



Appeal Decision

Site visit made on 16 April 2024

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 SEPTEMBER 2024

Appeal Ref: APP/L5240/W/23/3322105

2A Addiscombe Avenue, Croydon CR0 6LH

- 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 Mr Qasim Gulamhusein of Marlpark 2a CR0 Ltd against the decision of the Council of the London Borough of Croydon.
 - The application reference is 22/05264/FUL.
 - The development proposed is the demolition of existing house and garage and erection of a new 2-storey building with accommodation in the roof space comprising 5 self-contained flats.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Qasim Gulamhusein of Marlpark 2a CR0 Ltd against the Council of the London Borough of Croydon. This application is the subject of a separate Decision.

Preliminary and Procedural Matters

National planning policy

3. The Government published revised versions of the National Planning Policy Framework ("the Framework") on 5 September 2023, replacing the July 2021 version extant at the time the application was determined, and again on 19 December 2023. In July 2024 consultation began on further proposed amendments to the Framework. None of the changes made or proposed have had a significant bearing on the main issues in this appeal, and it has therefore not been necessary for me to seek comments on them from the main parties.

Amended drawings

4. The appellant submitted amended drawings during the appeal, making what they described as "very minor updates" to the scheme. The Procedural Guide¹ advises that "if an applicant thinks that amending their application will overcome the LPA's reasons for refusal, they should normally make a new planning application", and that "it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the LPA and by interested parties at the application stage".

¹ Procedural Guide: Planning appeals – England, online at <https://www.gov.uk/government/publications/planning-appeals-procedural-guide/procedural-guide-planning-appeals-england>

5. The amended drawings include at least 14 changes² which, though small individually, cumulatively represent a substantial alteration to the scheme. As the revised proposal has not been fully considered by the Council or subject to consultation, having regard to the advice in the Procedural Guide as well as the judgment in *Holborn Studios Ltd*³ (which refined the well-known “Wheatcroft Principle”⁴), I have not taken the amendments into account in my decision, as to do so may prejudice other parties.

Late evidence

6. On 9 February 2024 the Council granted outline planning permission (“the February 2024 permission”) for a redevelopment of the appeal site described as:

Details of layout and scale for Erection of one (1) two-storey detached dwellinghouse with habitable roof level and one (1) pair of two-storey semi-detached dwellinghouses with habitable roof levels (Use Class C3) (following demolition of existing two-storey dwellinghouse and detached garage), Associated amenity, cycle parking and waste storage spaces, and Alterations (Outline Application).

(LPA Ref: 23/04515/OUT)

7. A further scheme was granted outline planning permission on 28 June 2024 (“the June 2024 permission”). That proposed development was described as:

Details of layout and scale for Erection of two (2) pairs of two-storey semi-detached dwellinghouses with habitable roof levels (Use Class C3) (following demolition of existing two-storey dwellinghouse and detached garage), Associated amenity, cycle parking and waste storage spaces, and Alterations (Outline Application)

(LPA Ref: 24/00821/OUT)

8. The appellant submitted information related to both those permissions during the course of the appeal. Although these submissions fell outside the normal timetable for the submission of evidence, I recognise that this was unavoidable given the timing of the Council’s decisions. I therefore accepted this additional evidence; both main parties were given the opportunity to comment on its relevance to this appeal, and I am satisfied that no party’s interests have been prejudiced by my having taken this approach. The implications of those grants of planning permission are addressed at relevant points of this decision.

Main Issues

9. The decision notice issued by the Council gave ten reasons for which planning permission had been refused. I have grouped related matters together; based on all the evidence before me I consider the main issues in this appeal to be:
- The effect of the proposed development on the character and appearance of the area;

² As set out in section 3 of the appellant’s statement.

³ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

⁴ *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

- Whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to the amount of living space, outlook, daylight, security, and whether appropriate provision would be made in terms of accessibility to gardens and parking spaces for people with disabilities, including wheelchair users;
- The effect of the proposed development on living conditions for neighbouring occupiers, with particular regard to loss of privacy (in respect of No 2 Addiscombe Avenue), and outlook (in respect of No 6 Everton Road);
- The effect of the proposed development on the demand for on-street parking in the area, on highway safety and pedestrian movement, and whether it should make a financial contribution towards other transport improvements;
- Whether the development would include adequate cycle parking and storage facilities;
- Whether the proposed development would make acceptable provision for the storage and collection of refuse; and
- The effect of the proposed development on trees.

