



Appeal Decision

Site visit made on 14 January 2025

by **A Hunter LLB (Hons) PG Dip MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 January 2025

Appeal Ref: APP/L5240/W/24/3348952

90 Riddlesdown Road, Purley, Croydon CR8 1DD

- 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 A Howard of Radiate Developments Ltd against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 23/04275/FUL.
 - The development proposed is the demolition of existing detached house and erection of a single block of 9 apartments, with associated hard and soft landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the submission of the appeal, the Government published a revised National Planning Policy Framework (the Framework) in December 2024. There have been no significant revisions to the Framework in regard to the matters in dispute between the main parties. Consequently, I have not found it necessary, in the interests of natural justice, to seek further written comments, and neither party would be prejudiced by my consideration of the revised Framework in the determination of the appeal.
3. The appellant submitted with their appeal a Preliminary Ecological Appraisal and Preliminary Roost Assessment, prepared by Arbtech, updated 16/7/2024 (PEAPRA) in response to reason for refusal no.3. This provides additional information regarding protected species and expands on information already provided, on this basis I have accepted this new information as there would be no unfairness to other parties. The Council has responded to state that the PEAPRA, along with other previously submitted information, has provided satisfactory ecological information, subject to conditions in the event the appeal is allowed. Whilst the Council has referred to potential wildlife offences regarding the removal of a tree before the PEAPRA was undertaken, this would be a separate matter and goes beyond my consideration of the appeal scheme. Consequently, in light of the above, the appeal has been determined on the basis of reason for refusal no.3 no longer applying.
4. The appellant has also submitted 10 no. revised plans with their appeal to try and address reasons for refusal no's 1 and 2. These plans include lowering parts of the building at ridge and eaves level by up to 0.45 metres; re-siting the building some 1.1 metres forward of its original position; and additional planting. These changes, particularly to the proposed building, go beyond what could reasonably be accepted at appeal stage without going through formal consultation with interested

parties. In the interests of fairness to all parties, these proposed amendments are not accepted, and the appeal will be determined based on the plans considered by the Council.

5. Both main parties have referred to Croydon's Suburban Design Guide, 2019 (SDG), which the Council say has been revoked. The appeal has been determined on this basis.

Main Issues

6. Accordingly, the main issues are the effect of the proposed development on:
 - the character and appearance of the area, with particular regard to its scale and design;
 - the living conditions of the neighbouring occupiers, with particular regard to its effect on outlook for the occupiers of no. 90A Riddlesdown Road; and,
 - Whether a contribution is reasonable and necessary in regard to sustainable transport improvements to make the development acceptable.

Reasons

Character and appearance

7. The appeal site contains a three-storey detached property that is setback from Riddlesdown Road along with its large rear garden, which wraps around the rear of the adjoining property no. 90A. There is a substantial change in ground levels across the appeal site, that rise from Riddlesdown Road through the appeal site to its rear side, reflecting the topography of the immediate area. As a result, its frontage onto Riddlesdown Road is at a significantly lower level than the existing house which has a winding driveway, and its rear garden is also tiered with a range of higher levels. 90A is a two-storey detached dwelling located much further forward than no.90. To the opposite side of the appeal site (no.88), there is a large building containing flats that is currently under construction, and I saw that it extends quite far into the depth of the neighbouring site.
8. The properties nearby along Riddlesdown Road are mainly detached and have considerable variety in their design and scale, they include some large buildings containing flats. In addition, to the building being built at no.88, there are buildings containing flats at no.'s 96A, 98, 116 and 122. Those buildings that have flats, along with no.88, have excavated levels, which to an extent minimises their overall heights. Most of the properties along Riddlesdown Road are also set within spacious and landscaped plots, an many of the dwellings are wider than they are deep without significant rear projections.
9. It is clear from the documentation that there is no dispute between the main parties regarding the principle of replacing the existing property with the proposed building containing flats; the height, design, and width of its front elevation; its proposed external materials, its chimney; and its proposed fenestration. From my own assessment and site observations, I also see no reason to disagree, and in regard to these design aspects, the proposal would relate well to the mixed character and appearance of the area and make a better use of the site. The areas of objection between the main parties include the appearance of the proposed excavated basement level; the scale, massing and design of its rear projection; the proposed

front balconies, and its roof design. As such my reasoning will focus on these elements of the scheme.

