



Appeal Decision

Site visit made on 12 November 2024

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 JANUARY 2025

Appeal Ref: APP/L5240/W/23/3334519

110 Norbury Hill, Norbury, Croydon, London SW16 3RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Tomas Pohnetal against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 23/03457/OUT.
 - The development proposed is the demolition of an existing bungalow and adjoining garage. Erection of 5 x terraced houses with associated access, parking, photovoltaic panels, landscaping, refuse and cycle stores.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have removed matters which aren't development from the description in the banner heading above.
3. The planning application form specifies that outline planning permission with all matters reserved for future approval is sought. Despite the inclusion of floor plans with the planning application, details relating to access, layout, scale, appearance and landscaping are reserved for later consideration. Whilst these plans are useful in assessing the scheme, they illustrate one, but not the only, way the proposed development could be accommodated on the site. Therefore, I have treated details relating to the reserved matters as indicative, irrespective of whether or not the plans submitted with the application are labelled as such.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the area, including trees;
 - the effect of the proposal on the highway safety of users of Norbury Hill and future occupiers of the dwellings;
 - whether the proposed development includes adequate fire safety measures;
 - the effect of the proposal on ecology and biodiversity; and
 - the effect of the proposal on the living conditions of neighbouring occupiers, with specific regard to outlook and privacy.

Reasons

Character and appearance

5. Currently accommodating a modestly sized chalet bungalow with a flat roofed side extension and separate garage, the appeal site is located to the rear of properties fronting onto Norbury Hill. These properties, much like others on the road, predominantly comprise two-storey detached or semi-detached dwellings of a generous size, similar vernacular and with long rear gardens. The width of the road corridor, including the deep grassed verge with street trees and wide pavement, coupled with the large area of open space bounded by substantial trees on the other side of Norbury Hill, creates a sense of space and verdancy to the area.
6. Although the location and shape of the appeal site deviates from elements of this pattern, nonetheless the size of the existing bungalow and its garden is broadly comparable with that of other dwellings in the surrounding area. However, the proposed additional dwellings would lead to the division of the site into substantially smaller plots than those along Norbury Hill, regardless of the proposed layout. The smaller plot widths and depths would, therefore, introduce an incongruous pattern of development within the established residential area. Furthermore, the introduction of a terraced backland form would result in a built form with a bulk and massing not prevalent in the area. Given the constrained size of the site, this would create a cramped environment, despite matters relating to scale being reserved and regardless of the overall height of the proposed built form.
7. Whilst the dwellings in the nearby Hollman Gardens are arranged in short rows of three-storey terraced homes, these are orientated towards a road and not located to the rear of an established building line. Therefore, their relationship to other dwellings and street scene is wholly different from the appeal scheme given the appeal site's backland location. Furthermore, I have no substantive evidence before me regarding the planning regime in place at the time these properties were permitted. As such, the Hollman Gardens dwellings are not directly comparable to the appeal scheme.
8. Several mature trees and other landscape features are located within the appeal site, principally along or close to its boundaries. Although I have no reason to believe these are subject to a Tree Preservation Order, their presence contributes to the verdant character of the area whilst providing screening between the existing built form. Irrespective of this, layout and landscaping details are reserved matters. Therefore, the retention of the existing landscape features on the site and the amount of proposed hardstanding do not form part of the development for which permission is sought, even if the submitted plans illustrate such elements. Consequently, I have no compelling evidence before me to conclude that the site would not be able to accommodate five terraced houses without harming trees. As such, the proposal would not conflict with Policy DM28 of the Croydon Local Plan 2018 (the Local Plan) in this regard.
9. Nevertheless, I conclude that the division of the site and the proposed terraced form would disrupt the established pattern of development in the area such that the proposal would harm the character and appearance of the area. This would be contrary to policies D3 and D4 of the London Plan 2021 (the London Plan) and policies SP4 and DM10 of the Local Plan which promote

development that optimises the capacity of a site through a design-led approach and, amongst other things, is informed by, protects and, where possible, enhances the local character and distinctiveness of an area.

