



Appeal Decision

Site visit made on 21 August 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 18 September 2024

Appeal Ref: APP/L5240/W/24/3336254

79A Wellesley Road, Croydon CR0 2AJ

- 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 Michael Kokkini against the decision of the Council of the London Borough of Croydon.
- The application Ref is 23/02053/FUL.
- The development proposed was originally described as “Two self contained two bedroom dwellings, over two floors to the rear of No 79, Wellesley Road, Croydon. Internal re-arrangement of the existing ground and lower ground floor existing dwellings. To be built simultaneously with similar extensions at No 77, the adjoining building, both addresses in the ownership of the applicant.”

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have determined an appeal¹ for a similar proposal at 77 Wellesley Road. These properties are under the same ownership and the appellant has indicated that, if allowed, the proposals would be built simultaneously. Nonetheless, the proposals were subject to two separate planning applications and, consequently, submitted as separate planning appeals. I have therefore considered each proposal separately; albeit there are similarities between the decisions.
3. The appellant has submitted revised plans² as part of the appeal. The changes to the scheme are a revised location and design for the proposed refuse and cycle storage, as well as an alteration to the proposed internal layout. The Procedural Guide³ is clear that the appeal process should not be used to evolve a scheme.
4. However, the proposed amendments are minor and do not result in a fundamental change to the appeal proposal. The changes to the internal layout would not directly affect interested parties and an alternative location and design for refuse and cycle storage could be secured by condition. As such, it would not be procedurally unfair for me to consider the amended plans. The Council also agrees with this conclusion. Having regard to the principles established by the Holborn

¹ Planning Appeal Ref. APP/L5240/W/24/3336253

² Drawing Nos: MK/21/P Pro Rev. B; and MK/Amenity 79/A Rev. A

³ Procedural Guide: Planning appeals - England

Studios Judgment⁴, I have assessed the proposal based upon the plans that were submitted with the appeal.

5. On 30 July 2024 the Government published a consultation on "Proposed reforms to the National Planning Policy Framework and other changes to the planning system" and "National Planning Policy Framework: draft text for consultation". Also, a Written Ministerial Statement entitled "Building the homes we need" was published on the same date. The Council and the appellant were given the opportunity to comment on these publications. I have considered their responses when determining the appeal.
6. Following the determination of the planning application a revised version of the National Planning Policy Framework (the Framework) was published. The parties had the opportunity to comment on how the changes to the Framework may affect the proposal within their representations.

Main Issues

7. The main issues are:
 - whether the proposal would provide adequate living conditions for future occupiers of the proposed dwellings, with particular regard to the provision of external amenity space, internal space, privacy, daylight, and ventilation;
 - the effect of the proposal on highway safety, with particular regard to the provision of on-street parking;
 - whether the proposal would preserve or enhance the character or appearance of the Wellesley Road North Conservation Area (CA);
 - the effect of the proposal on the living conditions of occupiers of 81 Wellesley Road (No 81) with regard to loss of daylight; and
 - whether the proposal would provide adequate refuse storage.

Reasons

Living conditions – future occupiers

8. Following the submission of the amended plans the only matters in dispute, in relation to whether the proposal would provide adequate living conditions for future occupiers, are the amount of external amenity space for each dwelling, the width of the bedroom in proposed Flat 79A, and the single aspect nature of proposed Flat 79B.
9. Both Policy D6 of The London Plan, The Spatial Development Strategy for Greater London, March 2021 (LP), and Policy DM10 of Croydon Local Plan 2018 (CLP) specify that the proposed flats should have between 5m² and 6m² of private outdoor space, each. The appeal proposal includes a communal garden to the rear, but none of the flats would have private outdoor spaces.
10. There would be a need for some private outdoor space to undertake activities such as the drying of clothes and for storage. Due to their public nature, having access to a communal space, and being in proximity to parks and leisure facilities would not fully compensate for a complete lack of private outdoor space. Consequently, the proposal would not provide an adequate amount of private outdoor space for future occupiers.

