



Appeal Decision

Site visit made on 19 December 2024

by **David Murray** BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2025

Appeal Ref: APP/L5240/W/24/3340835

Karuna Court, 88 Lower Addiscombe Road, CROYDON, CR0 6AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr S D Shah against the Council of the London Borough of Croydon.
 - The application Ref is 23/02651/FUL.
 - The development proposed is the erection of 2 no. one bedroom two-storey dwellings with associated amenity areas, landscaping, bin and cycle storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council and the appellant have reached agreement over the terms of a formal Unilateral Undertaking planning obligation to mitigate the impacts of the development on on-street parking and this overcomes the objection put forward in reason for refusal No. 6 in the Council's Statement. I therefore do not need to consider this aspect further.
3. The Government issued a revised National Planning Policy Framework (the Framework) in December 2024. However the changes made are not material to this appeal and therefore the parties were not asked to make any additional representations.
4. The Council has included two Tree Preservation Orders (38/1987 & 19/1992) with the appeal Questionnaire details but the location of these protected trees does not appear to relate to the appeal site.

Main Issues

5. The appeal is against non-determination and the appellant's initial case is based on the nine reasons for refusal specified by the Council in relation to a previous similar scheme which was refused by the Council. The original plans have been amended since then. Moreover, the Council has now set out in its Statement the reasons why the current appeal is contested. From these the main issues are:
 - The effect on the character and appearance of the area including on existing trees;
 - The effect on living conditions, both those of the occupiers of the existing flats at Karuna Court, and the neighbouring dwelling at 66 Leslie Park Road;

- Whether the residential units would have adequate amenity space available to the occupiers of the two new units proposed, as well as the existing flats at Karuna Court;
- Whether the proposed units would meet the identified housing needs of the area;
- Whether the proposal makes proper provision for the storage, recycling and collection of waste.

Reasons

Background

6. The appeal site comprises the rear garden area of a large three storey semi-detached property with four levels of accommodation. The building is of a traditional 'Victorian Villa' design and the Council says it is Locally Listed. It contains seven flats and there are a few parking spaces on the forecourt with access off Lower Addiscombe Road. To the rear (south) of the site there is a row of detached and semi-detached houses fronting Leslie Park Road which the Council says may have been created through the sub-division of the large property gardens along Lower Addiscombe Road. The appeal site garden also contains a number of mature trees.
7. It is proposed to build two small two-storey dwellings with a living room/dining room, bathroom and kitchen on the ground floor and a bedroom and storage space at first floor mostly using the attic space.

Effect on character and appearance

8. It is clear that the appeal site and existing flatted building lie in a highly developed area with good accessibility to public transport. It is a sustainable location with limited constraints and the prevailing policies in the development plan do not put forward an objection to the principle of development subject to local site specific issues.
9. The critical question here is whether the existing back garden land can reasonably accommodate further development in order to achieve a more effective scale of development and a higher density which would generally accord with section 11 of the Framework and the London Plan. The appellant also refers to other illustrative schemes elsewhere where 'backlands' could become developed successful new housing sites as put forward in the Croydon Suburban Design Guide (2019) (which the Council advises has now been retracted) and as illustrated in another scheme.
10. It appeared to me at the site visit that the long rear gardens of Karuna Court and its adjoining neighbour had already been developed with new houses which now front Leslie Park Road but a reasonable degree of rear gardens for these original properties remained. This development made use of a new frontage. The appeal proposal is materially different in that it would occupy much of the remaining space in an isolated backland position. There were examples of other backland development in the wider locality but these appeared to have been considered on a more comprehensive basis though a 'design-led' approach.
11. In townscape terms I agree with the Council that the appeal proposal would be at odds with the prevailing pattern of development. Although away from the public

realm, the siting and physical presence of the proposed building would appear cramped and squeezed in to the confines of the site and have an incongruous and overbearing appearance as an 'afterthought'. This would be visually imposing on the appearance of the area and would materially harm the setting of the garden and form of Karuna Court and spoil the character of the area.

12. In terms of the effect on trees the submitted site plans shows that most of these would have to be removed and I have doubt over the three shown for retention because of the scale of ground works shown around them. The trees generally contribute to the townscape of the area but the Council has not shown that they are locally visually important nor of a sound state.
13. Overall on this issue, I find that the development proposed would substantially harm the character and appearance of the area. It would also result in less than substantial harm to the setting of the Locally Listed Karuna Court which is a designated heritage asset. As such the proposal does not accord with the provisions set out in Policies D3, D4 and DM18 of the London Plan and Local Plan policies DM10, DM18 and SP4 which seek to ensure that new development respects the townscape pattern and character of an area.

