



Appeal Decision

Site visit made on 4 December 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 05 February 2025

Appeal Ref: APP/L5240/W/24/3341899

4 More Close, Purley, Croydon CR8 2JN

- 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 and Mrs Singh against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 23/02956/FUL.
 - The development proposed is the demolition of existing dwelling and the construction of a part-three/part four storey building to accommodate 9 flats with associated vehicular access, vehicle and cycle parking and refuse provision along with hard and soft landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised drawing, 'proposed ground floor plan', was submitted with the appeal. The Council has seen and commented on this, and having regard to the principles established by 'Holborn'¹, by accepting this drawing, consultees have not been prejudiced. I have therefore determined the appeal based on the revised drawing.
3. A revised version of the National Planning Policy Framework (the Framework) was published in December 2024. The main parties have been consulted upon the implications of the revised Framework's publication on the appeal.

Background and Main Issues

4. One of the reasons for refusal was the failure to demonstrate that the proposal would not have an adverse impact on ecology and protected species. A Preliminary Ecological Assessment (PEA)² was submitted with the appeal. The Council now consider that the proposal would not result in any significant ecological impact, and no longer wish to contest this reason for refusal. Having looked at the evidence I have no reason to disagree.
5. Therefore, I consider that the main issues are:
 - the effect of the proposal on the character and appearance of the area, including trees;

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

² Chase ecological consultancy, 26 January 2024

- the effect of the proposal on the living conditions of future occupiers with regards to outlook, daylight and privacy;
- whether the proposal would provide satisfactory parking arrangements and promote the use of sustainable transport; and
- whether there are appropriate measures for waste disposal.

Reasons

Character and appearance

6. The appeal site is a detached, two-storey, modern dwelling. It is located on More Close, a cul-de-sac, within a residential area. Dwellings on the southern side of More Close, such as No 4 More Close (No 4), are built lower than the adjoining road as the land slopes steeply towards the south. To the rear of the house is a large, terraced, landscaped garden which includes several trees which are subject to a Tree Preservation Order³ (TPO).
7. More Close is largely characterised by detached houses and dormer style bungalows in spacious gardens. However, No 1 More Close⁴ (No 1), No 2 More Close⁵ (No 2) and No 3 More Close⁶ (No 3), have been replaced by small blocks of flats. The existing house at No 4 is the same design as originally found at No 3.
8. The proposed development would infill most of the full width of the site, with only one metre between it and No 3, and under two metres from the boundary with No 6 More Close (No 6). Whilst it would be set forward so that it aligns with the flats at No 3, next to it, it would be higher and wider than this building. Although similar in form to No 3, without setbacks on the 1st and 2nd floors, the scale and massing of the building would be greater, resulting in it appearing much larger from the front, and oversized for the site.
9. It would also be constructed forward of the detached, two-storey dwelling at No 6. This house, which is taller than No 4, has a hipped roof and a long front boundary which curves at one end, and garden space either side. The side garden at No 6, and the gap that this creates, would result in the western elevation of the proposal being highly visible from the street. This is unlike the siting of the flats at No 3, close to the boundary with No 4. The proposed building would be large and squat in design, and with its flat roof and position along the boundary with No 6, would overshadow it, and be overly prominent.
10. Although the appeal property is built of a darker brick, the general characteristics of the area are houses built in buff brick with white vertical timber cladding and stone detailing. The proposal would be constructed of red brick like the other adjoining blocks. However, the top floor would have bronze cladding. Whilst differing materials have been used for the adjoining flats, this would be unlike most of the buildings nearby and would appear unsympathetic to the general characteristics of the area and those houses adjoining it.
11. The residential blocks that have been built in More Close are sited at the bottom of the road leading from the junction with Russell Hill, close to the

³ Tree Preservation Order No 143, No 1 Russell Hill, Purley

⁴ Ref 19/04564/FUL

⁵ Ref 18/03342/FUL

⁶ Ref 18/06093/FUL

corner. Therefore, they form a cluster, separated from the detached housing beyond. Whilst the scale of the proposed building would be comparable to these other flats, and built at a similar distance from the boundaries as the existing house, an additional block in this corner area would overwhelm the character of this pleasant road of detached housing.

