeal Ref: APP/L5240/W/23/3325959

198 Harrington Road, Croydon SE25 4NE

- 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 Inicio Homes against the decision of the Council of the London Borough of Croydon.
 - The application Ref 23/00155/FUL, dated 13 January 2023, was refused by notice dated 27 June 2023.
 - The development proposed is the demolition of an end of terrace dwelling (No 198 Harrington Road, Croydon SE25 4NE) and existing structures on site, followed by construction of seven x 3-bed dwellings with associated external works including access, amenity space, landscaping, refuse and cycle storage.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of an end of terrace dwelling (No 198 Harrington Road, Croydon SE25 4NE) and existing structures on site, followed by construction of seven x 3 bed dwellings with associated external works including access, amenity space, landscaping, refuse and cycle storage. at 198 Harrington Road, Croydon SE25 4NE in accordance with the terms of the application, Ref 23/00155/FUL, subject to the conditions in the attached schedule.

Preliminary and Procedural Matters

2. The Government published revised versions of the National Planning Policy Framework ("the Framework") on 5 September 2023, replacing the July 2021 version extant at the time the application was determined, and again on 19 December 2023. The amendments made did not have any bearing on the main issues in this appeal, and it was not therefore necessary to seek comments from the main parties on the updated Framework. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the December 2023 version.
3. The appellant has submitted a signed and dated Unilateral Undertaking ("UU") under Section 106 of the Town and Country Planning Act 1990, which I return to below.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the area;

- Whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to daylight and sunlight; and
- The effect on living conditions for residents of neighbouring dwellings on Harrington Road, with particular regard to whether the proposed development would be harmfully overbearing or intrusive.

Reasons

5. The appeal site comprises No 198 Harrington Road, the end property within a block of eight terrace houses, and an area of land to its rear. The rear part of the site is entered by a private driveway between Nos 198 and 200, at a point where Harrington Road bends to join Love Lane. The site is roughly L-shaped, extending part of the way around the rear gardens of the adjacent terrace Nos 200-212.
6. The proposed development is the demolition of No 198, and two other buildings on the rear part of the site described by the Council as unauthorised, to create access to the site and parking spaces. Seven three-bedroom houses would be built, arranged in a semi-detached pair (immediately on the eastern side of the access and parking area) and a terraced of five (at the eastern end of the site).

Character and appearance

7. The surrounding area is primarily residential, although to the south of the site is the expansive open space of South Norwood Country Park. Most of the housing nearest to the appeal site appears to date from shortly after the second world war, though there are areas of older housing on Love Lane and on Harrington Road itself, as well as pockets of more modern infill development (such as Pottery Close a short distance to the east).
8. The existing houses in the nearby area typically have two storeys, sometimes with evidence of a loft or attic conversion. The proposed houses would have three storeys, though the top floor would be within the pitched roof space and would be visible on the rear elevation only – they would read from Harrington Road as two-storey buildings. The overall scale and massing of the development would therefore be in keeping with the wider neighbourhood. The houses themselves would be set back from those on Harrington Road, and at a slightly lower ground level. The development would be sited so as not to “loom over” or otherwise dominate the surroundings.
9. I have not been provided with calculations of the proposed development’s footprint or its “plot density”. The houses would have smaller gardens than are typical in the immediate surrounding area, certainly by comparison with the relatively long gardens I saw at Nos 184-198 and 200-212 Harrington Road. However, within the site there would be shared parking, access and landscaping areas, serving the entire development; taken as a whole, the scheme would not represent an unacceptable overdevelopment or “cramming” of the area.
10. Within the development, the principal materials would be a simple palette of facing brickwork, slates and zinc-clad dormers. This would provide some visual contrast with much of the surrounding neighbourhood, where many houses are finished in render, usually white- or cream-painted. However, it would not be

intrusive, ostentatious, jarring, or otherwise inappropriate for a contemporary development in a largely self-contained site.