The effect on living conditions

14. This issue is concerned with the effect on both the occupiers of the flats in Karuna Court as well as the neighbouring property 66 Leslie Park Road. Moreover, it appears from the appellant's statement that refers to the reasons for refusal of the previous case that that scheme was for the erection of a full two storey building whereas the current proposal is for a two level building with a lower ridge height. I have only had regard to the plans forming the present appeal.
15. Dealing with the relationship with No.66 first, this is a single storey property which has three windows on the rear (north facing) elevation although there is a standard height fence along the party boundary. In the current scheme the appellant says that the position of the building off the boundary has been increased from 2m to 3.5m which should reduce any overshadowing of the existing property and the use of roof lights on the rear facing roof slope would avoid overlooking.
16. Although it appears that the scale of building at the eaves and roof height of the proposal would be slightly greater than the bungalow, the physical relationship of the proposal to the party boundary would be similar to a mirror image of what exists. Taking account of the property's orientation and the intervening boundary fence, I am satisfied that the existing property would not be unduly overshadowed. Moreover the proposed rooflights on the rear elevation appear to be sited far enough up the roof slope to be above head height of someone in the room to avoid overlooking.
17. However, the improvement over the relationship with No. 66 compared with the previous scheme has been achieved by decreasing the separation distance to the windows in the rear wall of Karuna Court. The parties do not specify what the actual separation distance would be but it appears to me that it would be much less than the usual yardstick standard between windows to avoid overlooking and a loss of privacy to the basement and ground floor flats, even taking account of the proposal for some landscaping around a communal outdoor seating area to the rear of the Karuna Court building. The appellant recognises that there would be some impact but say that is inevitable when development takes place in an urban

location and with intensification. However the very close relationship between the flatted building and the new dwellings would not result in reasonable living conditions even bearing in mind the highly developed nature of the site and its surroundings.

18. I conclude on this issue that the proposal would not maintain reasonable living conditions for the occupiers of some of the existing flats in Karuna Court as it would result in these flats being overlooked and having a loss of privacy, therefore in conflict with Policy DM10.6.

Whether adequate amenity space

19. Policy DM10.4 sets out standards for the provision of private amenity space in new development where a 1-2 person unit should have a minimum of 5m². The appellant says that the 43m² would be provided for each dwelling and pulling the sitting away from the boundary has resulted in each house having a usable private space at the rear.
20. I have some concerns about the useability of this space which is likely to be overshadowed but I note that there would also be south-facing amenity land to the front of each property. Given the standard is met this seems reasonable provision.
21. In terms of the amenity space for the occupiers of the 7 flats at Karuna Court the appellant says the present garden area is underutilised and the proposal seeks to provide a better landscaped sitting out area. However, Policy DM10.4(e) goes on to indicate that for development in the grounds of an existing building, a minimum length of 10m and no less than half of the existing garden, or 200m², of the original garden should be retained. On the evidence before me the retained space at the rear of Karuna Court would be well below this minimum provision even if the useability of the space was improved.
22. To conclude on this issue while the new dwellings would have adequate private amenity space, the retained garden at Karuna Court would not, because the proposal unreasonably impedes on the existing space at the property.

Whether meet the identified housing needs of the area

23. The Council says that the recognised housing need in the area is for new housing with at least 4 habitable rooms and three bedrooms per unit to provide family sized accommodation. The proposal therefore does not optimise local housing potential. The appellant accepts that the proposal would only provide one-bedroom dwellings (not 2-bed as the other small room at first floor is designated on the plans as a store) but that the development would not impede the delivery of three bedroom dwellings elsewhere.
24. The proposal for two small houses does not respond to the recognised local need but given the harmful effects associated with the proposal under the other main issues above, including over the principle of development, there is little scope for the proposal to be amended to secure a house type which is more aligned to meet the needs for larger units.

Provision for the storage, recycling and collection of waste.

25. This issue was included as a separate reason for refusal. However given the overall extent of the site I am satisfied that there is more than adequate space

available to provide a facility for the storage recycling and collection of waste, possibly next to the existing bin store for the flats. I therefore agree with the appellant that this issue can reasonably be secured by a condition if the other aspect of the development were acceptable.

Planning balance

26. Bringing my conclusions on the main issues together, I have found that the location and visual presence of the two small dwellings proposed would be at odds with the prevailing pattern of development and would appear cramped and squeezed in to the remaining garden at the rear of Karuna Court. The overbearing nature of the proposal is also demonstrated by the close proximity and poor relationship with the existing flats some which would suffer from being overlooked and having a loss of privacy. There would also be inadequate amenity space retained for this flatted property. Taken together these factors result in the proposal causing significant harm to the character and appearance of the area, and the setting of Karuna Court as a locally listed Victorian villa. Considered as a whole, the proposal would conflict with the relevant provision of the development plan as set out above.
27. This has to be balanced with other considerations. The two extra houses would help achieve a more efficient use of land and a higher density, the principle of which is encouraged in the Framework and the London Plan, together with the general policy support for the development of 'small sites'. 'Backland' sites can make a contribution to such housing growth, but in this case, the site is not large enough on its own to ensure that the development fits in with the surrounding pattern of development to achieve an acceptable solution.
28. The evidence submitted also shows that the Council can demonstrate at least an adequate supply of new housing at the moment and the very small addition to housing supply can only carry very limited weight in the balance.
29. Overall I find that the proposal does not amount to sustainable development as set out in the Framework because of the environmental and social harm that would arise and it conflicts with the Framework when this is read as a whole. The identified conflict with the relevant provisions of the development plan is not outweighed by other factors and this indicates that the appeal should not be allowed.

Conclusion

30. For the reasons given above the appeal should be dismissed.

David Murray

INSPECTOR