10. Although Policy D5 of the London Plan is referred to in the Council's decision notice, as this relates to accessible and inclusive design it is not determinative in this main issue.

Highway safety

11. Whilst access is a reserved matter, nonetheless the existing drive to the bungalow is the sole location where vehicular access from Norbury Hill is possible. Located between Nos. 108 and 112 Norbury Hill, the driveway is narrow and lined by tall mature hedgerows and the side elevations of the neighbouring dwellings. No passing points exist and there are no opportunities to create such a feature within the site boundary. Therefore, should a driver wish to exit the site as another enters, one vehicle would need to reverse which, given the enclosed nature of the drive, would be a difficult manoeuvre. In addition, should a pedestrian or cyclist be on the drive, they would not be able to seek refuge or move to the side to allow a vehicle to pass, which would be detrimental to their safety.
12. Whether or not the proposed development would provide adequate vehicular and cycling parking, circulation space and waste storage areas is not for me to determine in this appeal as access within the site and the layout are reserved matters. Nevertheless, the width of the driveway prevents waste and recycling vehicles from driving into the development thereby requiring future occupiers of the dwellings to take their waste and recycling to Norbury Hill for collection. This distance is beyond what would be reasonable to expect future occupants to drag their various bins, boxes and caddies before and after collection.
13. The driveway terminates at the site boundary, adjacent to the pavement along this side of Norbury Hill. Here the distance between the carriageway and the end of the driveway is of a sufficient depth to accommodate a vehicle which would allow drivers unobstructed long views along Norbury Hill in both directions, thereby providing a safe exit from the site.
14. However, drivers' visibility of pedestrians walking along the pavement is limited by the landscape features along either side of the driveway. The hedge along the boundary with No.112 is at a reduced height close to the pavement such that drivers exiting the site would be able to see pedestrians walking along the pavement, from the Beulah Hill end of the road. In the other direction, shrubs within the front garden of No.108 restrict a driver from viewing pedestrians walking up the hill until beyond the threshold of the driveway, by which point the front of their vehicle would be across the pavement. This could result in conflict with pedestrians and would be detrimental to their safety.
15. Although visibility constraints already exist given the use of the site, the number of vehicle movements likely to be generated from the proposed development would be significantly higher than from the existing bungalow. Consequently, the risk of potential harm to the safety of pedestrians, cyclists and drivers using Norbury Hill or entering/exiting the proposed development would increase. As the existing access and driveway is narrow with limited

scope to be altered, mitigation measures to reduce this risk would be difficult to implement.

16. I conclude that the proposal would harm the highway safety of users of Norbury Hill and future occupiers of the dwellings, contrary to policies D5, T4, T5, T6 and T7 of the London Plan and policies SP8, DM13 and DM29 of the Local Plan. These policies seek to ensure proposals are not detrimental to the safety of users of a highway, make safe and accessible provision for servicing, remove barriers to cycling and provide access for all, amongst other requirements.
17. Policy DM30 of the Local Plan which relates to the form, numbers and location of car and cycle parking in a new development is also referred to in the Council's decision. Given these details do not form part of the matters for approval, this policy is not determinative in my consideration of this appeal.

Fire safety

18. The Planning Practice Guidance (PPG) confirms that it is not a statutory requirement for a fire statement to be submitted with an outline planning application, as matters such as layout and scale can be reserved¹. However, this doesn't preclude the applicant from doing so voluntarily, as is the case with the appeal scheme.
19. Due to the characteristics of the access and driveway detailed above, access to the appeal site would be limited for large emergency vehicles. Whilst the Fire Strategy² refers to a proposed dry riser system, this would require an inlet to be positioned at the entrance to the site with an outlet at the dwellings. However, due to the aforementioned access constraints, it has not been adequately demonstrated that these measures could be implemented within the site, or that an acceptable scheme could be devised as part of a reserved matters approval. This would be detrimental to the safety of occupants and their visitors in the event of a fire.
20. Consequently, the proposal does not provide adequate fire safety measures and is contrary to Policy D12 of the London Plan in this regard.

