



Appeal Decision

Site visit made on 22 April 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 MAY 2024

Appeal Ref: APP/L5240/W/23/3324843

79 Park Lane, Croydon CR0 1JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant full planning permission.
 - The appeal is made by Mr Brian Jaye against the decision of London Borough of Croydon.
 - The application Ref is 21/02433/FUL.
 - The development proposed is change of use from offices to dwellings with rear extension.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development has been taken from the original application form. The decision notice does however include associated cycle, refuse and parking area; alterations to front elevation of existing garage to include new window; erection of boundary fence. I have determined the appeal accordingly.
3. During the appeal process, a Planning Obligation by way of a Unilateral Undertaking made under Section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted. This relates to the sustainable transport contribution, restriction on parking permits for the proposed units, section 278 agreement, and monitoring fee. I return to this matter below.
4. The Councils' seventh and eighth reason for refusal relates to fire safety and a legal agreement. However, the Council's Statement of Case has since confirmed that both matters have been addressed through the submission of the fire strategy submitted with the appeal documents and through the agreed legal agreement. I do not therefore need to consider these matters further.

Main Issues

5. The main issues are:
 - Whether the proposed development would provide family accommodation;
 - The effect of the proposed development on the highway network;
 - Whether the proposed development would provide satisfactory living conditions for the occupiers of the proposed dwellings with particular regard to amenity space provision, privacy, natural light and ceiling heights;

- The effect of the proposed development on the character and appearance of the host building, including whether it would preserve or enhance the character or appearance of the Chatsworth Road Conservation Area (CA);
- Whether the proposed development would provide sufficient cycle facilities for future occupiers; and
- Whether the proposed development would provide sufficient refuse facilities for future occupiers.

Reasons

Family accommodation

6. Policy SP2.7 of the Croydon Local Plan, 2018 (CLP) sets a strategic target for 30% of all new homes up to 2036 to have three or more bedrooms. The proposal seeks to provide 3 x one-bedroom units and 2 x two bedroom units. The Councils' statement of case sets out that the updated Strategic Housing Market Assessment (SHMA) notes that Croydon has seen a high amount of smaller flatted development and that the recent supply of stock has been heavily skewed towards 1 and 2 bedroom homes. It goes on to explain that the SHMA provides evidence suggesting an ongoing need for more family homes. I have no compelling evidence to question this.
7. The site is located within an established residential area with nearby amenities in Croydon town centre. There are also public transport links to the town centres, public open space, and nearby schools all within walking distance. The site is therefore located in an area that would meet the needs of many small and growing families. It would therefore not be unreasonable for the Council to seek the strategic target in relation to the provision of three-bedroom homes given the qualities of the site. I note the appellants' claims regarding the need for 1 and 2 bedrooomed accommodation and that the location would be well suited for younger persons who are required to commute to central London. Even so, this would not alter my findings particularly when considering the policy context as the site is still located in an area that would meet the needs of many small and growing families. There is limited amenity space provision/useable play area although this is not removed completely and would also not alter my findings.
8. For the above reasons, I conclude that the proposed development would not accord with Policy SP2.7 of the CLP.

Highway network

9. At my site visit, I observed the movements of vehicles along Park Lane and while only a snapshot in time, I saw that the road was relatively busy with a constant flow of traffic.
10. The plans provided show provision of an accessible parking bay located to the front of the site although vehicles would not be able to turn on site and exit in forward gear given the limited space available. This would result in vehicles reversing onto the public highway which would be prejudicial to the safe operation of the highway network. Whilst the forecourt and that of its neighbours is currently open allowing for visibility of passing pedestrians, the proposed 1.8-metre-high boundary fence would run along the southern

boundary extending to the pavement area to the west. The overall height and length would affect sightlines of vehicles exiting from Park House. The high side boundary treatment is also likely to affect the vehicular sightlines from the site in both directions. Additionally, vehicular sightlines of 2.4 x 43 metres for the classified road have not been demonstrated for the parking space.