10. The building's proposed 'L' shaped design, said by the appellant to have been the Council's suggestion, is set-in from its boundary to no.90A, as a result its much taller sections run through from its front to its rear side nearest to its boundary to no.88. The ridge heights of the two rear projecting gables extend significantly into the rear of the plot, substantially increasing the scale and massing of the proposed building in comparison to the existing property (no. 90). Whilst it would extend some 2.3 metres or so beyond the rear side of no.90, the proposed building would be sited much further forward than it, and the increased mass of the proposal when taken alongside its depth is considerably larger, with few design features to break up the flank sides. The limited reduction in height of the two rear gables in comparison to the main front facing part, exacerbates the depth and scale of the proposed building.
11. Although, views of the building would mostly be seen from private gardens this is not a reason to allow poor design. The design, scale and massing of the rear projection in the form proposed does not sympathetically relate to the main part of the building and unacceptably elongates it, which would be harmful to the character and appearance of the area.
12. The proposed roof features a hip and some gables, and would create several different roof planes, with a complex roof design. However, it is noted that the existing property also has a relatively complicated roof design with different gables, and there are many other examples along Riddlesdown Road of other complicated roof designs. The height and scale of the proposal would also be a satisfactory transition between no.88 and no.90A, and notwithstanding the harm identified above relating to its scale and mass, its roof design would not be out of character with the area.
13. The excavated basement level would allow off-street parking for the proposed development. Moreover, it would help to utilise the potential of the site and assist with optimising it (subject to other considerations). In addition, with the number of other excavated levels on properties along Riddlesdown Road, its appearance would not be out of character, and the appearance of any retaining structures could adequately be mitigated through sensitive materials and/or planting secured by a condition. The loss of the existing trees across the site's frontage could also be compensated through additional planting, again secured by condition, including planting to the front of the proposed building. As such I do not share the objections regarding the excavated basement level in this case.
14. The proposed front balconies, required for providing outdoor amenity space for the occupiers of the flats, would be designed in such a way that they would be inset within the building, and they would also only be on one side of the front elevation of the property, nearest to no.88. I saw on the submitted information, that no.88 will have balconies on its front elevation, on its side nearest to the proposed balconies. Irrespective of the revoked SDG, the proposed balconies would be a small part of a larger well-design elevation that is set back from Riddlesdown Road, and they would not appear overly prominent or harmful to the character and appearance of the area.

15. It has been said that the proposal is an overdevelopment of the appeal site, however the harm identified above relates to the scale, mass and design of the rear projection of the proposal and its effect on the character and appearance of the area. It does not necessarily follow that this harm is arising from the proposal being over-development. The Council has not identified any shortfall in parking, cycle storage, refuse and recycling storage, outdoor amenity space, or the size of the proposed accommodation. The density of 9 no. flats at the appeal site does not, on the evidence before me and my own site observations, appear to be an over development. Moreover, it is in most respects an optimisation of the site and an effective use of the land.
16. The appellant has referred me to other examples of buildings containing flats nearby, including an appeal decision at no.88¹ that was allowed for a building comprising 21no. flats, before the Council's decision to approve the development understood to now be under construction.²
17. I have carefully considered the submitted documentation. In relation to no.88, there are some important differences, firstly that plot is much larger and deeper and was said to be a double plot, it was also understood to have been considered prior to the SDG being revoked, which is said to have been supportive to such developments. I also note that whilst its rear projection would be larger than the appeal proposal before me, there is a significant set down in its roof from the main part of the building, helping to create a subservient relationship to the rear element, and I saw on my site inspection that it is likely set on a lower level so only the roof of its rear part is mainly visible from the rear garden of the appeal site above the existing boundary treatment. As such, I do not find that development and the circumstances relating to it being granted planning permission to be entirely comparable to the appeal proposal. I therefore attach limited weight to it in my decision.
18. In terms of the other buildings containing flats nearby, there is insufficient information for me to accurately assess their rear extensions in regard to the appeal proposal, and they were not visible from the appeal site.
19. I therefore conclude that although I find most aspects of the proposal to relate well to the character and appearance of the area, I did find the design, scale and massing of the rear projection of the proposal to be harmful to the character and appearance of the area and to conflict with Policy D3 of The London Plan, The Spatial Development Strategy for Greater London, dated March 2021 (LP) and Policies DM10 and SP4 of the Croydon Local Plan 2018 (CLP), insofar as they require development to be high quality, and respond to local character and distinctiveness and respect the scale height, and massing of the surrounding area.