Reasons

Character and appearance

10. No 2A Addiscombe Avenue is a two-storey detached house, with single-storey extensions. The site is on the outside of a bend on the east side of Addiscombe Avenue and has a narrow street frontage. To the south and west, the site is bounded by the rear gardens of Nos 2-10 Everton Road, and to the north by the side boundary of No 2 Addiscombe Avenue. To the east, the site abuts the Tramlink line, which has densely vegetated borders.
11. The existing dwelling on the site dates from the 1930s. Its detached form appears relatively unusual in its immediate context, as most of the housing nearby is arranged in short terraces (though Nos 2-12 Addiscombe Avenue are in semi-detached pairs). As a consequence of being on a corner plot it is also set behind (and on a different alignment to) the otherwise common building line on the same side of Addiscombe Avenue. Broadly speaking though, the existing property is similar in matters of scale, style and detailing to the prevailing characteristics of housing on Addiscombe Avenue and Everton Road.
12. The proposed development is the demolition of the existing dwelling and a single-storey detached garage at the north-eastern corner of the site, and the erection of a new building with five self-contained flats – two on each of the ground and first floors, and one on the second floor within the pitched crown roofspace. Externally, the areas on the north and west sides of the building would be a shared access and parking forecourt, with a cycle store at the north-eastern corner of the site; to the east would be two private amenity spaces, one for each of the ground floor flats, while the area to the south of the building would be communal amenity and play space.
13. The building would be considerably larger than the existing house it would replace – the planning application form indicates that its gross internal floor

area would be somewhere in the region of three times as large – with a broad frontage facing Addiscombe Avenue. The height of the building would be comparable to the neighbouring houses. However, the side “wings” would be the same height as the central part of the front elevation; they would be set only a little way behind it, and this would be insufficient to make them visually subordinate. As a result, when seen from Addiscombe Avenue the building would have a bulky and overbearing appearance.

14. The appellant has described the proposed building as having “the appearance of a large, detached house, designed in a style that is typical of detached houses of that size”. It would occupy around 37% of the plot, compared to the 46% which the appellant has calculated as the average for Nos 2-12 Addiscombe Avenue. However, the appeal site is considerably smaller than would normally, in my experience, be expected to accommodate a large, detached house; that the “plot ratio” would be lower than that of neighbouring houses would not be enough to prevent the building appearing cramped on its plot. The large, detached house form proposed would also be unusual in an area overwhelmingly dominated by much more modestly sized housing.
15. In terms of detailed design, the spacing and alignment of window and door openings would give the elevations an unbalanced appearance. The main front door opening would lack any sort of detail to emphasise its significance and help visitors with their orientation and would be a very weak feature in an area where porches (whether open or enclosed) for front doors are a common characteristic. The shallow roof pitches for the dormers and the bay on the front elevation would be visually discordant when compared with the steeper pitches of the main roof, and indeed which prevail in the surrounding housing.
16. The planning application did not include any details of materials. On the planning application form the appellant had responded “no” to the question “does the proposed development require any materials to be used externally”, which is self-evidently not the case. The Planning Statement indicated that the appellant was “not averse to using a partial or full exposed brick finish”. In my experience this almost total lack of information about materials is unusual for all but the very smallest developments; the fact that had the scheme been otherwise acceptable it would have been possible to impose a condition requiring the submission and approval of details of materials (as the Council has done on other schemes including on the appeal site) does not make it a satisfactory approach.
17. The appellant’s suggestion that the Council’s stance on the question of materials was illogical is not persuasive. It is not at all unusual to require the submission and further approval of the details of materials even where they have been stated in the original planning application – an example might be where “brick” has been specified for external walls, in a local context where the precise colour or texture of bricks is an important feature of the character or appearance of the area. In any case, providing further information about the materials proposed for this development would not mitigate the other harm I have found in respect of character and appearance.
18. The appellant drew my attention to the Court of Appeal judgment in *Kazalbash*⁵, which related to a proposal to subdivide an existing dwellinghouse into two smaller dwellings. They summarised its essence as “for an impact on

⁵ *Kazalbash v Secretary of State for Levelling Up, Housing and Communities*, [2023] EWCA Civ 904

the character of an area to be legitimately contended, there needed to be an external alteration perceivable to the public” and suggested that the case “acts as a beacon for planning inspectors to ensure their decisions are rooted in tangible external alterations when citing concerns about an area's character”. With the greatest respect, however, the appellant’s reading of *Kazalbash* appears to me to entirely turn that judgment on its head.