Ecology and biodiversity

21. The derelict nature of the site, including the vacant bungalow structure, trees and overgrown garden area, provides opportunities to support reptile, amphibian and bat habitats, including protected species. Additionally, other areas nearby, such as the adjacent allotments and Biggin Woods, also have the potential to support such habitats. In the absence of any baseline ecological information prepared by a suitably qualified ecologist, the effect of the proposed development on ecology and biodiversity cannot, therefore, be determined. Nor is it possible to establish, with certainty, that mitigation and/or enhancements could be implemented as part of the proposal.
22. Consequently, I conclude that the proposal would harm ecology and biodiversity, contrary to the aims of Policy G6 of the London Plan and Policy DM27 of the Local Plan which seek to enhance biodiversity, amongst other provisions, across the borough.

¹ Paragraph: 011 Reference ID: 71-011-20210624

² Author unknown, dated September 2023

Living conditions – neighbouring occupiers

23. Even if the proposed dwellings were orientated towards the garden of No.108, views from any windows on their façades would be similar to those already experienced from the existing bungalow. Such views, including towards a double garage and associated hardstanding, is facilitated by the wide gap in the boundary hedge which provides vehicular access to No.108. Therefore, the degree of privacy neighbouring occupiers can reasonably expect in this part of the garden would be lower than other areas, including those closer to the dwelling. Although sited near to the vehicular access, the fully glazed summer house/conservatory is screened by the tall and dense boundary hedge.
24. Openings serving rooms of the proposed dwellings at first floor level and above could provide wider views across the adjoining rear gardens. However, the number of floors, fenestration arrangement and orientation of the built form are not details for which approval is sought. Additionally, the length of neighbouring gardens means significant distances exist between the main part of the site and the dwellings on Norbury Hill, thereby diminishing what could clearly be seen in these views.
25. Whilst the bungalow at No.132 Biggin Hill is sited close to the rear of the site boundary it has no openings orientated towards the site. Additionally, the main garden space for this property is located to the front with only a small area to the rear adjoining the site boundary. As a result, there are no compelling reasons before me to conclude that a suitable arrangement of built form and fenestration details could not be devised to prevent neighbouring occupiers experiencing an unacceptable reduction in outlook or a loss of privacy.
26. Consequently, although a constrained site, I am satisfied that an acceptable scheme which respects the outlook and privacy of neighbouring occupiers, could be implemented. I conclude that the proposal would not harm the living conditions of neighbouring occupiers with specific regard to outlook and privacy. It would not conflict with Policy D3 of the London Plan or Policy DM10 of the Local Plan which support proposals that ensure, amongst other provisions, the protection of appropriate amenity (living conditions) of occupiers of adjoining buildings.

Other Matters

27. The Council has indicated that a legal agreement is required to secure a financial contribution towards sustainable transport initiatives, should I be minded to allow the appeal. However, limited details have been provided setting out when and what this contribution will be spent on, or how the size of the sum has been calculated. Nonetheless, as I am dismissing the appeal based on the main issues above, it is not necessary for me to consider this matter further.
28. Social and economic benefits would be derived from the net gain of four dwellings, thereby supporting the Framework's objective of significantly boosting the supply of homes. Despite this, given the scale of the proposal, any resultant benefits during the construction or occupation of the dwellings would be small. Furthermore, the evidence before me indicates that the Council is able to demonstrate a five-year supply of deliverable housing sites. Therefore, I attach moderate weight to these benefits.

29. Although various environmental features are listed in the application documents, including water-saving devices, green sedum roofs, use of modern methods of construction and solar panels, the specific environment benefits derived from these features is undefined. As such, I attach limited weight to them.

Planning Balance and Conclusion

30. I have concluded that the proposal would not harm the living conditions of neighbouring occupiers. However, it would harm the character and appearance of the area, highway and fire safety, and ecology and biodiversity. I attribute significant weight to this harm and its associated development plan conflict. This harm is, therefore, not outweighed by the moderate and limited weight I give to the benefits derived from the appeal scheme.
31. The proposal conflicts with the development plan when taken as a whole and there are no material considerations, either individually or in combination, which indicate that a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

Juliet Rogers

INSPECTOR