



Appeal Decisions

Site visit made on 6 March 2024

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 July 2024

Appeal A Ref: APP/L5240/W/23/3326610

275 Addiscombe Road, Croydon CR0 7HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The application Ref 23/01899/OUT, dated 16 May 2023 was refused by noticed dated 20 July 2023.
 - The appeal is made by Mr Abbas Dattoo on behalf of Marlpark 275 CR0 Ltd against the decision of the Council of the London Borough of Croydon.
 - The development proposed is demolition of existing buildings and erection of 2 storey building with accommodation in roof space comprising 9 self-contained flats.
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Appeal B Ref: APP/L5240/W/23/3322433

275 Addiscombe Road, Croydon CR0 7HY

- 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 application Ref 23/00013/FUL, dated 3 January 2023 was refused by noticed dated 30 March 2023.
 - The appeal is made by Mr Abbas Dattoo on behalf of Marlpark 275 CR0 Ltd against the decision of the Council of the London Borough of Croydon.
 - The development proposed is demolition of existing detached house and construction of new purpose-built block of flats.
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Decisions

Appeal A

1. Appeal A is allowed and outline planning permission is granted for demolition of existing buildings and erection of 2 storey building with accommodation in roof space comprising 9 self-contained flats at 275 Addiscombe Road, Croydon CR0 7HY in accordance with the terms of the application, Ref 23/01899/OUT, dated 16 May 2023, and the plans submitted with it, subject to the conditions set out in Schedule A.

Appeal B

2. Appeal B is dismissed.

Applications for Costs

3. Applications for costs have been made in respect of both appeals. These are the subject of separate decisions.

Preliminary Matters

4. As set out above, there are two appeals on this site. I have considered each on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
5. The planning application subject of Appeal A was made in outline form with matters of access, appearance and landscaping reserved for future consideration. Accordingly, the submitted plans can only be taken as indicative at this stage, other than where they relate to layout and scale.
6. Amended plans have been provided in relation to both appeals and are referenced within the appellant's statements. I have considered the revised plans under the principles established in *Holborn Studios Ltd*¹. Although some of the amendments are minor and in some cases also only amount to clarification, they are numerous. Interested parties would not be aware of the amended schemes and, for that reason, I consider that they would be prejudiced if I determined the appeals on the basis of these plans. Accordingly, I have determined the appeals on the basis of the plans originally submitted with the planning applications and on which the Council made its decision.
7. The appellant provided, alongside their final comments² in relation to their application for costs on Appeal A, an updated Transport Survey. The accompanying email clarified that the additional document was only being submitted as evidence to contest the factual basis of the Council's own cost rebuttal. This document did not form part of the appellant's cases at the outset of the appeals, and no final comments were made by the appellant in relation to the appeals themselves. As this document does not form part of the appeal documents, the Council has not had opportunity to comment upon it, and I therefore have not had regard to it in reaching my decisions.
8. In reaching these decisions, I have had regard to the revised version of the National Planning Policy Framework ('the Framework') which was published on 20 December 2023, and I have sought the parties' comments upon it. Accordingly, no party has been prejudiced by me doing so.
9. It has been brought to my attention that since the appeals were submitted, the Council has granted planning permission³ for a development on the appeal site. As this information could not have been provided sooner, I have accepted this late evidence. I have afforded both parties the opportunity to comment upon it and have taken account of those comments in reaching my decision. I return to this issue later in my decision.

Main Issues

10. The main issues in relation to Appeal A are as follows:

- the effect of the proposal upon the living conditions of the occupiers of neighbouring residential properties with particular regard to privacy;
- the effect of the proposal upon highway safety, and;

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

² "Rebuttal to LPA Costs Response (21/11/2023)"

³ 23/02976/OUT

- whether the proposal makes adequate provision for the storage of cycles and household waste.

11. The main issues in relation to Appeal B are as follows:

- the effect of the proposal upon the character and appearance of the area;
- the effect of the proposal upon biodiversity and existing trees.
- whether the proposal would provide acceptable living conditions for future occupiers with particular regard to outlook and light, and the privacy of private amenity areas, and;
- the effect of the proposal upon highway safety.

