



Appeal Decision

Site visit made on 30 August 2024

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 OCTOBER 2024

Appeal Ref: APP/L5240/W/24/3339375

314 & 316 Old Lodge Lane, Purley CR8 4AQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Justin Owens of Silverleaf Group against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 23/04461/CONR.
 - The application sought planning permission for the demolition of existing dwelling and erection of 5 dwellings with associated access, amenity and cycle/refuse provision without complying with a condition attached to planning permission Ref 21/04007/OUT, dated 12 December 2022.
 - The condition in dispute is No 4 which states that: The development shall be carried out entirely in accordance with the approved drawings and supporting documents submitted with the application listed below (plans listed):
 - The reason given for the condition is: For the avoidance of doubt, and to ensure that the development is carried out in full accordance with the approved plans in the interests of proper planning.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application subject to this appeal is for a minor material amendment¹. It seeks approval of a revised, but not substantially different, development approved in December 2022². This type of application is possible as a condition was imposed on the original permission specifying the approved plans. The appeal seeks removal of the condition and replacement with a condition specifying the plans that reflect the amended design.

Main Issue

3. The main issue is whether or not the amended scheme would comply with the requirement to provide accessible housing.

Reasons

4. The appeal site comprises a pair of semi-detached properties and large rear gardens within a predominantly residential area. There is a gradual upward

¹ See Flexible options for planning permissions: Guidance, March 2014 (Ministry of Housing, Communities & Local Government)

² Planning permission ref: 21/04007/OUT

slope on the site towards the rear boundary. The outline planning permission granted consent for the demolition of the existing dwellings and the construction of 5 dwellings on the site.

5. The appellant sought to make a number of changes to the approved scheme. The Council refused to grant consent for these changes as they would result in the removal of step free access to the front of one of the properties which would worsen the accessibility of the site and would fail to offer an adequate quality of accommodation.
6. Policy D7 of the London Plan (2021) sets out that in order to provide suitable housing and genuine choice for London's diverse population, including disabled people, older people and families with young children, residential development must ensure that, amongst other things, all other dwellings (which are created via works to which Part M volume 1 of the Building Regulations applies) meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings'.
7. In the proposed amendment, the access to plot 1 would be changed. The approved plans show how step-free access would be achieved via the main entrance to the side of the property. The proposed amendment would result in a four-stepped access to the main entrance at the front of the property. A step-free access would be possible via a side gate to the rear garden and double doors to the living room area.
8. I do not dispute that step-free access would be provided in the amended scheme. Similarly, there is no specific policy requirement that step-free access is provided from the principal entrance. Policy D7 requires the dwelling to meet with Building Regulation requirement M4(2). Paragraph 2.7 sets out that where it is not possible to achieve a step-free approach route to the principal private entrance, a step-free approach route should be provided to a suitable alternative private entrance instead. It continues that the provisions for approach routes should still apply to both the route to the principal private entrance and the route to the alternative private entrance. One such provision, as outlined in the preceding paragraph is that the approach route should be safe and convenient.
9. In the amended scheme users requiring a step-free access, such as wheelchair users, users with impaired mobility or for pushchair access, would be required to go around the side of the property to a side gate, go through the gate and the rear garden then enter the property via a set of double doors, into the living room. Although I appreciate that the internal layout plan is somewhat indicative, it nevertheless shows the likelihood that the point of entrance would be in an area where future occupants would likely position living room furniture and a television.
10. Having regard to the requirement of M4(2), compliance with which is required by Policy D7, I consider that the suggested route would be neither suitable or convenient. It is clearly an inferior arrangement to the approved layout, particularly at times of inclement weather when those users requiring step-free access would be directly accessing the living room area of the property with wheelchairs and/or pushchairs.
11. It would not meet the needs of a diverse range of users, taking into account factors such as the ageing population and the changing needs of the occupants over time. It would also fail to promote inclusion in design, which requires

making sure that all individuals have equal access, opportunity and dignity in use of the built environment.

12. The appellant has referred to the design implications and cost implications of implementing the approved plans. There is limited quantitative evidence to show that the approved scheme is not viable. Furthermore, there is nothing to convince me that it is not capable of implementation. I therefore do not consider that this provides adequate justification to not comply with the requirement to provide suitable accessible housing.
13. The proposed amendment would therefore not comply with Policy D7 of the London Plan as set out above.

Other Matters

14. The appellant outlines how the Council have referred to policies within their reason for refusal which they have elsewhere stated that the scheme was in accordance with. The evidence shows, however, that the proposed amendments included alterations that required an assessment to be made in terms of character and appearance, to which the Council had no concerns. It was therefore understandable that elements of the proposal would comply with some criteria of the policy.
15. The appellant has referred to the Council's consideration of other applications in the borough. I do not, however, have full details of these other examples to give them significant weight and I have, in any event, determined the appeal on its own individual planning merits.
16. The appellant considers that the Council failed to consider the constraints of the site, particularly in relation to the topography. The evidence shows, however, that the Council were aware of the slope of the site.
17. The appellant has referred to the betterment in the amended scheme in terms of design and living conditions. Given that these factors were found to be acceptable in the approved scheme, I do not consider that they outweigh the harm in terms of not providing accessible housing to comply with the relevant policy.

Conclusion

18. I therefore find that condition No 4 is necessary and reasonably related to the subject matter having regard to the requirement to provide accessible housing.
19. The proposal would therefore conflict with the development plan and there are no other considerations, including the National Planning Policy Framework, that outweigh this conflict.
20. For the reasons given above, and having had regard to all other matters raised, I conclude that the condition should be retained in its current form and accordingly the appeal is dismissed.

A M Nilsson

INSPECTOR