11. The appeal site currently accommodates tandem car parking to the front of the property that would not allow them to turn on site and I understand that the site has operated like this for many years. However, despite claims made of no issues, I cannot be certain of this as accidents are only recorded by Transport for London if the emergency services are called and thus it would be difficult to establish other accidents or near misses which may have occurred but not recorded. I must therefore consider the proposed arrangements on its own merits, in context of the immediate highway network and any issues that could arise. The proposed development would lower the number of cars from entering and exiting the site although this would not justify the development as it would still result in vehicles reversing onto the busy public highway and thus the layout is still unsuitable. Nearby development with similar car parking arrangements would not alter my findings on this as I am considering the scheme based on its own planning merits.
12. Considering the high PTAL of the site, car free development would be acceptable and as the building does not contain a lift, nor are any of the units proposed to be M4(2) or M4(3) units, there is no requirement for an accessible parking space. The appellant has confirmed that they would be happy to agree to this and I note that a Unilateral Undertaken has been provided relating to sustainable transport contribution, restriction on parking permits for the proposed units, section 278 agreement, and monitoring fee. Whilst some matters including those set out later in my decision can be overcome by an appropriately worded planning condition, the removal of the accessible parking bay through this appeal would involve a fundamental change to the application which would materially alter the nature of the application and potentially prejudice the interests of interested parties. Consequently, I have determined the appeal based on the plan provided showing the accessible parking bay.
13. For the above reasons, I conclude that the proposed development would have an unacceptable impact on the highway network. It would therefore be contrary to Policies T4 and T6 of the London Plan, 2021 (LP) and Policies SP8, DM29 and DM30 of the CLP which together, amongst other matters, relates to car parking and explains that development should have a positive impact and must not have a detrimental impact on highway safety for pedestrians, cyclists, public transport users and private vehicles.

Living conditions

14. The bedroom serving flat 1 has two windows, both on the southern flank and looking out onto the access route for flats 2 and 3. The access route would be very narrow which would mean that those accessing flats 2 and 3 would need to pass within very close quarters of these windows which would result in the loss of privacy for future occupiers of flat 1. It would not be reasonable to have both these windows obscure glazed as this would remove levels of outlook and it would also not be reasonable to rely on landscaping of this area and again this would likely impact levels of outlook. I note the appellants' suggestion of a low metal fence that can be provided although I am not sufficiently convinced

that this is a reasonable solution or that such would not have a detrimental impact on outlook.

15. Flats 2 and 3 are the only flats to have access to private amenity space and I am aware that Policy DM10.4 of the CLP states that all new residential development will need to provide private amenity space, which should be functional with a minimum depth of 1.5 metres and a minimum area of 5 square metres per 1-2 person unit and an extra 1 square metre per extra occupant thereafter.
16. There is therefore a shortfall in this regard which would not comply with Policy DM10.4. I acknowledge the claims made in relation to balcony additions and private amenity spaces facing onto Park Lane including its location within the CA. It is not however my role within the context of this appeal to provide comments on the acceptability of the use of balconies/front amenity areas for the site as I am considering the scheme before me where there is still a shortfall in terms of amenity space provision which must be assessed accordingly. I appreciate the constraints of the site and have considered its location in relation to nearby open spaces/parks, but this is not sufficient to address the lack of amenity space provision as required by policy.
17. Bedroom 1 serving flat 4 would directly overlook the private amenity space serving flat 2 and whilst an element of overlooking can be expected in flatted development, the window serving this bedroom is located within very close quarters of the patio area where clear and open views can be had. The relationship with this window would result in the amenity space serving flat 2 being overlooked and thus reducing its usability and quality whilst causing undue privacy concerns for future occupiers of that flat. The Council has raised concern in relation to overlooking of the amenity space serving flat 3 from the same window. However, this area would be located a further distance away with the line of sight being filtered by the overall configuration of the extension. This element is therefore of lesser concern to me.
18. The bedroom serving flat 2 is served by a north facing window which looks out onto the courtyard patio which would be enclosed by a 1.8 metre fence. However, despite the shape of the bedroom, this window is of a good size and is located sufficiently away from the boundary which would allow for levels of natural light which was evident at the time of my site visit. I appreciate that there has not been a daylight/sunlight assessment submitted to confirm light levels. Even if there were deficiencies in this regard, it would not be removed completely and flat 2 would still benefit from other habitable spaces on the same level where there are other large openings offering for good levels of natural light more generally as well as good access to the amenity area serving the property.
19. Whilst the outlook for the living/kitchen room serving flat 1 is out towards the refuse store, it is only really the kitchen area which would provide for direct outlook as outlook from the living area would be at an angle to the refuse store. The refuse store would be located a sufficient distance away from the windows and is not of a size or scale to unduly harm levels of outlook for future occupiers. Such a relationship is not uncommon for flatted properties within an urban context and again this element is of lesser concern to me.
20. Turning to ceiling heights, the appellant has confirmed that the required standards of 2.5 metres would be met. I note the Councils' claims in terms of