11. The demolition of the existing No 198 would mean the loss of the hipped roof at the eastern end of that terrace, leading to some loss of its visual rhythm and balance. However, the area is one in which the alteration or enlargement of roofs appears to have been reasonably commonplace and, while the loss may be regrettable, it would not in itself cause significant or unacceptable harm to the streetscape. The proposal to render the newly-created gable end to No 196 would be an appropriate treatment for the site, in keeping with the wider area.
12. Taking these points together, the proposed development would not cause significant harm to the character or appearance of the area. The proposal would therefore comply with Policy DM10 of the 2018 Croydon Local Plan ("the CLP"), and with Policies D3 and D4 of the London Plan 2021. Together, and among other things, these policies seek to ensure that new development is well-designed, and respects the scale, massing, density, development pattern, and appearance of its surrounding area.

Living conditions for future occupiers

13. The Mayor of London's 2016 *Housing* Supplementary Planning Guidance ("the SPG") recognises the contributions which daylight and sunlight can make to the provision of good living conditions. The SPG states that "all homes should provide for direct sunlight to enter at least one habitable room for part of the day". The BRE publication *Site layout planning for daylight and sunlight*¹ ("the BRE guidance") advises that normally, in calculating sunlight and shading, "trees and shrubs need not be included, partly because their shapes are almost impossible to predict, and partly because the dappled shade of a tree is more pleasant than the deep shadow of a building".
14. In view of the proximity of numerous mature trees within South Norwood Country Park, the *Daylight and Sunlight Report* ("the DSR")² for the appeal scheme calculated the exposure to sunlight of habitable rooms with and without trees, permitting a range of values to be shown for the site, reflecting the changing picture through the year.
15. The DSR indicated that all rooms tested within the development would meet or surpass the BRE recommendations for winter daylight. Some habitable rooms would fall short of the BRE targets for summer daylight, but in those circumstances, the BRE guidance explains that provided the targets are met in the winter months, daylight year-round is likely to be adequate to serve future occupiers. All seven dwellings would also have at least one habitable room which would receive a total of at least 1.5 hours of sunlight on 21 March.
16. Turning to the rear gardens for the proposed houses, the DSR showed that when nearby trees were modelled as "opaque objects" two of the proposed houses (plots No 1 and 7) would not receive any ground sunlight on 21 March. Modelling with "transparent" trees showed that at least 58% and 63% (respectively) of those same gardens would receive at least two hours of sunlight on March 21.

¹ *Site layout planning for daylight and sunlight – A guide to good practice* – BRE, 2022

² *Daylight and Sunlight Report (Within Development)* – Right of Light Consulting, November 2022

17. The SPD advises that “quantitative standards on daylight and sunlight should not be applied rigidly” without carefully considering the location and context. Based on all the evidence before me, including being to view the likely effects of the nearby trees during my site visit, I consider that the “real” picture is likely to be one in which adequate parts of those two gardens receive *at least some* sunlight on March 21, and the gardens would not be unacceptably gloomy. Equally importantly, the occupiers of the houses as a whole would not need to be excessively dependent on electric lighting for acceptable living conditions.
18. I conclude that the proposed development would provide acceptable living conditions for future occupiers. The development would therefore comply with Policies SP2.8, SP4.1 and DM10 of the CLP, and Policies D3, and D6 of the London Plan 2021. Together, and among other things, these policies seek to ensure that new development is of a high quality, provides private amenity space of a high quality design, and provides adequate sunlight and daylight to future occupiers.
19. I also find no conflict with Policy D7 of the London Plan 2021; this was referred to on the Council’s decision notice but addresses the provision of accessible housing, so is not relevant to this matter.