Reasons

Character and appearance – Appeal B only

12. The proposal would incorporate recessed areas at the front and rear of the property. Although the appellant has described them as sunken gardens, they are indicated on the plans as lightwells. If subject to hard surface treatments these sizeable areas would, in combination with the proposed parking area and pedestrian ramps, lead to only limited areas to the front of the site being retained as green space.
13. Although the lightwells would not be prominent, the ground level voids that would result from them would be noticeable in that they would not contribute positively towards the character of the development at the point at which it addresses the road. On the basis of the plans which are before me, it would appear that these areas would either appear as hard surfaces or as shaded recesses. This would lead to the front of the property appearing as stark and lacking in soft landscaping relative to the size of the proposal.
14. The lightwells to the rear would address the rear garden which would be a large, grassed area and would not affect prominent public views of the site. Accordingly, unlike the lightwells to the front, they would not be harmful.
15. The appellant has indicated that the proposal would incorporate more green space than a previous approval⁴, however this conclusion appears to be based upon the amended plans, the status of which I have addressed above. Furthermore, although a living green roof would have ecological benefits, the height of the proposal means that it would not be of discernible benefit to the character of the area or provide a means of softening the development to any great extent.
16. For these reasons, the proposal would harm the character and appearance of the area. It would therefore conflict with Policy D3 of the London Plan 2021 ('LP') and Policies DM10 and SP4.1 of the Croydon Local Plan 2018 ('CLP'), which together and amongst other factors, state that new development should be of a high quality, enhance local context, respond positively to local distinctiveness, development pattern and layout and provide spaces which are visually attractive.

⁴ 23/02976/OUT

Biodiversity and trees – Appeal B only

17. There is no evidence before me which establishes a biodiversity baseline for the site or considers whether the appeal site contains any protected species or habitats. Although most recently in use as a residential garden, the unmaintained nature of the appeal site at the time of my visit is such that I consider it likely to be of some potential biodiversity value and could have the potential to provide habitat for protected species. The proposal would lead to the loss of some of the existing garden area, as well as the existing building.
18. The proposal would incorporate green areas, including the green roof and would be subject to a landscaping scheme. However, without any assessment of the biodiversity value of the appeal site, or the effect of the proposal on any such value, it has not been shown that these measures would deliver a sufficient degree of mitigation in order to achieve biodiversity net gain or if necessary, mitigate any effects on protected species or habitats. The fact that the issue of ecology has not been raised in relation to any other recent proposals at the appeal site does not overcome my concerns in these respects.
19. There is a tree located on the pavement to the front of the site. Whilst I understand that this tree is not subject to a tree preservation order, it is assessed within the provided tree survey as being of B1 quality. I observed that it contributes positively to the streetscene as one of several mature street trees along Addiscombe Road.
20. The tree survey includes a retention and protection plan (1479-02-2A). However, the scheme shown on this plan is not the scheme which is before me, which indicates a site access in a different location and closer to the tree. As the tree survey appears to be based upon a different scheme, I am unable to afford significant weight to its conclusion that the tree would not be harmed by the proposal.
21. For these reasons, I cannot conclude that the proposal would not harm biodiversity interests or lead to damage to an existing tree. It would therefore be contrary to LP Policies G6 and G7 and CLP Policies DM27 and DM28 which together, and amongst other factors, state that proposals should manage impacts on biodiversity, aim to secure net biodiversity gain and have no adverse impact on protected species and habitats, as well as avoiding the loss of trees that make a contribution to the character of the area.

Living Conditions – Appeal A

22. The indicative plans indicate that the proposal would result in a building being located close to the shared boundary with 277 Addiscombe Road ('No 277'). Although views would likely be oblique, I acknowledge that it is possible that depending on their location and treatment, that windows and balconies in the eastern and northern elevation of the proposal could result in unacceptable levels of overlooking of the garden of No 277.
23. Additionally, a central rear projection would extend to within 15 metres of the shared boundary with 2 Northampton Road (No 2) and would contain living spaces and external areas up to second floor level. Given the scale of the proposal, the slightly elevated nature of the site in comparison to No 2, and the Council's stated preference for between 18 and 21 metres separation, this

relationship could also result in harm to living conditions of occupiers of this property in relation to the privacy of the rear garden.

24. However, the proposal is in outline form, with matters relating to access, appearance and landscaping reserved for future consideration. The provided plans are indicative at this stage insofar as they relate to appearance. Consequently, the precise location and specification of windows and screening of external areas would form part of any final design developed at the reserved matters stage.
25. Consequently, it appears that it would be possible to arrive at a design for room and window configurations, as well as a specification for outdoor terraces that would ensure adequate living conditions for neighbouring occupiers, in respect of privacy. Whilst the acceptability of any specific arrangement would require detailed consideration at the reserved matters stage, and may require other solutions beyond the use of obscure glazing screens, there is no evidence before me that indicates that preserving the living conditions of occupiers of adjacent properties would not be achievable.
26. The proposal would not lead to harm to the living conditions of the occupiers of neighbouring properties with particular regard to privacy. The proposal would therefore be in accordance with LP Policies D3 and D6, and CLP Policy DM10 which together, and amongst other factors state that new development should deliver appropriate privacy and amenity and protect the amenity of occupiers of adjoining buildings.

