
Appeal Decision

Site visit made on 4 December 2024

by **M J Francis BA (Hons) MA MSc MCI(A)**

an Inspector appointed by the Secretary of State

Decision date: 31 January 2025

Appeal Ref: APP/L5240/W/24/3344668

61A Windmill Road, Croydon, London, CR0 2XR

- 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 Ms Charmaine Daguiar against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 23/02062/FUL.
 - The development proposed is demolish 3 storerooms and 2 garages and erect a 3-bedroom, 5 person detached family house with a partial two-storey.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs has been submitted by Ms Charmaine Daguiar which is the subject of a separate decision.

Preliminary Matters

3. For clarity, the description in the banner heading above has removed 'Application Form- Entrance on St Saviours Rd', as written in the description on the application form.
4. The National Planning Policy Framework (the Framework) was revised in December 2024 and the main parties have been consulted on the implications of the revised Framework's publication on the appeal.
5. Planning permission was previously granted in 2020¹ for this proposal but the development was not implemented.

Main Issues

6. The main issues are:
 - the effect of the proposal on the living conditions of future occupiers with regard to outlook and privacy;
 - whether the proposal would promote the use of sustainable transport; and
 - the effect of the proposal on the character and appearance of the area.

¹ Ref 20/0094/FUL

Reasons

Background

7. The proposed development is on a linear site that contains three, stone-built storerooms with flat roofs. Next to these are four garages, two of which would be demolished for the proposed part one and part two storey, detached dwelling. The rest is covered by tarmac and paving slabs.
8. The site is accessed by a back lane off St Saviours Road. It is at the rear of Windmill Road and abuts the back gardens of residential properties on both Hartley Road and St Saviours Road. The area is largely residential with traditional two storey housing along Hartley Road and Windmill Road, except for the properties that back onto the rear lane along Windmill Road. These are three storey, terraced properties, with shops on the ground floor which are part of a designated shopping parade. St Saviours Road has both traditional terraced housing, and two and three storey modern terraced housing and flats.

Outlook and privacy

9. The windows of the proposed bedrooms and living/dining and kitchen area on the ground floor would overlook the courtyard area. Whilst this would provide an adequate amount of outdoor space for the property, it would have a restricted outlook because of the enclosure of the site by the surrounding walls. Notwithstanding this, it is a small dwelling with a limited footprint and there is no evidence to suggest that appropriate planting and greenery could not be used to enhance this space. Moreover, the house would have several skylights on the roof of the ground and 1st floor which would increase natural light to the property.
10. The distance between the proposed development and the surrounding housing has been highlighted by the Council. There is no dispute, however, that it would cause overlooking of neighbouring properties, which I do not disagree with. Nonetheless, despite this, because of the height of properties along Windmill Road, with often dormer windows to the rear, there would be some overlooking into the private outdoor space of the proposal. CLP Policy DM10.6 requires that development does not result in direct overlooking in main rear or private elevations and private outdoor space. I am not satisfied from the evidence before me that the privacy of the future occupiers would be protected in this regard.
11. I therefore conclude that the proposal would harm the privacy of the occupiers of the development with regards to overlooking. It would not accord with Policy D6 of The London Plan, 2021, (LP), Policies DM10 and SP4 of the Croydon Local Plan, 2018, (CLP) which collectively and amongst other things requires outdoor amenity space to be private and usable. Additionally, it would not accord with paragraph 135 f) of the Framework.

Sustainable transport

12. The proposed development is designed to be car free. It is within a Controlled Parking Zone (CPZ), and whilst the main parties dispute the Public Transport Accessibility Level (PTAL) of the site, I understand it to be PTAL 3. The location of nearby bus stops and the site being in walking distance of West Croydon railway station is included in the evidence.

13. The site is accessed off St Saviours Road between a garage to the rear of No 73 Windmill Road and the side elevation of the modern flats on St Saviours Road. As well as the stores, the two garages which are proposed to be demolished had 61A stickers on them. However, there is no substantiated evidence of the ownership of the other garages, and who would be using these.
14. An annotated drawing submitted with the evidence shows two potential parking spaces in front of the entrance to the proposed dwelling that could be utilised for disabled parking. The appellant considers that these would mean that no on-street parking is required. However, if used for parking, no turning area is shown, and whilst there is a dropped kerb onto St Saviours Road, there is no visibility splay. I saw that vehicles using this access need to drive onto the pavement before they would have adequate visibility up and down the road.
15. Moreover, there is no substantive evidence as to whether other properties on Windmill Road regularly use this area for parking, although cars are shown within the appellant's evidence and a car was parked there when I visited. Notwithstanding this, the appellant has referred to a right of way at the rear for several properties on Windmill Road. Therefore, based on the limited evidence, there would be conflict with potential users of this access lane, including pedestrians, cyclists and vehicle drivers.
16. As the proposal is within a CPZ and is proposed to be car free, a legal agreement is required to prevent occupiers obtaining a residential parking permit and to ensure the new dwelling would not add to on-street parking. A financial contribution of £1,500 would additionally contribute to sustainable transport measures, electric charging and the provision of car clubs. Whilst the Council has acknowledged that such an agreement had not been sought in the previous permission², they refer to a legal judgment, where securing such a payment was seen as fair and reasonable. Furthermore, LP Policy DF1 requires that development proposals provide infrastructure and other relevant policy requirements to ensure they are sustainable. The LP post-dates the previous permission and is relevant to this case.
17. Therefore, I conclude that without a signed legal agreement, the proposal would not promote the use of sustainable transport. It would not accord with LP Policies T1, T3, T4 and T6 and CLP Policies SP6, DM29 and DM 30 which collectively support the delivery of public transport, walking and cycling and sustainable design, with mitigation provided through financial contributions.