Living conditions

20. The Council has said the proposed development is likely to have the most effect upon the occupiers of no.90A. I saw on my site inspection that the property at the appeal site and no.90A are both detached properties in a staggered relationship, no 90A is set further forward, with its rear elevation wholly in front of no.90. No.90A also has a much smaller rear garden in comparison, it has some planting to its rear side, and the ground level also rises significantly across its rear garden,

¹ Ref. APP/L5240/W/20/3254443

² Ref. 22/00148/FUL.

being much higher at its rear boundary compared with its rear elevation. Although the position of no.90 already affects the outlook for the occupiers of no.90A, from within their property and rear garden, no. 90's relatively modest depth, together with the space between the respective properties, particularly the space at the rear side of no.90A, provides some relief and ensures that its existing outlook is not harmed.

21. Notwithstanding the appellant's comments that the proposal would represent an improvement to the current outlook for the occupiers of no.90A, the proposed development would introduce a three-storey building closer to it, immediately adjoining its rear elevation, removing the space between the properties and extend significantly into the rear, harmfully enclosing the rear garden of No.90A. Furthermore, given the proposal's considerable height and rear projection, combined with the existing planting and levels changes, it would unacceptably harm the outlook from within no. 90A and within its rear garden. Whilst the proposal may be only slightly longer than the existing rear elevation of the property at the appeal site and that part of its would be set away from the boundary between the respective properties, its significantly increased size, scale, and mass along that side of the property would be visually dominant. It is noted that part of the proposed building nearest no. 90A would have a hipped roof, and although this could lessen some of the effect, it would not be sufficient to mitigate the identified harm.
22. The appellant has referred to 45-degree lines from both within no.90A and within its rear garden. Whilst the appellants diagrams may show a degree of improvement to the current situation, the diagrams do not take into account the current setback of the property at the appeal site from no.90A and their respective separation, the proposal would take away this space, and significantly increase the scale and bulk of the building near to the side boundary of no.90A. Moreover, whilst no doubt helpful in some situations, the most relevant development plan policies do not refer to the 45-degree line as a guide for assessing outlook.
23. It is acknowledged that no. 90 has a large first floor bedroom window on its side elevation, that already gives rise to some potential overlooking, towards no 90A, which is partly obscured by some intervening planting. The proposed development on its side nearest to no.90A includes a living room window at ground, first and second floor level, along with an ensuite bathroom window at ground and first floor level. Whilst the ensuite windows could be conditioned to be obscure glazed, and the ground floor windows could be screened by appropriate boundary treatment, the first and second floor living room windows would provide a degree of overlooking towards no.90A. In view of the existing situation, the change in terms of privacy effects for no. 90A would not be materially different. It is noted that some other windows on its side would partly be obscured from some views within no.90A's garden due to the step in of the proposed building. As such, there were no unacceptable privacy issues.
24. In view of the separation distances, said to be some 10 metres or so to the flats currently under construction at no.88, and a much further distance to the properties on Oakwood Avenue, together with the intervening planting and levels changes, I am content that there would be no harmful effects upon the living conditions of the occupiers of other neighbouring properties in terms of outlook, loss of light, or privacy. It is noteworthy that the Council found similarly in this respect.

25. The appellant has referred to the development under construction at no.88 in support of their proposal. It is accepted that it would be four storeys high and is significantly larger in scale to the appeal scheme, that it extends further to the rear than proposed in this case, and some of the accommodation maybe orientated to face towards its boundary with the appeal site. However, its relationship with its adjoining properties is also much different to that between the appeal scheme and no.90A. Furthermore, it is set farther away from its side boundaries than the appeal proposal and has a much lower rear part in comparison to the appeal scheme. As such, its existence has not altered my findings as set out above.
26. I therefore conclude that whilst the proposal would not have harmful effects upon the privacy for neighbouring occupiers, it would be harmful to the living conditions of the occupiers of no.90A due to its effect on their outlook from within the property and their rear garden and it would be a significantly enclosing feature. In doing so, I find the proposal to conflict with LP Policy D3 and CLP Policy DM10 insofar as they require new development to deliver an appropriate outlook and protect the amenity of the occupiers of adjoining buildings.