19. In *Kazalbash*, the High Court had found that an Inspector “[had taken] into account an immaterial consideration, since nothing was identified [...] which would change the physical form or appearance of the extension when it became a separate dwelling, which would impact on the street scene”⁶. In the Court of Appeal, however, Sir Keith Lindblom noted that the Inspector “did not mean by his use of the expression ‘street scene’ to limit himself to a consideration only of the ‘appearance’ of the street, or to a purely visual assessment”, but that it is “a concept that extends to considerations of ‘character’”. He also noted that the Inspector had been able to reach his conclusions “in spite of the fact that there would be no, or no material, change to the exterior of the building itself, but only a change to its rear by the erection of [a] fence”, and that the Inspector’s approach was consistent with the broad definition of “street scene” in the National Design Guide. The Court of Appeal therefore allowed the appeal and overturned the earlier decision of the High Court.
20. In any event, in this current appeal, the harm which I have found to the character and appearance of the area would be visible from the street, as I have described above. Even if the implications of *Kazalbash* were therefore as the appellant might like them to be, that judgment would not weigh significantly in favour of this appeal scheme.
21. I conclude that the form, scale, massing and detailed design of the proposed building would cause harm to the character and appearance of the area. The development would therefore conflict with Policies SP4 and DM10 of the 2018 Croydon Local Plan (“the CLP”), and with Policies D3 and D4 of the London Plan 2021. Together, and among other things, these policies seek to ensure that development is of a high quality, and respects the development pattern, layout and appearance, materials and built features of the surrounding area. The proposal would also conflict with the provisions of section 12 of the Framework which seek to achieve well-designed places, in particular paragraph 135 which seeks to ensure that development functions well and adds to the overall quality of the area, is visually attractive as a result of good architecture, sympathetic to local character, and establishes or maintains a strong sense of place.
22. The decision notice also referred to conflict with section 15 of the Framework. As that section relates to conserving and enhancing the natural environment, I find no specific conflict on this main issue.

Living conditions – future occupiers

Living space, outlook, daylight, security

23. Proposed Flat 1 (on the ground floor) would have a Gross Internal Area (“GIA”) of around 45.8m²; proposed Flat 3 (on the first floor) would have a GIA of around 40.0m². Policy D6 of the London Plan 2021 applies space standards

⁶ *Kazalbash v Secretary of State for Levelling Up, Housing and Communities*, [2022] EWHC 2301 (Admin)

which reflect the Nationally Described Space Standard⁷. The Council considers that the flats fall short of the standard, which requires a minimum floorspace of 50m² for a one-bedroom, two-person dwelling on one storey. The appellant, on the other hand, argues that both flats would exceed the policy's minimum floorspace requirement of 37m² for a one-bedroom dwelling providing only one bedspace.

