



Appeal Decision

Site visit made on 29 May 2024

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th June 2024

Appeal Ref: APP/L5240/W/24/3336402

Land adjacent to The Halt, Firs Road, Kenley, Croydon, CR8 5LD

- 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 Mr Adrian Van Aaist against the decision of the Council to the London Borough of Croydon.
 - The application Ref 23/01554/FUL, dated 19 April 2023, was refused by notice dated 7 July 2023.
 - The development proposed is described as erection of a two storey detached house with habitable loft space, with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The council has confirmed that the appellant has satisfactorily addressed the concerns raised in relation to fire safety. The appeal has been determined on this basis.
3. Since the appeal application was refused the National Planning Policy Framework 2021 has been replaced. It is noted that both the council and the appellant have referred to the National Planning Policy Framework December 2023 in their appeal statements. For the avoidance of any doubt, I confirm that in this decision I similarly have referred to the National Planning Policy Framework December 2023 (Framework).

Main Issues

4. The first main issue is the effect of the proposal on the character of the locality. The second main issue is the effect of the proposal on biodiversity.

Reasons

Character

5. The Appeal site is located within an established residential area where, in principle, new housing on small plots is supported.
6. Firs Road is characterised by a broad range of houses, which occupy spacious mature landscaped plots and are set back from the street behind good sized front gardens. The appeal site is located within a small cul-de-sac along Firs Road (Fair Oak Close), which is characterised by mid to late twentieth century

detached two storey houses. They similarly occupy large plots and are set back from the highway behind generous sized front gardens.

7. Whilst most of the dwellings within Fair Oak Close are from a limited range of designs and palette of materials, The Halt is traditionally designed, with projecting front wings, dormer windows, chimney and exposed timbers. It occupies a particularly spacious and mature landscape plot which includes a numerous trees around its boundaries. This contributes to the sylvan quality of this part of the cul-de-sac. The southern part of the cul-de-sac is more open, with minimal front boundary planting. The generous sized front gardens, deep grass verges which contain a variety of trees and the backcloth of mature trees contribute to its open and verdant character and appearance.
8. The appeal site is located to the side and forms part of the former garden to The Halt. It occupies a prominent position adjacent to a bend in the road and is separated from the pavement by a low wall, two Sycamore trees and some shrubs. Immediately to the west of the appeal site is a grass verge which includes a mature Oak tree.
9. In 2012 planning permission was refused for the development of a detached house on the site due to its visual impact on the street scene. Subsequently in 2013 and 2014 planning permission was granted for two alternative two storey, four-bedroom houses on the appeal site, although neither permission was implemented. With both schemes the dwelling was set back from the front building line of the existing dwelling at The Halt and open gaps were provided between the proposed dwelling and the northern and western boundaries of the site. Both schemes included a vehicle crossover, parking area and garage sited at the southern end of the plot.
10. Policies D3, SP2.1 & SP2.2 of the Croydon Local Plan 2018 (LP), policies H2 & GG2 of the London Plan 2021 (London Plan) and Sections 2 & 11 of the National Planning Policy Framework 2023 (the Framework), support a presumption in favour of sustainable development. They promote the development of small and windfall sites for housing and the efficient use of land. At paragraph 131 the Framework states that good design is a key aspect of sustainable development.
11. Together and amongst other things Policies D3 & D4 of the London Plan, LP Policies SP4 & DM10 and paragraph 135 of the Framework seek to ensure that new development is designed to a high standard, respects and enhances local character and contributes positively to the public realm. New development should respect the pattern and form of the surrounding area.
12. The proposed dwelling would occupy a similar position to the previously approved dwellings, although it would project noticeably closer to the northern and western boundaries of the site and would be materially larger. The proposed dwelling would have a second floor accommodated within a steeply pitched and bulky crown roof. Its bulk would be accentuated by a large rear flat roofed dormer and a front projecting gable. The proposed dwelling would also lack the articulation of the previously refused and approved schemes and its west facing side walls and roof would be prominent, bulky and visually hard, when viewed from Fair Oak Close.
13. For these reasons the proposed dwelling would fail to respect the existing pattern of development. It would look out of place and would unacceptably

detract from the spacious and verdant character and appearance of the local area.