Living conditions – Appeal B

27. The proposal would incorporate a number of windows which are indicated as being either obscured glazed, or half-obscure glazed. It is stated that half-obscure glazed windows would be obscure to 1.8m in height.
28. The plans indicate that there would be several bedrooms which would be served solely by half-obscured windows. Future occupiers of these rooms would be afforded with very little outlook as a result. In addition, some larger communal spaces would also be predominantly served by half-obscured windows. Whilst these rooms would also be served by unobscured windows, they would nevertheless have an enclosed and oppressive atmosphere.
29. It is stated that the level of obscure glazing that would be incorporated into the scheme is in response to previous concerns of the Council in relation to privacy, and the appellant considers that the number of obscure windows could be reduced without harm resulting to the living conditions of neighbouring occupiers. Be this as it may, I am required to consider the proposal on the basis of the scheme which is in front of me.
30. Furthermore, some bedrooms would be required to make use of 'borrowed light' from north-facing terraces. These terraces would be contained within the building façade, and being north-facing, would be unlikely to receive significant levels of direct sunlight. This would be exacerbated within those bedrooms that would be reliant on borrowed light from terraces, which would also have a dark and gloomy atmosphere and therefore be heavily reliant on artificial lighting.
31. The Council also raised concern with regards to terraces on upper storeys overlooking terraces serving the lower ground floor. Whilst this could lead to a loss of privacy for future occupiers of the lower ground floor making use of

private external space, I consider that an adequate solution to this issue through the use of screening on the upper storey terraces could adequately mitigate any harm and could be secured by means of planning condition.

32. In conclusion, the proposal would fail to provide adequate living conditions for future occupiers with particular regard to outlook and light. It would therefore be contrary to LP Policy D6 and CLP Policy DM10, which together and amongst other factors state that new housing developments should be of a high-quality design and provide adequate sunlight and daylight to future occupiers.
33. However, the proposal would provide adequate living conditions for future occupiers with specific regard to the privacy of private amenity areas in accordance with these policies.

Highway safety – both appeals

34. It is common ground that the appeal site has a Public Transport Access Level ('PTAL') rating of 4. CLP Policy DM30 advises that in areas of PTAL 4 that the effect of car parking should be reduced.
35. Both proposals comprise 9 flats and the Council consider that a development of this type and scale, and in this location should provide a maximum of 7 parking spaces. With regard to Appeal A, the appellant considers that although only two parking spaces are indicated on the provided plan, that the site could accommodate up to four spaces. The plans provided with Appeal B indicate on-site parking for three vehicles. Whilst it has not been shown that four vehicles could be accommodated acceptably, I accept that in both cases, parking could be provided for up to three cars.
36. In relation to accommodating any unmet demand for parking within the site, I have been provided with a transport statement ('TS'), which amongst other areas, considers the effect of the proposal upon parking provision in the local area. There is dispute between the parties with regard to the methodology used within this document. Areas of difference include the use of the Lambeth rather than Richmond methodology, a lack of scoping prior to undertaking the TS, the extent of the area of interest and dates and timings of surveys. I understand that this document may have been amended, however I have only been provided with the document as originally submitted (dated 10th May 2023), albeit I have had regard to the provided email exchanges between the appellant and the Council with regard to this matter.
37. The TS indicates that two parking surveys were undertaken on weekdays at around 0430. It identifies that there is no unrestricted parking in the area and that roads are subject to either a Controlled Parking Zone ('CPZ') with no parking between 0900 and 1700 or are located on a 'red route' where parking is not permitted between 0700 and 1900, other than where indicated, on a short-stay basis. The survey indicates that at 0430 on a weekday, that significant capacity for on-street parking remained available. This means, having regard to the likely level of demand generated by the proposal, that overnight on-street parking demand could be acceptably accommodated.
38. With regard to daytime on-street parking, it is evident that it is significantly more restricted, with only short stay 'red route' bays available for use. Given these restrictions, it is unlikely that vehicles unable to be accommodated within the appeal site could be parked on local streets. The TS concludes that due to

these restrictions, that future occupiers of the proposal would be unlikely to own cars.