24. Flats 1 and 2 are described in the Planning Statement as one-bedroom, one-person studio flats. They are shown on the submitted drawings as open-plan, inasmuch as there are no internal doors, other than that to the bathroom. However, both flats have distinct areas, shown on the drawings as bedrooms, separated from the larger "lounge, dining room, kitchen" areas by a narrow opening (which is effectively a doorway, though without a door being shown in the plans).
25. The space standard requires a single bedroom to have a floor area of at least 7.5m², and a double or twin bedroom to have a floor area of at least 11.5m². By the Council's calculation, the bedroom areas in Flats 1 and 3 would both exceed the space standard floorspace requirement for a double bedroom (it estimated the area of the bedroom space in Flat 3 to be around 12.98m²; the bedroom area in Flat 1 would be slightly larger).
26. The appellant disagrees with the Council's approach, firstly on the basis that the Council's measurements include space within a bay window and a corner which could not be put to practical use, and secondly because any future occupier of the flat "could decide to have the lounge area where the bed is and have the bed where the dining table is [and] different users would have the latitude to use the space based on their individual needs and requirements". I am not persuaded by either of those arguments.
27. The Council's approach to the assessment and measurement of living space seems to me to have been a pragmatic one in this case. Their calculation does not include every bit of space within the bedroom area – it excludes the tightest corner and part of the bay window (though in my experience, bay window space is often used for such bedroom furniture as drawers or dressing tables). It therefore provides a reasonable measurement of useful bedroom space. In terms of how that space might be used, it would of course be possible for an occupier to furnish their flat as they wished. However, the larger "lounge, dining room, kitchen" spaces shown on the plans incorporate kitchen units, and it seems to me much more likely than not that most occupiers would choose to use that area as their day-to-day living space, while using the more secluded and separate area as a bedroom, regardless of whether or not the flat has an "open plan" layout in the strictest sense of the term.
28. In my view the bedroom areas of Flats 1 and 3 would be capable of accommodating two people and, regardless of the appellant's intentions at this stage, they would be likely to be used as such at some point in the future. The occupancy of those spaces or flats is not a matter which in my view could be controlled by a condition. I therefore consider that it is correct that both flats are assessed as two-person dwellings, as the Council has done. In this light, neither flat would comply with the space standard set out in Policy D6.

⁷ *Technical housing standards – nationally described space standard*, Department for Communities and Local Government 2015

29. The decision notice also referred to failings in respect of daylight, outlook and security. The bedroom areas of Flats 1 and 2 would potentially be vulnerable to a lack of privacy, given their location on the ground floor alongside the front forecourt or communal amenity spaces, and it appears that the disagreement between the main parties on daylight relates to whether the one-way or “smart” glazing proposed on the front elevation as a response to privacy concerns would ensure adequate light transmission. The appellant suggests that such glass would allow transmission of between 60 and 70 percent of daylight, and there is nothing before me to indicate that this would not be acceptable for west-facing bedroom windows.
30. The Council’s concerns about security appear to relate to a lack of defensible space in front of ground floor bedroom windows. I note the appellant’s critique of defensible space as a concept, but landscaping used in those areas would be likely to keep passers-by away from bedroom windows with associated benefits in terms of mitigating any perceived lack of privacy, even if burglary prevention might still be largely dependent on the robustness of the windows fitted. However, this is a matter which I am satisfied could be dealt with by condition had the scheme been otherwise acceptable. There is no substantive evidence to indicate that any of the proposed flats, or the rooms within them, would not have adequate outlook.
31. Notwithstanding my findings in respect of daylight, security and outlook, I conclude that Flats 1 and 3 would offer insufficient living space for their likely occupancy, and as a result the proposed development would not provide acceptable living conditions for future occupiers. It would therefore conflict with Policy DM10 of the CLP, and with Policy D6 of the London Plan 2021. Together these policies seek to ensure that residential development is of a high quality and provides adequate internal living space for residents’ needs.

Accessibility

32. Policy D7 of the London Plan 2021 requires that at least 10 percent of dwellings⁸ meet Building Regulation requirement M4(3) wheelchair user dwellings, and that all other dwellings⁸ meet Building Regulation requirement M4(2) accessible and adaptable dwellings. Approved Document M3 states that “optional requirement M4(2) will be met where a new dwelling makes reasonable provision for most people to access the dwelling and incorporates features that make it potentially suitable for a wide range of occupants, including older people, those with reduced mobility and some wheelchair users”. It goes on to add that this includes, within the curtilage of the dwelling or of the building containing the dwelling, “step free access to the dwelling and to any associated parking space and communal facilities intended for the occupants to use”.
33. The appeal scheme as submitted included stepped access to the private rear gardens of the two ground floor flats, and so in this respect would not comply with requirement M4(2). However, it is evident that there is sufficient space within the rear gardens to provide ramps at appropriate gradients as well as areas where wheelchair lifts could, if necessary, be provided. This could be done without significantly modifying the scheme as a whole; it is therefore something which could be addressed by a condition requiring the approval of

⁸ “...Which are created via works to which Part M volume 1 of the Building Regulations applies...”

and compliance with details of such access, had the scheme been otherwise acceptable.