Character and appearance

18. The Council has referred to a revised Framework in 2021, and the publication of the LP that have resulted in the refusal of the application, despite the previous approval. However, since 2021, the Framework has been revised in both 2023 and 2024.
19. Policies D3 and D4 of the LP require making the best use of land and the delivery of good design, whilst CLP Policies DM10 and SP4 require high quality development which respects local character and the scale and layout of the site. Whilst the CLP policies would have been part of the development plan under the

² Ref 20/0094/FUL

previous approval, there is no substantiated evidence of the assessment and policies that were used. However, the design of the proposal is the same as previously approved. It occupies a relatively small area of land within a site that, from what I saw, has little or no use. Whilst the proposal does not reflect the character of adjoining properties, it has been carefully designed to optimise a small site for the creation of a family sized dwelling.

20. The proposed dwelling would be constructed of brick, with metal cladding. Whilst part of the building would be two-storey in height, the majority would be single storey reflecting the height of the existing buildings. Although it would not replicate the Victorian character of the area, and the roof form would be at odds with that found surrounding it, the Framework advises in paragraph 135 that whilst development should be sympathetic to the surrounding built environment, it should not prevent or discourage appropriate innovation or change.
21. Nevertheless, it would be an infill site, and one that has previously been built on. To ensure that the building would not overlook neighbouring properties, it has been designed to be inward looking, with on the ground floor, windows around an open courtyard. Whilst this would create blank façades, its brick construction would not be unlike many buildings and walls that are found in the surrounding area. Although its front door opening would be to the side, and the size of the site and building would limit landscaping, it is within an existing residential area with connections to amenities and services where higher density development should be promoted.
22. Based on the scale of the development and its containment within the site, it would not be dominant or incongruous, despite its design differing from those buildings around it. Whilst the need for quality design is supported in the LP, and there has been some change in emphasis with regards to design within the Framework, I am not convinced that the same scheme, which is of a high-quality design, is no longer in line with the policies within the development plan and the Framework. Furthermore, whilst the Council refers to the Suburban Design Guide Supplementary Planning Document, 2019, being revoked in 2022, which was a planning consideration in the approval in 2020, there is no substantiated evidence as to how this has affected the change in the Council's decision with regards to the design of the development.
23. Moreover, the site is not in the setting of a listed building or in a conservation area - it is an underused area of land to the rear of properties. Therefore, I conclude that the proposed development would not harm the character and appearance of the area.
24. It would accord with the design led approach in LP Policies D3 and D4 as set out above, and CLP Policies DM10 and SP4 that require high quality development that respects local character and the scale and layout of the site. Furthermore, it would accord with chapter 12 of the Framework that seeks to create well-designed places.

Other Matters

25. Whilst pre-application advice was not sought by the appellant, they did contact the Council who raised fire safety regulation as relevant to a future application. A Fire Statement was submitted. Whilst a refusal for development which had previously been granted planning permission would likely have been a surprise to the

appellant, particularly as the character and condition of the site had not changed, any differences of opinion in this regard are between the main parties. I have determined the appeal on what I saw and the evidence before me.

26. The appellant's evidence includes four planning permissions³ for new housing within residential gardens in the borough of Croydon. However, the appeal site is not within a residential garden, and the limited evidence does not include any assessment of these cases or explain how these examples are comparable to the appeal site. Therefore, they provide limited weight in the determination of this appeal.

Planning Balance

27. There is no dispute between the main parties regarding the principle of developing a disused site for housing. Moreover, it is acknowledged that the site is within an existing residential area, and that there is a shortfall of housing with three or more bedrooms. Whilst it would contribute to the borough housing target, I have not been presented with any evidence to suggest that there is an overall shortfall in the delivery of housing within the borough.
28. The development of the site would provide some employment and economic benefits during construction, and during its life through accessing local services and facilities. However, although I do not consider that it would harm the character and appearance of the area, this would not outweigh the harm that I have found with regard to the provision of sustainable transport and privacy for future occupiers.

Conclusion

29. The proposed development conflicts with the development plan when considered as a whole and whilst there are material considerations in favour of the development, these do not outweigh the identified harm and warrant a decision other than in accordance with the development plan.
30. For the reasons given above, I conclude that the appeal is dismissed.

M J Francis

INSPECTOR

³ Ref 21/04630/FUL; Ref 23/00347/FUL; Ref 21/04797/FUL; Ref 19/03349/OUT