39. I acknowledge the criticisms of the TS. However, both the Lambeth and Richmond methodologies are recognised assessment methods, and I have not been provided with any substantive evidence which would indicate a planning policy requirement to use one over the other. Additionally, whilst the scoping of the document prior to submission would have been good practice and would have aided its consideration and potentially prevented this area of disagreement, I have not been directed to any formal requirement to do so. Overall, none of the issues raised lead me to conclude that the TS is so fundamentally undermined by its methodology that its conclusions would be flawed. Therefore, I afford weight to its findings.
40. The PTAL rating of the site means that sustainable transport is a feasible option, and the appeal site is served by a number of bus routes which stop on Addiscombe Road. It is also within walking distance of the tram network. Accordingly, it is possible that future occupiers would have reduced reliance on private car ownership. Local parking restrictions would mean that any parking within the CPZ during its hours of operation would be subject to enforcement. The use of short stay 'red route' bays by future occupiers would also be subject to enforcement unless vehicles were moved at regular intervals, which would be highly inconvenient. I therefore conclude that even without any mechanism before me to secure car-free developments, that the proposals would, in effect, self-regulate as such.

Highway safety – Appeal B only.

41. With regard to Appeal B, the Council also raised concern that no swept path diagrams have been provided to demonstrate that vehicles could enter or leave the site in forward gear, that no sightlines have been shown, or servicing information provided.
42. The provided plans indicate that cars could manoeuvre into and out of the parking bays in such a manner that they could both enter and exit the site in a forward gear. The proposal does not include any sightlines, however there is an access in a broadly similar location to that proposed and there is no substantive evidence before me to indicate that the existing access has previously operated in an unsafe manner. I have no reason to conclude that it would lead to harm to highway safety.

Highway safety – conclusion

43. Having regard to my reasoning above, I therefore find that the proposals would not lead harm to highway safety. They would therefore be in accordance with CLP Policies DM29 and DM30 which together and amongst other factors state that development should reduce the impact of car parking and must not have a detrimental effect on highway safety.

Cycle and bin storage – Appeal A only

44. The proposed plans indicate that cycle storage and waste storage could be accommodated within the building. Whilst there is some dispute as to whether the indicated areas would be of sufficient size, the site is large and given the outline nature of the scheme, it is likely that storage of an appropriate size and location could be incorporated within the development. Whilst I understand the

Council's concerns over proposals being unable to accommodate the required level of storage at the point at which conditions are discharged, given the size of the appeal site in this case, it is probable that suitable arrangements could be provided. This is further confirmed in the most recent approval⁵ for a similar development of 9 flats which includes cycle and bin storage.

45. I therefore conclude that the proposal would make adequate provision for cycle and bin storage. It would therefore accord with LP Policy T5 and CLP Policies SP6, DM13, DM29 and DM30. Together, and amongst other factors, these policies state that developments should seek to minimise pollution, promote sustainable travel, secure appropriate levels of suitably designed cycle parking provision, and sensitively integrate refuse and recycling facilities.

Other matters

46. In reaching my decisions I have had regard to the recent approval at the appeal site. Although not advanced as such, this approval nevertheless comprises a fallback position. However, the approved scheme incorporated an alternative treatment to the front of the proposed building, which reduced the size of the lightwells and increased the level of soft landscaping. Accordingly, the proposal subject to Appeal B would be more harmful than the fallback position, and as a result I attach only very modest weight to it.
47. It has also been put to me that the proposal subject to Appeal A amounts to the overdevelopment of the site. Whilst the proposal would be a large building, it would be located on a sizeable plot and would replace the existing large dwelling on the appeal site. Furthermore, Addiscombe Road is characterised by large, detached properties. On this basis, I do not find harm in this respect.
48. It is further stated that the proposal subject of Appeal A would lead to loss of light to a neighbouring property. Whilst it is possible that as this proposal would be larger than the building that currently exists on the site and it could affect levels of light reaching the garden of the relevant property, there is no substantive evidence before me which would indicate that any such effect would be unacceptably harmful. This matter does not therefore lead to a different decision than that I have reached.

Conditions

49. Where necessary I have made minor changes to the conditions as suggested by the Council in order to ensure that they meet the relevant tests set out in the Framework and Planning Practice Guidance.
50. As Appeal A relates to an application for outline planning permission, I have attached standard conditions in relation to the time limits for the submission of reserved matters and the commencement of development. I have also attached a condition securing adherence with the approved plans in the interests of certainty. However, I have omitted the provided elevational drawings as appearance is a matter reserved for later consideration.
51. Given the proximity of the site to neighbouring residential properties, the size of the development and level of demolition to be undertaken, a condition to secure adherence with an agreed Construction Logistics Plan is necessary in order to preserve the living conditions of occupiers of these properties. A

⁵ 23/02976/OUT

condition requiring the implementation of tree protection measures is necessary in order to protect trees during demolition and construction. These conditions are pre-commencement in order to secure adequate mitigation and protection measures at an early stage. The appellant has indicated that they agree to these conditions being pre-commencement.