34. In terms of car parking, the appellant notes that the CLP does not require the provision of accessible spaces for residents with disabilities in minor residential developments. Policy T6.1 of the London Plan 2021, however, states that “disabled persons parking *should* [my emphasis] be provided for new residential developments”; it goes on to set specific requirements which *must* [my emphasis again] be met for development delivering ten or more units, which do not apply to the appeal scheme. Planning legislation requires that conflict between development plan policies must be resolved in favour of the document which has more recently become part of the development plan⁹. Here, that means the London Plan 2021 rather than the CLP.
35. The appellant seeks to differentiate between the appropriate interpretation of “should” and “must” in this case, but both are common words; in the dictionary I have to hand as I write this decision¹⁰ both words carry the sense of “obligation”. Table 10.3 of the London Plan 2021 sets out the development plan’s maximum parking provision, and it is notable that it makes disabled persons’ parking an exception even for car-free developments. In my view the development plan, read in its proper context, requires that where on-site residents’ parking is proposed, it should include appropriate provision for people with disabilities.
36. The submitted drawings in this appeal showed two car parking spaces proposed for the front forecourt. The appellant considers that the “first” space (that is, the one nearer the site entrance) would have sufficient clear space around it to comply with Part M4(2) of the Building Regulations. Because of the angled layout of the spaces, the “clear” space on one side¹¹ would be a triangular wedge, while on the other side it would include the area behind the second space, which would be likely to be obstructed at times if used for parking larger vehicles, so it is not clear that it would provide appropriate access. However, it is also evident that the forecourt could be redesigned to provide a single parking space which would comply with the relevant requirements. I consider that the matter of providing an accessible car parking space could again be dealt with by condition, had the scheme been otherwise acceptable.
37. The appellant drew my attention to an earlier appeal decision at this site (PINS Ref: APP/L5240/W/23/3316328 – “the first November 2023 appeal”) where the Inspector found that an absence of off-street parking would be acceptable. It was argued that that decision sets a precedent which means that accessible parking spaces should not be required in this case. However, the proposal before me is not proposal before me is not for a car-free scheme, and the question is whether the off-street parking space(s) should be accessible for all residents. The first November 2023 appeal does not appear to be directly comparable to the current appeal on this matter.
38. Subject to the use of conditions as I have explained, I am satisfied that the proposed development would provide appropriate access to gardens and parking spaces for people with disabilities. It would therefore comply with Policy D7 of the London Plan 2021, the principal relevant provisions of which I

⁹ Section 38(5), Planning and Compulsory Purchase Act 2004

¹⁰ *Oxford Paperback Dictionary* Third Edition (1988): Oxford University Press

¹¹ The driver’s side, as shown in the diagram under paragraph 2.1.2.2. of the appellant’s statement

have set out above. There would be no conflict with Policy DM10 of the CLP in this respect, nor with Policies D5, D6, T6, and T6.1 of the London Plan 2021 to the extent that they require inclusive design and the provision of suitable car parking spaces for residents with disabilities. The Council's decision notice also referred to Policy T6.5 of the London Plan 2021, but that policy relates to parking for disabled people within non-residential developments, and so is not relevant to this proposal; there is no conflict with that policy either.

Living conditions – neighbouring occupiers

39. The two first-floor flats would each have a balcony; these would be at the north-east and south-east corners of the building. The balcony serving Flat 3 at the northern end of the building would be close to, and in an elevated position above, the rear garden of the adjoining No 2 Addiscombe Avenue. However, the installation of a 1.8m high obscure glazed screen – as was shown in the submitted drawings – would prevent direct overlooking of the neighbouring garden.
40. The proposed development would be a little further away from the appeal site's boundary with Nos 2-10 Everton Road than the existing house, and at an angle to (rather than parallel with) the boundary fence. It would be a bit taller, and considerably larger taken as a whole, than the existing house. A larger building on the site may not be welcomed by the immediate neighbours on Everton Road; I recognise that there is likely to be a small loss of outlook from their rear rooms, as well as a slightly greater sense of enclosure within the rear gardens. This would be most noticeable at No 6 which would be closest to the south-western corner of the proposed building. However the increased separation distance and the angled relationship between the proposed building and its neighbours would mitigate much of the impact of the larger building for those neighbours, and overall the impact in these respects would not be unacceptable.
41. I therefore conclude that the development would not cause unacceptable harm to living conditions for neighbouring occupiers. The proposal would therefore comply in these respects with Policy DM10 of the CLP, and with Policies D3 and D6 of the London Plan 2021. Together, and among other things, these policies seek to ensure that the amenity of occupiers of adjoining buildings is protected. There would also be no conflict in these respects with the provisions of section 15 of the Framework, which among other things seek a high standard of amenity for existing and future users.