Sustainable transport contribution

27. CLP Policy SP8.12 seeks to secure electric vehicle charging infrastructure throughout Croydon, and Policy SP8.13 requires contributions from new development towards electric vehicle charging infrastructure, car clubs and car sharing schemes. In addition, CLP Policy SP6 seeks to reduce greenhouse gas emissions and minimise CO2 emissions and LP Policy T5 requires development to help remove barriers to cycling and create a healthy environment in which people choose to cycle.
28. Whilst the proposal would provide 12 no. off-street vehicle parking spaces, and secure cycle parking could also be provided at the site, along with the provision of vehicle charging points. It is said to be located within an area with a PTAL rating of 1b, representing its relatively poor accessibility to public transport in comparison to other parts of the Greater London area.
29. Against the policies outlined above, it would be reasonable and necessary for the Council to seek a contribution towards improvements to sustainable travel in the Croydon from the proposed development. The Council have said a contribution of £1,500 per flat would be required, which would go towards traffic orders at around £2500, signing, lining of car club bays, EVCP provision including electrics and set up costs for the car club and the general expansion of the EVCP network near the appeal site. This level of contribution is not unreasonable for the scale of the proposal, and I note the appellant's have stated their intention to provide a legal agreement to secure this, however no such legal agreement is before me for consideration.
30. Accordingly, in the absence of a legal agreement to secure a sustainable transport contribution, the proposed development would be contrary to LP Policy T5 and CLP Policies SP6, SP8.12, and SP8.13, the relevant requirements of which, are set out above.
31. The Council referred to the proposal conflicting with LP Policy T6.1, and CLP Policies DM30 and SP8.3 on this main issue. Policy T6.1 is mainly focussed on residential parking requirements, Policy SP8.3 relates to locating urban development near to public transport, and Policy DM30 addresses cycle and

vehicle parking in new developments. Consequently, I did not find these policies to be directly determinative on this main issue.

Other Matters

32. The appellant has referred to their pre-application enquiry with the Council prior to this application being made. It is unfortunate that the enquiry did not result in an acceptable scheme being submitted, and I acknowledge the changes made by the appellant to address some of the Council's concerns. Nevertheless, in my decision I have assessed the planning merits of the appeal scheme before me.
33. I have also had regard to objections from local residents and others received in addition to the main issues above, including but not limited to, the effect of the proposal on trees; the quality of the accommodation and whether future occupiers would have satisfactory living conditions; flood risks; fire safety implications; the impact on parking in the local area; and the loss of the existing property. Whilst I can understand the concerns, subject to planning conditions as appropriate, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. In addition to the sustainable transport contribution, I have not been made aware of any unacceptable effects upon local services, or the need for any such contributions to make the development acceptable.
34. The appellant has referred to the presumption in favour of sustainable development, however the Council has stated that it has 5.3 years supply of housing (as of 1 April 2022) and its latest Housing Delivery Test result was 160% (2023). As such, the presumption in favour of sustainable development referred to by the appellant and embodied in paragraph 11 d) of the Framework is not automatically engaged in this case.
35. The appellant has also said that the principal of the demolition and redevelopment at the appeal site is acceptable; that future occupiers would have satisfactory living conditions; the parking, access, and egress is acceptable; that there would be no harm to protected species; no unacceptable flood risks, and that new planting would be proposed partly off-setting some of the trees to be felled. These matters are noted, but they are likely to be requirements of any well-designed development and they neither weigh in favour nor against the proposal.

Planning Balance and Conclusion

36. Although I found in most respects the proposed development would have an acceptable effect on the character and appearance of the area, which are neutral factors, I have found that the rear projection of the proposed development would be harmful to the character and appearance of the area, and that the proposal would be harmful to the living conditions of the occupiers of no.90A from its unacceptable effect on their outlook and providing a significantly enclosing feature. In addition, with there being no mechanism to secure the required sustainable transport contribution, the proposal would conflict with the relevant policies of requirements of the development plan by not reasonably contributing towards sustainable transport improvements. In view of my findings, I regard the proposal to constitute conflict with the development plan as a whole, and I attach significant weight to it in my decision.

37. The factors that weigh in favour of the proposal include its contribution to Government's objective of significantly boosting housing supply (a net gain of 8 new dwellings), on a small site, that would make an effective and optimum use of underutilised land, in a well-connected area, that may relieve some pressure to develop on Green Belt land. It is also said that the site could be developed quickly. Future occupants would exercise purchasing power in local shops and services in Purley, helping to support its vitality. In addition, its development would create construction jobs and economic activity that would contribute to the local economy. Even taking all of these benefits collectively together, given the scale of the proposed development they attract modest weight at most.
38. I therefore conclude that there are no considerations, including the Framework and those matters raised in favour of the scheme when considered either individually or collectively that outweigh the identified conflict with the development plan. For the reasons given above, the appeal should be dismissed.

A Hunter

INSPECTOR