



Appeal Decision

Site visit made on 14 August 2024

by S Wilkinson BA, BPI, Dip LA, MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd August 2024

Appeal Ref: APP/L5240/W/23/3330552

1 - 16 Haling Grove, South Croydon, CR2 6BR

- 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 appeal is made by Spark Property Assets LLP against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 21/06182/FUL.
 - The development proposed is alterations and erection of single/two storey side/rear extensions and construction of an additional floor to Piplee House, Neern House and Ben House to provide an additional 6x two bedroom flats and the enlargement of the existing flats; provision of associated landscaping.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the Council of the London Borough of Croydon against Spark Property Assets LLP. This is a separate decision.

Preliminary Matters

3. The Development Plan comprises the London Plan (Lon) 2021 and the Croydon Local Plan (LP) 2018.

Main Issues

4. The Council refused the application for nine reasons. These raise the following issues which relate to the effect of the appeal scheme on:
 - the character and appearance of the area
 - the living conditions of occupiers of neighbouring properties
 - the living conditions of future occupiers including quality of amenity space and fire safety
 - highway safety
 - arrangements for refuse disposal
 - protected species with particular regard to bats, and
 - highway infrastructure.

Reasons

Character and appearance

5. The appeal site includes four pairs of two storey properties comprising maisonettes located along one side of a cul de sac. The maisonettes are set in a staggered layout and are set well back from the access road. Haling Grove slopes upwards from St Augustine's Road resulting in the properties in the appeal site lying above neighbouring residential properties in St Augustine's Avenue and Blenheim Park Road.
6. The area surrounding the appeal site is residential, characterised by tightly arranged large semi detached and detached residential properties, many of which are gable fronted with windows serving attic rooms. Haling Grove is itself slightly divorced from the prevailing pattern of development given its position adjacent to Haling Grove Park, identified on the local list of historic parks and gardens and as a non designated heritage asset by the Council.
7. Policies LPDM10, DM18 and SPA4 seek to ensure development is high quality and maintains the existing character of areas and that particular regard is had to the protection of heritage assets. Policies LonDM3, LonDM4 and LonHC1 have a more nuanced approach in seeking to optimise design capacity through a design led approach whilst ensuring that development respects the existing character of areas.
8. The appeal scheme is for alterations and extensions of three of the blocks of maisonettes, Beri House, Neem House and Piplee House, involving increasing the height and depth of their existing footprints with two storey side and rear extensions with a single storey addition. The second floor would be located in the new roof design.
9. The proposed changes leading to an increase in bulk and massing of the existing buildings would not be of such a scale as to adversely impact on the character and appearance of the area. The overall height of each building, their massing and scale would be consistent across the appeal site and the prevailing character of the local area. The fall in land between the three blocks and Tahli House mean that this building would not be dwarfed by the scheme.
10. The eastern boundary of Haling Grove Park includes a long line of mature trees supplemented by a secondary row of trees within the park. The extent of this tree cover together with the distance across Haling Grove to the Park reduces the intervisibility between the park and the appeal site. There would be no harm to this non designated heritage asset.
11. For these reasons, I conclude that the appeal scheme would not adversely impact on the character and appearance of the area. The scheme would not result in harm to Haling Grove Park as a non designated heritage asset. I conclude that there would be no conflict between the appeal scheme and policies LonD3, LonD4 and LonHC1 and LP SP4, LP DM10 and LP DM18.

Living conditions of existing occupiers

Impact on 23 St Augustine's Avenue

12. The proposed alterations and extensions are uniform to each of the existing blocks.
13. However, the Council identifies that the extensions to Beri House would adversely impact on 23 St Augustine's Road by having an overbearing impact due to their proximity. Whilst the extensions would result in the rear of the proposed building extending closer to this property there would not be an adverse impact on the living conditions of its occupiers. The flank wall includes several windows which are either secondary or serve non habitable rooms. The actual physical relationship of the two properties would be consistent with those found between many properties in the local area.
14. Given the proximity of Beri House to 23 St Augustine Road there would not be an overbearing impact arising from the appeal proposals.