Parking, highways, and sustainable travel

On-street parking

42. The appellant submitted parking surveys, carried out on 8 and 9 November 2022 which indicated that an average of 89% of parking spaces in the surrounding area were occupied overnight. The Council considers a parking level of 85% or higher to be an indicator of parking stress. During the appeal, the appellant suggested parking stress of 75%, but it was not explained how this figure had been calculated.
43. The appeal site is not within a controlled parking zone ("CPZ"), though some streets nearby are. There are double yellow line parking restrictions on Addiscombe Avenue at the junction with Everton Road, and some parking bays

where daytime charges apply in front of nearby shops on Lower Addiscombe Road. During my site visit I saw that very few on-street spaces were available close to the appeal site, though more spaces became available further away from Lower Addiscombe Road, for example on parts of Highbarrow Road. Overall, my observations support the view that the area is one with a high level of parking demand.

44. There are bus and tram services very close by – notwithstanding the Council’s view that the site’s Public Transport Accessibility Level (“PTAL”) should be reduced to 3 (“moderate”) from its current level of 4 (“good”), the site has a reasonable level of public transport connectivity. However, given the very high parking demand in the area, it is likely that an increased demand for parking, even from a relatively small number of additional dwellings, would be likely to increase parking pressure within the area.
45. The appellant again directed me to the first November 2023 appeal decision which, it was argued had “addressed and settled” the matter of car parking; that scheme was for three dwellings rather than five, so it is not clear to me that it is precisely comparable to the current proposal. It is also possible (as I have set out above) that some of the flats within the appeal scheme would have two occupiers rather than one, which would also be likely to increase the potential for car ownership.
46. I note the Council’s concerns about the reliability of the parking data provided. These go beyond what might simply be described as “academic” arguments about the use of the “Lambeth Methodology” rather than its preferred “Richmond methodology”, and into concerns about the timing and accuracy of the submitted information. While it may be the case that the area could cope with the additional parking stress even if the occupiers of all five units were to have cars, as the appellant has argued, given the high stress in the area the position is very finely balanced. The shortcomings in the submitted parking survey mean that it has not been demonstrated that the development would have an acceptable effect on parking availability. The appellants commented that they have no objection to entering a planning obligation in respect of a CPZ, but none has been provided. As the evidence before me is not sufficient to indicate that such an obligation is necessary, its absence is not in itself a determinative factor. However, it does not alter my overall finding on this matter.
47. The proposal would conflict with Policies SP8, DM29 and DM30 of the CLP, and Policies T6 and T7 of the London Plan 2021. Together, and among other things, these policies seek to support the use of sustainable means of transport, and to reduce the impact of traffic congestion and car parking.

Highway safety, safety and design of parking areas within the site

48. The submitted site plan showed two parking spaces within the appeal site, though in order to provide an accessible parking space it may (as I have outlined above) be necessary to reduce this to a single space. Assuming of course that parking space within the site was allocated to a specific resident (or residents) rather than left available for anyone to use in a free-for-all, there is no substantive evidence before me to indicate that the number or pattern of vehicular movements would be likely to cause harm to highway safety outside the site or risk to residents within the site. Detailed design matters relating to

landscaping (and associated urban greening and flood risk) could be dealt with by means of conditions, were the scheme otherwise acceptable.