52. A condition in relation to securing details of drainage measures is necessary in order to manage flood risk, and I have also attached the suggested condition relating to water efficiency in the interests of meeting the challenge of climate change.
53. I have not attached the Council's suggested condition relating to the obscure glazing of a specific window within the development. As appearance is a matter reserved for future consideration there is no certainty at this stage as to the precise location or specification of any windows. Accordingly, such a condition would be unreasonable and imprecise. It would therefore fail to meet the tests for conditions set out within the Framework.

Planning Balance and Conclusion

Appeal A

54. For the reasons given above, the proposal subject of Appeal A would be in accordance with the development plan. There are no material considerations, including the Framework, that indicate that a decision should be taken other than in accordance with it. For the reasons given, I conclude that Appeal A should succeed.

Appeal B

55. The proposal subject of Appeal B would make a contribution towards boosting the supply of housing within an area with good links to modes of sustainable transport. Being a small-scale development, it is likely that it could be delivered quickly. Having regard to the Government's aspiration to boost the supply of housing as set out at Paragraph 60 of the Framework, and the scale of the scheme, these are moderate benefits of the proposal.
56. Furthermore, the proposal would lead to temporary economic benefits during the period of construction, and longer-term benefits thereafter following occupation. These factors, along with the energy efficient measures that would be incorporated within the scheme are further benefits to which I attach moderate weight in favour of the proposal.
57. Although the existing building on the appeal site was clearly a large villa of some status and elevated quality, I observed that it is currently in very poor condition and the wider site is also reflective of this. It has been put to me that the proposal would improve the appearance of the site, however, the removal of the building in the context of a development scheme that I have found to be harmful to the character and appearance of the area overall, would not represent a benefit weighing significantly in favour the scheme.
58. I have found that it has not been shown that the proposal would not lead to harm to protected species, would deliver biodiversity net gain or would not harm an existing tree. I have also found that it would harm the character and appearance of the area, as well as fail to provide future occupiers with

adequate living conditions. The proposal would conflict with the development plan when read as a whole.

59. Although the proposal would result in some benefits, these would not outweigh the harm and conflict with the development plan that I have identified. For the reasons given above, I conclude that Appeal B should be dismissed.

C Harding

INSPECTOR

*****SCHEDULE A – CONDITIONS*****

1. Details of the access, appearance and landscaping (hereinafter called “the reserved matters”) shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
2. Application for the approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
3. The development hereby permitted shall take place no later than 2 years from the date of approval of the last of the reserved matters to be approved.
4. The development shall be carried out entirely in accordance with the following documents and approved drawings, insofar as they relate to layout and scale:

Site Location Plan

Proposed Site Plan A104-1 Rev 02

Proposed Ground Floor Plan A105 Rev 02

Proposed First Floor Plan A106 Rev 02

Proposed Second Floor Plan A107 Rev 02

Proposed Roof Plan A108 Rev 02

Proposed Elevations A109 Rev 02

Proposed Street Elevation A112 Rev 02

Proposed Street Elevation A113 Rev 02

Proposed Floor Area Information A114 Rev 02

5. Prior to the commencement of development including any demolition, a 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) hours of deliveries;

c) parking of vehicles associated with deliveries, site personnel, operatives and visitors;

- d) facilities for the loading and unloading of plant and materials;
- e) details of any site hoardings;
- f) details of the precautions to guard against the deposit of mud and substances on the public highway;
- g) dust control methods.

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

6. Prior to the commencement of development including demolition, the tree protection methods as included in the submitted Arboricultural Survey Impact Assessment & Method Statement 2479-2A shall be implemented on site and shall thereafter be retained for the duration of the works.
7. Prior to the commencement of above ground works full details of cycle and refuse storage facilities including elevations shall be submitted to and approved in writing by the local planning authority. The approved facilities shall then be completed prior to first occupation of the development and maintained for their permitted use for the lifetime of the development.
8. Prior to the commencement of above ground works, a detailed surface water drainage scheme 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 runoff 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. The development hereby permitted shall achieve a minimum water efficiency standard of 110/litres/person/day.

*****END OF SCHEDULE*****