Neighbours’ living conditions

20. The proposed houses would have an eaves height of around 5.7m, around 1m less than those of the neighbouring houses on Harrington Road, and a maximum roof ridge height of around 8.7m. As I have already set out above, the overall scale and massing of the houses would be in keeping with their neighbouring properties, and would not therefore be inherently unacceptable.
21. The front elevation of the “mews” terrace of five houses would be little over 19m from the rear elevation of Nos 200-206. This exceeds, just, the minimum separation range sought by the development plan. This would be sufficient both to prevent harmful overlooking from close range, and to ensure (as demonstrated through compliance with the “25 degree” check, set out in the Council’s officer report) that the new development would not be unacceptably overbearing or overpowering when viewed from neighbouring dwellings.
22. While separation distances would therefore broadly be acceptable, I note that at one point the closest point at the rear of No 200 and an upper window on the house proposed on plot 6 would be, by the Council’s measurement, only around 10.5m apart. However, the upper floors of the proposed houses would have windows angled to direct views away from the neighbouring properties, and the north-facing windows could be obscure glazed and fixed shut so that there would not be direct overlooking from the proposed development. This could be secured by a condition requiring those windows to be installed and maintained as such. Based on all the evidence before me, I am satisfied that this would be an adequate means of ensuring that the development would not result in significant harm to neighbours’ living conditions.
23. The proposed development would not cause unacceptable harm to neighbours’ living conditions. It would therefore comply with Policy DM10 of the CLP and Policy D3 of the London Plan 2021. Together, and among other things, these policies seek to ensure that development protects the amenity of occupiers of adjoining buildings, including by ensuring that it does not result in direct

overlooking either at close range, including of those parts of gardens closest to dwellings, or of habitable rooms in private rear elevations.

Planning obligation

24. The submitted UU makes various provisions in respect of the proposed development. It is dated 10 April 2024, and is signed and executed as a deed. The Framework sets out policy tests for planning obligations; they must be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. The same tests are enshrined in the statutory tests set out in Regulation 122 of the CIL Regulations.
25. The appeal site is located in an area with a Public Transport Accessibility Level of 2, signifying poor to moderate public transport connectivity, although it is very close proximity to Harrington Road Tram Stop. The existing No 198 Harrington Road has a private off-street parking space, while seven spaces in total would be provided in the appeal scheme. While the area is not currently within a Controlled Parking Zone ("CPZ"), a Parking Stress Survey submitted as part of the appeal scheme demonstrated that overnight parking stress is already at 87% in the area.
26. The Sustainable Transport Contribution obligation seeks to secure transport improvements, and would result in a financial contribution of £10,500, plus any indexation increase. The Parking Permits obligation provides a mechanism to ensure that any future occupier of the proposed dwellings (other than someone entitled to hold a "blue badge") should not be permitted to apply for or hold a parking permit for a controlled parking zone. As well as these, the UU provides for a contribution of £1,500 towards the monitoring of each obligation (£3,000 monitoring sum in total).
27. Policies SP8.15, SP8.16 and DM30 of the CLP and Policy T6.1 of the London Plan 2021 seek to promote development which, among other things, makes full use of public transport, cycling and walking; does not have a detrimental impact on highway safety for pedestrians, cyclists, public transport users and private vehicles; and reduces the impact of car parking. The UU would mitigate the impacts of the development in these areas, and would comply with the statutory tests. As such, I have taken it into account in reaching my decision.

Other Matters

28. I have had regard to other the other representations which were put to me; most of the matters raised, to the extent that they were material, have been dealt with in the main issues above. I note a comment to the extent that the proposed development would not directly provide, or otherwise contribute to the provision of, affordable or social housing. However, there is no substantive evidence before me to suggest that such provision is required in this case.
29. My attention was drawn to an earlier proposed development of nine dwellings on the site, for which an appeal was dismissed in September 2023³. While I do not know all the details of that previous scheme, it evidently differed significantly from this one – for example, while the 2023 proposal included an A-frame structure which my predecessor described as "contrived and jarring", but that is clearly not part of the scheme which is before me. There are also

³ PINS Ref: APP/L5240/W/22/3313414

other differences of scale and detail. The significant differences between the two schemes mean that my reaching a different conclusion from that of my colleague is justified.