49. I find no conflict with Policies SP4, SP6, SP7, SP8, DM10, DM16, DM25, DM27, DM28 and DM30 of the CLP, or with Policies D3, D4, D5, D7, G5, G6, G7, SI12 and SI13 of the London Plan 2021 on this matter. Among other things, these policies seek to ensure that development is well-designed, provides safe access for all (including in respect of parking), and is designed to protect or enhance biodiversity and to reduce flood risk. I also find no conflict on this matter with the provisions of sections 9, 12, 14 and 15 of the Framework, which seek to promote sustainable transport, to achieve well-designed places, to meet the challenge of climate change and flooding, and to conserve and enhance the natural environment.

Legal agreement – off-street parking and sustainable travel

50. Policies SP8, DM29 and DM30 of the CLP, and Policies T4 and T6.1 of the London Plan 2021 seek to promote development which, among other things, makes full use of public transport, cycling and walking; does not have a detrimental impact on highway safety for pedestrians, cyclists, public transport users and private vehicles; and reduces the impact of car parking. The development plan also recognise that financial contributions may be required to address adverse transport impacts which have been identified.
51. The Council's officer report refers to the need for a legal agreement designed to secure a financial contribution to sustainable transport initiatives in the local area, as well as to prohibit occupiers of the development from obtaining parking permits within any future local CPZ. I have addressed the CPZ aspect of this above.
52. No figure appears to have been calculated for the financial contribution sought by the Council, nor is there anything before me which indicates what schemes such a contribution would support. Accordingly, I cannot be certain that a financial contribution would be necessary to make the development acceptable, or that it would be directly related to the development, and fairly and reasonably related in scale and kind.
53. Consequently, and notwithstanding the aims of the development plan policies, I am unable to conclude that a planning obligation seeking to provide these contributions would comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010. In these circumstances, the absence of a planning obligation does not weigh against the development.

Cycle facilities

54. Policy T5 of the London Plan 2021 requires at least two short-stay cycle parking spaces, and at least nine covered and secured long-stay spaces (of which at least one should be capable of accommodating an adapted or wider cycle). The submitted drawings showed that the development would be provided with ten covered cycle spaces split between two secured stores, though the appellant subsequently stated that the use of two-tier storage systems would allow the two stores to accommodate a total of 19 bicycles.
55. The Council's preference would be for Sheffield stands, as two-tier storage racks would not be suitable for all users. However, it appears from the plans that the two storerooms as a whole would, with the use of a combination of

two-tier racks and Sheffield stands, be able to provide a range of cycle parking spaces which would be accessible to all while also providing at least the minimum number of spaces. There would also be room within the storeroom in the main building to accommodate at least one wider or adapted bike. In this context, it would be sensible to allow for the precise form of the provision to be clarified; this would be a relatively minor change to the development and could, were the scheme otherwise acceptable, be addressed by a condition.

56. Subject to such a condition, I am satisfied that the scheme would include adequate cycle parking and storage facilities. It would therefore comply with Policies SP8, DM16, DM29 and DM30 of the CLP and Policies T1, T2, T4, and T5 of the London Plan 2021. Together, and among other things, these policies seek to create a healthy environment in which people choose to cycle, including by ensuring that adequate safe and secure cycle parking is provided.

Waste facilities

57. The proposed development would include a dedicated bin storeroom on the ground floor of the building, measuring around 3.6m by 1.25m. This would accommodate two larger bins (770 or 660 litre capacity) and two smaller bins (60 litre capacity). However, the submitted drawing show that the bins would occupy almost the full width of the storeroom, and they would be jammed tight up against one another. It would therefore be difficult for waste collection operatives to conveniently and easily manoeuvre the bins independently. It would also be likely to be very difficult for at least some occupiers to access the bin in the corner of the room, as it would be hemmed in by two other bins.
58. As a result of the proposed layout, the development would not make acceptable provision for the storage and collection of refuse. It would therefore conflict with Policies DM10 and DM13 of the CLP and Policies D6, SI7 and T7 of the London Plan 2021 which together, and among other things, seek to ensure that development is well-designed, with refuse facilities which are easily accessible by residents and waste collection operatives. There would also be conflict with the provisions of section 12 of the Framework, which seek to ensure that development functions well.