14. I acknowledge that the proposed dwelling would contribute to the council's housing stock and to meeting their policy requirement to deliver 32,890 homes between 2016 and 2036, with 10,060 homes being delivered on windfall sites. However, the concerns outlined above materially outweigh this benefit and the level of accommodation the proposed dwelling would provide.
15. I conclude on the first main issue that the proposal would unacceptably harm the character and appearance of the locality. Accordingly, it would conflict with LP Policies DM10 & SP4 and policies D3 & D4 of the London Plan.

Biodiversity

16. The council has confirmed that the appeal site is located within two kilometres of South London Downs National Nature Reserve (NNR) and Riddlesdown, which is both an NNR and Site of Special Scientific Interest (SSSI). This is in addition to non-statutory designated sites. The site itself has been left largely unmanaged for a period of time and includes extensive vegetation which has the potential to support a range of on-site and visiting wildlife. There is also an Oak tree just to the southwest of the appeal site that has the potential for a bat roost.
17. Amongst other things paragraphs 174 & 186 of the Framework state that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. Where a proposal does not avoid significant harm to biodiversity, or it would have an adverse impact on an SSSI it should not normally be permitted. LP Policy DM27 and policy G6 of the London Plan similarly seek to protect and enhance the biodiversity.
18. Together Circular 06/2005 (ODPM) and the standing advice of Natural England and the Department for Environment, Food & Rural Affairs (updated September 2022) advise that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. As such, it is essential that the presence or otherwise of protected species and the extent to which they may be affected by a proposal is established before planning permission is granted. Without such information all relevant material considerations may not have been addressed prior to determining an application for planning permission.
19. Whilst the appellant has submitted a tree survey and protection plan, no biodiversity survey or Impact Assessment has been provided. Without this information the presence or otherwise of protected species and the extent to which they may be affected by a proposal is not known. This means that all relevant material considerations may not have been addressed prior to determining an application for planning permission. Similarly, the impacts of the proposal on biodiversity in general and whether they could be satisfactorily mitigated is unknown. These are not matters that could reasonably be dealt with by the imposition of conditions.
20. For these reasons I conclude on the second main reason that on the basis of the evidence submitted it has not been demonstrated that the proposal would

provide adequate ecological mitigation or conserve or enhance biodiversity. Accordingly, the proposal would conflict with LP Policy DM27 and policy G6 of the Local Plan.

Other matters

21. Due to its proximity, depth and height the proposed dwelling would result in some overshadowing of the rooms served by the west facing windows at The Halt. However, these windows appear to be secondary and do not appear to be the sole windows serving the main habitable rooms of the dwelling. The landing window on the east elevation of the proposed dwelling and any overlooking into the rear garden of The Halt would be typical of many two storey dwellings.
22. Due to the distance between and orientation of the proposed and existing dwellings, the proposed dwelling would not result in a material loss of privacy, daylight or sunlight, or undue noise for the occupiers of other dwellings within Fair Oak Close.
23. Whilst the proposed rear garden would not be as deep as other gardens in Fair Oak Close, it would be comparable to that of The Halt and would be satisfactory in terms of the amenity space it would provide for the occupiers of the proposed dwelling.
24. The council has raised no concerns regarding the proposed parking arrangements and I have no reason to disagree. As stated in paragraph 116 of the Framework, development should only be refused on highway grounds if there would be an unacceptable impact on highway safety. As stated by the council the concerns raised in relation to drainage and flooding could be satisfactorily addressed through the imposition of a drainage condition.

Conclusion

25. Whilst I have found in favour of the appellant on some points, the conclusions on the main issues amount to compelling reasons for dismissing this appeal.

Elizabeth Lawrence

INSPECTOR