Conditions

30. I have considered the conditions suggested by the Council having regard to the tests in the Framework and the advice in the Planning Practice Guidance ("the PPG"), as well as the appellant's comments. Where necessary I have made changes to the wording or ordering of conditions in the interests of clarity and effectiveness.
31. In addition to the standard time limit condition (1), in the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans (2). A Construction Management Plan (3) is required to safeguard the amenity of surrounding residents and the area generally, and to prevent adverse impacts upon the transport network during the construction phase of the development; in order to ensure that this is effectively it is necessarily a pre-commencement condition.
32. A condition in respect of the condition of the highway and footway (4) is necessary to protect the safe and efficient operation of the highway. Conditions in respect of hard and soft landscaping (5) and materials (6) are necessary to protect and enhance the local environment, while a condition in respect of trees (7) is necessary to protect the contribution which they make to visual amenity and biodiversity. A condition in respect of SUDS (8) is necessary to ensure the safe and effective management of surface water run-off. Conditions relating to car parking (9) and electric vehicle charging points (10) are necessary respectively to ensure an acceptable standard of development and to support the uptake up more sustainable means of travel.
33. Conditions relating to lighting (11) and a biodiversity enhancement strategy (12) are necessary in the interests of habitats and biodiversity. Conditions relating to a refuse management plan (13) and refuse and bicycle stores (14) are necessary to ensure that those facilities are provided and managed in an acceptable manner. A condition in respect of restricted and obscure glazed windows (15) is necessary to protect neighbours' living conditions. A condition in respect of accessible units (16) is necessary to ensure the adequate provision of adaptable units. The fire safety condition (17) is necessary to comply with Policy D12 of the London Plan 2021, while the water usage condition (18) is necessary to ensure the efficient use of water resources.

Conclusion

34. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above I conclude that the appeal should be allowed and planning permission granted, subject to the conditions in the attached schedule.

M Cryan

Inspector

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 21-1413-51A – First-floor plan
 - 21-1413-52A – Second-floor plan
 - 21-1413-53A – House floorplans
 - 21-1413-54 – Elevations and sections
 - 21-1413-55 – Elevations and sections
 - 21-1413-56B – Elevations and sections
 - 21209-MA-XX-XX-DR-C-0100-S2 P04 – Amended general arrangement site layout plan
 - 21209-MA-XX-XX-DR-C-7040-S2 P04 – Swept path analysis (large car)
 - 21209-MA-XX-XX-DR-C-7060-S2 P04 – Swept path analysis (delivery van)
- 3) Prior to the commencement of the development, a final Construction Logistics Plan (“CLP”) shall be submitted to and approved in writing by the Local Planning Authority. The CLP shall include the following information for all construction phases of the development:
 - a) Hours of construction,
 - b) Parking of vehicles associated with deliveries, site personnel, operatives and visitors,
 - c) Facilities for the loading and unloading of plant and materials,
 - d) Details of the storage facilities for any plant and materials,
 - e) The siting of any site huts and other temporary structures, including site hoardings,
 - f) Details of the proposed security arrangements for the site,
 - g) Details of the precautions to guard against the deposit of mud and substances on the public highway, to include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances prior to entering the highway,
 - h) Details outlining the proposed range of dust control methods and noise mitigation measures during the course of construction of the development, having regard to Croydon Council’s *Code of Practice on Control of Pollution and Noise from Construction sites*, BS 5228, Section 61 consent under the Control of Pollution Act 1974, and the Mayor of London’s *Control of Dust and Emissions During Construction and Demolition* Supplementary Planning Guidance (July 2014).
 - i) All Non-Road Mobile Machinery (“NRMM”) of net power of 37kW and up to and including 560kW used during the course of the demolition, site preparation and construction phases shall comply with the emission standards set out in chapter 7 of the GLA’s Supplementary Planning Guidance *Control of Dust and Emissions*

During Construction and Demolition dated July 2014 ("the SPG"), or subsequent guidance. Unless it complies with the standards set out in the SPG, no NRMM shall be on site, at any time, whether in use or not, without the prior written consent of the local planning authority. The developer shall keep an up to date list of all NRMM used during the demolition, site preparation and construction phases of the development on the online register at <https://nrmm.london/>

All construction phases of the development shall be carried out strictly in accordance with the details so approved.

- 4) Prior to the commencement of any construction works, a Condition Survey of the highway and footway is to be undertaken and submitted to the Highways Authority for approval and consideration. The development shall be carried out in accordance with any recommendations made. The works which form part of the public highway shall be technically approved and carried out under a Section 278 Agreement of the Highways Act.
- 5) Prior to the commencement of above ground works, full details of the hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority, to include:
 - a) Hard landscaping materials (including samples as appropriate);
 - b) Soft landscaping details, including existing planting to be retained, the species, size and density of proposed new planting, as well as the dimensions of new trees;
 - c) Boundary treatments;
 - d) Biodiversity enhancement measures.