Trees

59. At the time of my site visit, there were no significant trees growing on the appeal site. It was apparent that this was not always the case – the appellant describes all planting, trees and shrubs having been removed in September 2022. Nevertheless, the proposed development would not lead to a loss of any significant trees or other vegetation on the site.
60. There are trees growing close to but outside of the site boundary, within the rear gardens of houses on Everton Road, and on the tram line embankment to the east. However, these could be protected during development if necessary by the submission of an arboricultural method statement. The replanting of trees and other vegetation within the appeal site could be addressed by the submission and approval of a landscaping scheme. Both of these matters could, were the proposal otherwise acceptable, be addressed by conditions.
61. I conclude that the proposed development would not cause unacceptable harm in respect of trees. There would therefore be no conflict on this matter with Policies SP6, SP7, DM10, DM27 and DM28 of the CLP, or with Policies D4, G5,

G6 and G7 of the London Plan 2021. Together, and among other things, these policies seek to ensure that development (including landscaping) protects and enhance biodiversity, including by protecting trees which make a positive contribution to the local area.

Other Matters

62. A substantial number of development proposals have been put forward for the appeal site in recent years, and three have been the subject of appeals. As well as the first November 2023 decision which I have referred to above, there was a second November 2023 decision (PINS Ref: APP/L5240/W/23/3317139), and another decision in January of this year (PINS Ref: APP/L5240/W/22/3310644). I have addressed specific points of relevance in my reasoning above, though the evidence before me is that there are significant differences between the three previous appeals and this case, so they are not directly analogous.
63. I have also been directed to the two planning permissions granted this year. The February 2024 permission is for three houses on the appeal site. The appellant particularly drew my attention to the fact that outline planning permission was granted without a legal agreement. I note that the Council commented that this appeal proposal is for a greater intensification of use of the site than that scheme. That may be so; however, the absence of a legal agreement in this case is not a determinative factor (as I have explained above), and given the other areas in which I have found harm that permission does not carry significant weight in favour of the appeal scheme.
64. The June 2024 permission is for four houses (in two semi-detached pairs) on the site. The appellant drew my attention to the increased scale of that scheme compared to this appeal proposal. There would be a GIA across the whole development of around 487m², compared to around 394m² in this case; the buildings would also have three full storeys (rather than a roof level as here).
65. I note that the appearance of that scheme was illustrative only – it is a reserved matter to be dealt with at details stage. That said, the Council has accepted the proposed scale of the development; however, my concern (and the harm I have found) in respect of character and appearance does not simply relate to scale, but to the form of the elevations and some elements of detailing. The drawings submitted for the June 2024 scheme – illustrative though they are – show two frontages stepping back from the site entrance, which would reduce their impact in the street scene. Some of the shortcomings of detailing which I have highlighted (such as fenestration) also appear to have been addressed to some extent. Again, there are significant differences between that permission and the scheme before me.
66. Taken together, the appellant considers that the previous appeal decisions and two 2024 planning permissions mean that all the reasons for refusal put forward in this case have either been addressed or conceded by the Council. However, it will be evident from my reasoning above, as well as my assessment of these other permissions, that I do not agree with that assessment.
67. The appellant has made several comments on the quality of pre-application advice given by the Council. This, and other issues raised, are addressed in the associated Costs Decision. However, it is not something which has had a material bearing on my assessment of the main planning issues in this appeal.

Planning Balance and Conclusion

68. The appeal scheme would provide five new flats, a net gain of four dwellings, at a time when the government is seeking to significantly boost the supply of housing. Given the small scale of the proposal, this is a benefit which carries moderate weight in its favour.
69. I have found that the development would (or could be conditioned to) make acceptable provision in respect of accessibility, and for the parking and storage of bicycles. It would not cause significant harm to neighbours' living conditions, or to trees. I have also found that, in this case, the absence of a mechanism to secure a financial contribution to transport improvements does not weigh against the proposal.
70. However, I have found that the development would be harmful to the character and appearance of the area, and there would be significant shortcomings in terms of living conditions for future occupiers. It would not make an acceptable provision for the storage and collection of refuse, nor has it been satisfactorily demonstrated that the scheme would have an acceptable effect on parking availability.
71. The proposal therefore conflicts with the development plan taken as a whole. There are no material considerations, including those of the Framework, that indicate the proposal should be determined other than in accordance with the development plan.
72. I therefore conclude that the appeal should be dismissed.

M Cryan

Inspector