Impacts of patios

15. The appeal scheme includes patios which due to the fall in land across the site would be raised above the level of the rear gardens and would sit higher than the rear gardens of the neighbouring properties in Blenheim Park Road and St Augustine Road. These would allow a particular vantage over the neighbouring properties which compares unfavourably with the relationship of the existing gardens to these properties.
16. Whilst part of the common boundary between the appeal site and the rear of these neighbouring properties is partially covered by shrub planting this does not afford a permanent solution to the prevention of overlooking. There are other parts of this boundary where only a low fence divides.
17. As a result of the appeal proposals, overlooking into the rear garden of 23 St Augustine Road and the Blenheim Park Road properties would arise resulting in a loss of privacy.
18. The appeal scheme would result in adverse impacts on the living conditions of these properties in St Augustine Road and Blenheim Park Road.

Conclusions on this issue

19. Whilst I am satisfied that the proposed extensions and alterations to Beri House would not have an overbearing impact on 23 St Augustine Road, I conclude that the scheme would lead to overlooking and a loss of privacy to neighbouring properties conflicting with policies LonD6 and LP SP4 and LP D6

Living conditions on future occupiers

Communal outdoor space

20. The appellant states that the private amenity spaces for the proposed dwellings include patios serving 3 bed ground floor units and dedicated private space for the first floor units with the 2 bed units sharing 'communal space'. There is no issue between the parties that the amount of private amenity space is not compliant with policy but the Council consider that the proposed layout is

inadequate in terms of the quality of the space retained outside the patio areas.

21. It is unclear where the dedicated space for the two flats in the upper floors would be located within each site; this is particularly acute for the upper flats in Beri House which has a particularly constrained site.
22. For this reason, I conclude that the appeal conflicts with policies LP DM10.4 which requires amenity space to be of a high quality design. This is critical given that the proposed units are 'family sized'.
23. The range of measures cited by the appellant in support of their case such as communal allotments are insufficient to overcome this objection on policy grounds. Policy Lon D6 is not relevant to the Council's objection given its focus on the amount of amenity space required for residential schemes; this is not an issue between the parties.

Fire Safety

24. This is a small scheme and the appellant has provided a completed Fire Safety Form together with a plan identifying the access arrangements for appliances and fire muster points.
25. However, it is unclear whether the proposed works would involve development with the existing residents living on site and how their needs could be met in the case of an emergency.
26. Whilst these matters could be left to the operation of the Building Regulations the purpose of the policy Lon D12 is to ensure that all matters are fully resolved in advance of works commencing. This is particularly important for a site with a restricted access road where on street parking is accepted as part of the scheme.
27. For this reason, the appeal scheme conflicts with Policy Lon D12.

Highway Safety

28. Haling Grove has a narrow carriageway although towards its centre it broadens. There is a narrow pedestrian footway adjacent to the carriageway serving each of the residential blocks including Tahli House at its southern end. None of the blocks currently benefit from on site parking resulting in on street parking.
29. Four on site parking spaces are proposed serving each of the blocks through the creation of three wide crossovers involving the removal of the pedestrian footway. Three spaces are estimated by the parking requirement for Tahli House with the remainder of the spaces notionally allocated on road space.
30. The parties differ on the total number of parking spaces required for the scheme which is derived from an assessment of proposed flat size and the PTAL¹ score of 2. The proposed scheme including Tahli House accounts for 12, 3 bed and 6, 2 bed dwellings. I find that through the application of Table 6.1 of the London Plan the required parking amounts to a total of 17 spaces. (calculated at 1 space for each 3 bed dwelling and 0.75 spaces for 2 bed dwellings) with an allowance of 3 spaces for Tahli House (20 in total).

¹ Public Transport Accessibility Level

31. I acknowledge that despite the current levels of on street parking, cars have been passing each other on the highway since Haling Grove was first built. However the proposal represents a marked change in the extent of vehicle movement and manoeuvring which together with the loss of the pedestrian footway could reduce pedestrian safety. The swept path analysis for the parking spaces does not account for parking on the highway which are assumed in the appellant's requirement for on street parking. This would impact on whether the off street spaces could be accessed.
32. Although the parking standard's set a 'maximum' figure the failing against the standard together with the narrowness of the existing road access could seriously undermine highway safety. These are matters which could not be adequately addressed through planning condition were I minded to allow this appeal. Furthermore, it is unclear from the suggested layout how an alternative pedestrian footway of appropriate dimensions could be integrated into the proposed layout.
33. In conclusion the appeal scheme would conflict with policies LPSP8 LPDM29 and LPDM30 and LonT3, LonT4 and LonT6.