their own measurements which indicate 2.4 metres although this is a minimal shortfall which would not significantly impact the floor to ceiling heights to an extent which would be harmful, and this could also be overcome by a suitably worded planning condition.

21. The living/kitchen area serving flat 3 appears to be served by a sliding door which would give access to the amenity space provision serving this flat and providing this is the case, occupiers would not need to exit through the front door and walk around the building. I therefore have no concerns in terms of accessibility and quality of the useable space serving this flat. Whilst there is a narrow alleyway and thus unlikely to be useable as functional amenity space, there is further provision to the north accessible from the living/kitchen area.
22. For the above reasons, I conclude that whilst some matters raised are of less concern to me as set out, the proposed development would still not provide satisfactory living conditions for the occupiers of the proposed dwellings with particular regard to amenity space provision and privacy. It would therefore be contrary with Policy D6 of the LP and Policies SP2.8 and DM10 of the CLP which together, amongst other matters, explains that the Council will seek to ensure new homes in Croydon meet the needs of residents over a lifetime and contribute to sustainable communities.

Character and appearance

23. The appeal site relates to a two-storey semi-detached building with accommodation in the roof and a single storey rear extension. A single garage with a pitched roof is attached to the southern side flank elevation.
24. The site falls within the CA. I therefore have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. Moreover, the National Planning Policy Framework (the Framework) advises that great weight must be given to the conservation of designated heritage assets and any harm which is less than substantial should be weighed against the public benefits of the proposal.
25. The significance of the CA is derived from its architectural and historic interest and the property is highlighted in the Chatsworth Road Conservation Area Appraisal and Management Plan as a 'positive unlisted' building which contributes to the special character of the area.
26. From the street scene, the only change would be to the garage door which is to be replaced with a window. The proposed window is small in size and incorporates a number of smaller square panes with a white timber frame which is not so dissimilar to those contained in the existing property. I cannot therefore agree that this window would not bear any relation to the existing fenestration or the character and appearance of the CA. To this end, I observed at my site visit that there are a variety of different fenestration styles and designs in the immediate vicinity of the site. The proposed window would not therefore appear discordant in this context.
27. The host property already benefits from a sizable single storey rear extension which has a flat roof form and already takes up most of the plot. The proposed development would enlarge this built form further and thus reduce the rear garden area. However, the changes proposed would be a minimal increase over

and above that of the existing extension particularly when factoring in a section of the current rear extension which is to be demolished. It would also remain single storey of a relatively low height with an overall design reflective of the existing extension. On this basis, the limited increase in this case would be no more harmful than that of the existing extension.