⁴ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823

11. Proposed Flat 79A only includes one bedspace. As per LP Policy D6 there is no requirement for this room to be a double bedroom. The Policy specifies that a single bedroom must be 2.15m wide and have an area of at least 7.5m². The bedroom within proposed Flat 79A would only be 2.1m wide but would be 16m². The bedroom would be narrow and would not meet the standard specified in LP Policy D6. Nevertheless, the shortfall would be very modest, and the overall size of the bedroom would be over double the minimum standard. With this in mind, I consider that the proposal would include adequate amounts of internal space within proposed Flat 79A.
12. Proposed Flat 79B includes windows in the front elevation only, as such it would be a single aspect dwelling. LP Policy D6 indicates that housing development should avoid the provision of single aspect dwellings. An exception is where it is a better design solution to meet LP Policy D3, and where it can be demonstrated that the proposed dwelling would provide adequate privacy, daylight and ventilation.
13. LP Policy D3 indicates that higher density developments should be promoted in locations that are well connected to services and facilities by public transport, walking and cycling. The appeal site is in proximity to Croydon town centre and has a Public Transport Accessibility Level of 6b. As such, maximising the density of development at the appeal site should be promoted, in turn this may lead to single aspect dwellings. Given the number of windows and the spacious setting, proposed Flat 79B would be adequately ventilated and future occupiers would experience appropriate amounts of daylight and privacy.
14. Notwithstanding this, the proposal would not provide adequate living conditions for future occupiers of the proposed dwellings, with particular regard to the provision of external amenity space. Therefore, the proposal would be contrary to LP Policy D6 and CLP Policy DM10 for the reasons given above. The proposal would also be contrary to Paragraph 135 of the Framework which advises that decisions should ensure that developments create places with a high standard of amenity.

Highway Safety

15. Given the scale of the proposal, the increase in demand for parking would be limited. However, there is no assessment on parking stress in the area. As such, I cannot conclude that the area is not already experiencing parking stress or that the proposal would not lead to parking stress.
16. Without sufficient capacity for on-street parking, there would be an increased likelihood of antisocial parking, including people parking vehicles closer to junctions, reducing visibility for drivers of manoeuvring vehicles. That would increase the chance of conflict with other road users. Consequently, this would lead to the proposal having an unacceptable impact on highway safety. As such, it would be necessary to restrict future occupiers' access to parking permits.
17. I note that future occupiers may have disabilities, as such the protected characteristic of disability is relevant. When reaching my decision, I have had due regard to the Public Sector Equality Duty set out under Section 149 of the Equality Act 2010. In addition, representations were made to the effect that future occupiers' human rights under Article 8 of the Human Rights Act 1998 would be violated if I concluded that a restriction on parking permits for people with disabilities was necessary.

18. An exemption to the restriction could be included which would allow future occupiers who have a disabled persons badge to acquire parking permits. As such, there would be no interference with future occupiers' right to respect for their private and family life. It would also be proportionate and necessary to include this exemption to eliminate discrimination against and advance equality of opportunity for future occupiers with disabilities, and to foster good relations between them and others.
19. To restrict future occupiers accessing parking permits for the nearby controlled parking zone, a Traffic Regulation Order would need to be amended. The Planning Practice Guidance⁵ is clear that only in exceptional circumstances would a negatively worded condition, requiring an agreement to be entered, be appropriate. No case for exceptional circumstances has been put before me. Therefore, a planning obligation would be necessary as the impacts of the development could not be addressed through a planning condition.
20. The proposal would have a harmful effect on highway safety, with particular regard to an increase in on-street parking. The proposal would be contrary to LP Policy T6 and CLP Policies SP6, DM29 and DM30. These policies indicate that car-free development should be the starting point for proposals that would be well-connected to public transport, and development must reduce the impact of car parking in areas of good public transport accessibility.

Conservation Area

21. As the appeal site is in the CA, I have had regard to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The significance of the CA is related to the historic development of this part of Croydon. The properties within the CA are some of the earliest surviving properties in the area and date back to the mid to late 19th Century. I find that the significance of the CA, insofar as it relates to this appeal, to include the high-quality townscape and historic appearance of the properties.
22. The appeal site comprises of a semi-detached building with a basement. It forms part of a short row of similarly designed semi-detached buildings. The appeal building has retained some of its historic features including the stone quoins on the front elevation and large chimney toward the centre of the roof. However, the building does include some modern alterations including uPVC windows. Overall, the building is making a positive contribution to the CA, but some features are harmful to the appearance of the CA.
23. The proposed development includes a rear extension to the property at the ground floor and basement levels. The extension would span almost the entire width of the property but would be set in from the side elevation. The proposed extension would be of a significant scale and massing and would not appear subordinate to the original building. However, there is no requirement within the development plan for proposed extensions to appear subordinate. Also, the proposal would replicate some features such as metal railings and sash windows which would help it assimilate with the historic appearance of the original building.