The details approved shall be provided and completed in accordance with this condition prior to the first occupation of the development, and maintained for the lifetime of the development with the exception of new planting which shall be provided and completed in accordance with this condition prior to the end of the first planting season following completion of the development, and maintained for a period of five years from the date of planting. Any new planting which dies, is severely damaged, becomes seriously diseased or is removed within that period shall be replaced by planting of a similar size and species to that originally planted.

- 6) Prior to the commencement of works above ground level, full details of the following shall be submitted to and approved in writing by the Local Planning Authority:
 - a) External facing materials including samples of all facing materials and finishes;
 - b) Detailed drawings in plan/elevation and section scaled at 1:5 through all typical external elements/junctions/details of the facades including all external openings and rainwater goods.

The development shall be carried out strictly in accordance with the details thus approved.

- 7) The development hereby approved shall be carried out strictly in accordance with the details and recommendations of the *Arboricultural Impact Assessment Report* (EnviroArb-Solutions Ltd, 11 July 2023).
- 8) Prior to the commencement of above ground works, a finalised surface water drainage scheme in accordance with the *Flood Risk Assessment & Drainage Strategy* (Maekides Associates, 2 December 2022) incorporating the following measures shall be submitted to and approved in writing by the Local Planning Authority:
 - a) Calculation of the existing and proposed run-off rate (which should achieve greenfield run-off rates unless an alternative rate is adequately justified and achieved);
 - b) Confirmation of the impermeable and permeable site areas used for the infiltration calculations;
 - c) Details of the on-site infiltration drainage;
 - d) Details of the on-site attenuation tank;
 - e) Details of further sustainable drainage measures;
 - f) An updated layout plan (to scale) of the proposed drainage scheme;
 - g) Details of the ownership and/or maintenance agreement for the SUDS on the site.

The approved scheme shall be implemented prior to the first occupation of the development and maintained thereafter.

- 9) Prior to the occupation of the development hereby permitted, car parking shall be laid out in accordance with the details shown on plans 21209-MA-XX-XX-DR-C-0100-S2 P03

The operation of the car park shall take place in accordance with the details approved and maintained for the lifetime of the development.

- 10) The development hereby permitted shall not be occupied until at least 20% of spaces have been fitted with Electric Vehicle Charging Points ("EVCPs"), with passive provision (cable routing) fitted for all other spaces.

The EVCPs shall be maintained (unless replaced with at equivalent or uprated replacements) for the lifetime of the development.

- 11) Prior to the occupation of the development hereby permitted, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other

external lighting be installed without prior consent from the local planning authority.

- 12) Prior to the occupation of the development hereby permitted, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) Detailed designs to achieve stated objectives;
- c) Locations of proposed enhancement measures by appropriate maps and plans;
- d) Persons responsible for implementing the enhancement measures;
- e) Details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter.

- 13) Prior to the occupation of the development hereby permitted, a refuse management plan shall be submitted to and approved in writing by the local planning authority.

The details approved shall be maintained for the lifetime of the development.

- 14) The proposed cycle parking and refuse storage hereby approved on the *Revised Refuse Management Strategy* shall be provided and completed prior to first occupation of the development and maintained for its permitted use for the lifetime of the development.
- 15) Any upper-floor window located in a wall or roof slope on the north or north-western elevations of the dwellings shall be obscure-glazed, and restricted to opening no more than 150mm unless the parts of the window which can be opened are more than 1.7m above the floor taken from a point immediately below the centre of the window upwards to the opening part of the window. Such measures shall be provided and completed prior to the first occupation of the development, and retained for the lifetime of the development.
- 16) All of the residential units hereby approved shall be constructed and fitted out to comply with the Building Regulations 2010 (as amended) optional requirement M4(2) "Accessible and Adaptable". Such provision shall be reasonably maintained for the lifetime of the development.
- 17) The development hereby permitted shall be carried out in accordance with the fire safety measures contained within the submitted *Fire and Safety Statement* (Sterling Blank, December 2022).
- 18) All residential units within the development hereby permitted shall achieve a water use target of 110 litres per head per day.