28. Additionally, the extension would be well shielded from views given the location to the rear of the property/substantial planting and any visual impact arising from the proposed development would be very limited. In any event, the limited changes would not appear particularly discordant/oversized when read in context of the already sizable existing extension.
29. Due to the limited changes proposed, overall design and position on the rear elevation, the proposed increase of the extension would not appear as a particularly dominant addition to the existing arrangements that currently exist nor be highly visible in the locality. Accordingly, I conclude that the proposed development would not unacceptably harm the character and appearance of the host building over and above that of the existing and would preserve the character and appearance of the CA.
30. The proposed development would therefore accord with Policies SP4.1 and DM10.7 of the CLP and Policy D4 of the LP which together, amongst other matters, seeks to deliver good design.

Cycle facilities

31. Policy T5 of the LP relates to cycling and requires provision in line with Table 10.2. The development would therefore require the provision of nine long stay cycle spaces (to include one for wider/adapted bikes) and two short stay spaces. The plans show the provision of covered cycle storage for five long stay cycles to the front and two short stay spaces. There is also separate provision shown for flat 3 located in the rear garden and the appellant confirms that this could accommodate 2 cycles. Based on the evidence before me, there is a shortfall in terms of overall cycle provision and the provision shown for flat 3 is far from ideal as the occupier would need to navigate the narrow external area for access including tight corners which would be difficult for cycles to negotiate. That said, given the level of space that exists to the front, and that visitor cycle parking is not required to be within a store then I am satisfied that sufficient provision could be made without causing a detrimental impact on access/amenity. This could be controlled by an adequately worded planning condition which would also address matters relating to widths, heights, fobs etc to ensure appropriate and usable provision is made.
32. Consequently, I conclude that matters relating to sufficient cycle facilities for future occupiers could be resolved by way of a planning condition were I minded to allow the appeal. It would therefore accord with Policy DM30 of the CLP and T5 of the LP relating to cycle parking.

Refuse

33. It is undisputed that the proposed development would meet the requirements for waste and recycling. I am also satisfied that the finer details such as the height of the store could be secured by an adequately worded planning condition. Whilst the plans do not show a 10 square metre bulky goods area, the small-scale nature of development would mean that the likelihood for

disposing bulky waste by more than one household at any one time is relatively small. If there was a need on a particular collection day, then the forecourt would be used, and I am satisfied that there would be sufficient space for this without causing undue harm which would in any event be very temporary.

34. I conclude that matters relating to sufficient refuse facilities for future occupiers could be resolved by way of a planning condition were I minded to allow the appeal. It would therefore accord with Policy DM13 of the CLP which amongst other matters, requires development to provide adequate space for the temporary storage of waste (including bulky waste) materials generated by the development.

Other Matters

35. I am aware of previous pre-application discussions which have taken place with the Council and changes made to the scheme from previous advice given. I am also aware of the appellants' frustrations with the handling of the application. Such matters would not however alter my findings in relation to the above main issues.
36. The appellant makes reference to previous advice received from the Council requiring flats to be accessed from the street frontage although this did not form part of the Councils' reasoning for refusal. Whilst entrances on the side elevations are not uncommon for flatted properties, this does not overcome the matter of privacy which is discussed further above.
37. I appreciate that the scheme makes optimum use of the accommodation for residential development within a location that has excellent transport links and facilities. I also appreciate improvements made by landscaping, biodiversity, and energy considerations. However, such matters are a neutral factor in my overall decision and would not outweigh the harm identified nor would any claims regarding changes in relation to office space demand since the covid-19 pandemic. The proposals would make a modest contribution to the overall supply of housing. The extent to which this would be beneficial is however limited given the small-scale nature of the proposals and would not weigh in favour of the appeal.

Conclusion

38. Although I have found a lack of harm in relation to character and appearance, cycle, and refuse facilities, living conditions for the occupiers of the proposed flats with particular regard to, natural light and ceiling heights, I have found harm in relation to the provision of family accommodation, living conditions for the occupiers of the proposed flats with particular regard to, amenity space provision and privacy as well as harm on the highway network. It follows that the proposal conflicts with the development plan and there are no considerations, including the advice of the Framework, which would outweigh this conflict.
39. For the above reasons, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

N Teasdale

INSPECTOR