⁵ Use of Planning Conditions, Paragraph: 010 Reference ID: 21a-010-20190723

24. Whilst the proposed extension would project into the rear garden, the building is set within a moderately-sized plot. As such, the proposal would maintain the spacious character of the site.
25. The Council has indicated that the proposed extension would include a cantilevered roof. However, the appeal plans show that the extended section would have a hipped roof, and this is confirmed by the appellant. The roof of the extended section would replicate the roof of the original building. As such, it would not appear incongruous or significantly increase the massing of the extension.
26. I conclude that the proposal would preserve the character and appearance of the CA. The proposal would therefore comply with CLP Policies DM10 and DM18 and LP Policies D3 and HC1. These policies indicate that development proposals affecting heritage assets should conserve their significance, and applications for development proposals that affect heritage assets must demonstrate that they are of a high-quality design, amongst other matters. The proposal would also be in accordance with the Wellesley Road (North) Conservation Area Appraisal and Management Plan, October 2008 (CAAMP) where it advises that carefully designed two storey rear extensions may be appropriate, provided they are well separated from adjoining occupiers.

Living conditions – neighbouring occupiers

27. No 81 is set within spacious grounds. Given the orientation, scale and massing of surrounding development, occupiers of No 81 experience high levels of daylight within their rear rooms and garden.
28. The appeal site is located to the south of No 81. The proposed extension would be built close to the boundary and would project beyond the rear elevation of No 81. This would reduce the amount of daylight experienced in the rear rooms and garden of No 81. Nonetheless, the properties would be well separated from one another. It has also been demonstrated that the proposal would comply with the 45-degree rule set out within the BRE Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice. As such, the proposal would reduce the amount of daylight experienced by occupiers of No 81 but not to a harmful extent.
29. Overall, I conclude that the proposal would not have a harmful effect on the living conditions of occupiers of No 81 with regard to the loss of daylight. The proposal would comply with LP Policies D3 and D6 and CLP Policy DM10. These policies indicate that new development should provide sufficient daylight to surrounding housing and the Council will support proposals for development that ensure that the amenity of occupiers of adjoining buildings is protected, amongst other matters.

Refuse Storage

30. The Waste and Recycling in Planning Policy Document, August 2015 (the Waste Guidance) specifies the amount of refuse storage required for different sized developments. As there is no information on the size of the flats on the first and second floor, I cannot calculate the amount of refuse storage that would be required for the building. Therefore, I cannot conclude whether an adequate amount of storage has been proposed.
31. The Waste Guidance also advises that the maximum drag distance between the storage and the collection vehicle is 20m. The proposed refuse storage would be in

the rear garden and would be over 20m away from the public highway. Consequently, the drag distance would be unacceptable.

32. Nonetheless, a condition could be attached to any planning permission requiring details of the refuse storage to be agreed in writing with the Council. Therefore, with a suitable condition, the proposal would provide adequate refuse storage. The proposal would comply with CLP Policies DM10, DM13 and DM18 and LP Policies D3 and HC1. These policies indicate that the Council will require developments to provide adequate space for the temporary storage of waste and provide layouts that ensure facilities are safe, conveniently located and easily accessible, amongst other matters. It would also be in accordance with the CAAMP where it advises that schemes must contain landscape proposals for front gardens including the provision of storage and screening of refuse and recycling bins.

Other Matters

33. The Framework supports a more effective use of land. An increase in the density of development on brownfield land would also reduce pressure to build within the Green Belt. I also note that the Framework seeks to achieve sustainable development. However, a more effective use of the land would not outweigh the identified harm. Also, for the reasons above, the proposal would not constitute sustainable development.
34. The conduct of the Council during the determination period is a matter between the parties and is not determinative to the outcome of the appeal.

Conclusion

35. The proposal conflicts with the development plan, as a whole, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

J Hobbs

INSPECTOR