Refuse collection

34. The layout plan (PLG 101-EXTRev A) identifies the location of bin and cycle stores.
35. The appellant indicates that the storage of refuse represents an improvement on the current situation which involves wheelie bins located at the front of each block. The Council requires that refuse storage is of sufficient size to accommodate an area for bulky goods which can be adequately screened and is accessible by residents, operatives and their vehicles.
36. The suggested location for the refuse stores would conflict with Policy CLP DM13 which requires that refuse/recycling facilities are sensitively located, adequately screened and accessible by occupants, operatives and their vehicles. In practice this means there is not a stepped access as indicated on the plans.
37. For this reason, the appeal scheme conflicts with policies LP DM13 and Lon SI7 and Lon SI8.

Cycle storage

38. The appeal scheme includes 36 cycle parking spaces with an additional 2 visitor spaces. These are located around each block including in the rear gardens.
39. Policies SP8, DM29 and DM30 and Lon T4 seek to ensure that adequate provision is made within schemes for cycle parking with references to the London Plan Cycle Design Standards.
40. The Council's objection is not to the amount of cycle spaces proposed but to their layout and provision for specialist bikes. Whilst the suggested layout may not adhere to adopted standards, Policy Lon T5E does allow leeway in the location, quality and amount of provision of cycle parking spaces. This is entirely appropriate for a scheme which involves alterations and extensions to existing dwellings resulting in a net increase of only six units.

41. For this reason, were I minded to allow this appeal this matter could be addressed though the submission of details in response to a suitably worded condition.

Ecology

42. The appeal was submitted with a bat emergence survey which demonstrates that Neem House supports a single roost of a common pipistrelle bat and that the site is used for bat foraging and commuting.
43. I am satisfied that were I minded to allow this appeal this matter could be resolved through a suitably worded condition requiring mitigation as suggested in the report unless varied by a European Protected Species (EPS) licence issued by Natural England.
44. This would address fully the requirements of Policies LP SP8, DM30 and Lon G6.

Highway Infrastructure

45. The area suffers from high levels of parking stress and policies recognise the need to encourage modal shift away from private vehicles. The appeal scheme would exacerbate this situation with a requirement for on street parking spaces given the limitations on off street parking proposed. Consistent with policies Lon T6 and LP SP8 and LP DM30 the Council is seeking contributions of £1,500 per additional dwelling created by the scheme. The rationale for £1,500 has been accepted by the Courts².
46. I acknowledge that such contributions would be necessary, directly required and fairly and reasonably related in scale to this development. I am satisfied that the obligation would fall within the provisions of Regulation 122(2) of the CIL Regulations and Paragraph 57 of the Framework.
47. Procedural Guidance requires the submission of a completed legal agreement either in the form of a S106 Agreement or Undertaking at the time the appeal is submitted. No obligation is before me which addresses this infrastructure issue. Whilst the appellant indicates that draft heads of terms are included in their evidence this would be insufficient to meet the terms of the Guidance.
48. Accordingly, I conclude that the absence of a legal agreement which includes obligations for a range of transport measures conflicts with Policies Lon T6 and LP SP8 and DM30.

Planning Balance and Conclusion

49. Whilst the overall massing and design of the scheme does not adversely impact on the character and appearance of the area, harm would arise from the details of this scheme which do not comply with policy. These include the proposed balconies, the impact of the parking layout on highway safety, the quality of amenity space, refuse storage layout and the absence of planning obligations. These matters could not be addressed through planning conditions were I minded to allow this appeal.
50. Whilst the appellant cites the detailed calculations of supply included in a recent decision of an Inspector colleague³, there is no detailed evidence before

² Stephen Whiteside v. LB Croydon {2022} EWHC 3318 (Admin)HH

³ APP/L5240/W/22/3297832

me to indicate that the Council does not have a policy compliant amount of housing land. No updated figures are before me to identify that the presumption included in the National Planning Policy Framework should be applied.

51. I acknowledge that the appeal scheme includes additional units involving extensions and alterations to existing flats but the extent of the scheme's failings against adopted policy, which cannot be addressed through the submission of further details overcomes any benefits arising from six additional dwellings.
52. For these reasons I conclude that there are no material considerations which are sufficient to outweigh the scheme's conflict with the Development Plan when considered as a whole.
53. Accordingly, the appeal is dismissed.

S Wilkinson

INSPECTOR