12. Policy DM10 of the Croydon Local Plan, 2018, (CLP) says that development should seek to achieve a minimum height of three storeys. However, it also requires development proposals to respect the development pattern, layout and siting, scale, height and massing of the surrounding area. This proposal with its robust and cramped appearance would overwhelm, rather than provide a transition between the flats and the characteristic housing in the rest of the close, which is spacious in form.
13. Another key characteristic of More Close, is that it is fringed by trees. This is particularly seen in the gap between Nos 4 and 6, and includes the highly visible, tall beech tree, T1 which is growing at the rear of No 4, high above the existing house. The tree is subject to a TPO, and is a significant and prominent feature when viewed from the road. This, and two sycamore trees, T3 and T4, which are also part of the TPO, would be most affected by the proposal, other than trees that are intended to be removed. This is documented in the submitted Arboricultural Impact Assessment and Tree Protection Strategy⁷ (AIA). Whilst BS5837:2012⁸ recommends that structures should be outside defined Root Protection Areas (RPAs), the RPAs of T1, T3 and T4 would be affected.
14. Although the Council consider that the proposed car stacking system would be incongruous, it is positioned at the rear of the site, would use similar timber cladding to the proposed flats, and is unlikely to be seen from the close. Whilst it is not a typical feature in this location, it would not harm the appearance of the area. To install it, ground levels would be reduced by 2.08m over a small section within the RPA of T1 and T4, as well as further excavation outside this. Additionally, two parking bays, footpaths and a small patio would be constructed within the RPAs of these trees. This would result in an incursion of 28% of the total RPA of T1.
15. A green root bridge system, which would be installed prior to construction, is proposed within the RPA of T1. Because of the proposed methodology, it has been calculated as covering less than 1% of the RPA, excluding the proposed works for the car stacker. Whilst no retaining walls would be needed, it would require a barrier. However, no substantive evidence as to how this would be installed has been provided, and despite the appellants suggesting using a condition, I am not persuaded that the tree would not be harmed during this procedure.
16. Other proposed mitigation would be fencing for both demolition and post-demolition stages, as well as soil improvement works. However, to provide the parking, there would be a need to lift the crown of T1 to provide a 4m clearance above the parking area. Moreover, branches on the northern side would need to be shortened to allow for the positioning of scaffolding.

⁷ MDJ Arboricultural Consultancy Ltd, June 2023

⁸ Trees in relation to design, demolition and construction – Recommendations, BSI Standards Publication

17. Whilst the evidence documents that the crown lifting is unlikely to affect the health, stability and appearance of T1, the proposed parking underneath the beech tree, with leaves dropping, would likely result in future pressure to prune it. Whilst this would require an application to the Council, further works to the trees could result, and beech trees are intolerant of heavy pruning.
18. Despite the views of the appellants, the tree is likely to cause shading at the back, particularly for the lower ground floor flat, whose main windows and outlook on the southern side of the building would be under the canopy of the tree. Whilst this may be beneficial in hot weather, at other times the shading may not be welcome. This would not be comparable with the existing situation where the current residents occupy the whole house and access the entire garden.
19. Additionally, there is no substantiated evidence of how services and drainage would be installed and whether these would affect the roots and health of the trees. Therefore, although tree protection plans would be in place during demolition and construction, given the importance of the trees, I remain concerned that the proposed mitigation would not be sufficient to offer appropriate protection. This would risk the long-term health of the trees, many of which have a life expectancy of at least twenty years. I therefore conclude that this, combined with the scale and design of the proposed development, would cause significant harm to the character and appearance of the area.
20. The proposal would not accord with Policy D3 of the London Plan (LP), 2021, and CLP Policies DM10 and SP4, which collectively require development to respect the existing characteristics of a place. Additionally, it would not accord with CLP Policies DM10, DM28 and SP7, and LP Policy G7, which together seek to retain and protect existing trees and vegetation.

Living conditions of future occupiers

21. The proposal would provide nine flats over four floors. This includes a basement flat which would be built into the adjoining land. The dining room has been relocated to the rear, although the kitchen at the front of the building would have no windows. Whilst this is not a habitable room and natural light may not be a requirement, it is some distance from the rear of the building. Therefore, as a result, only limited natural light would be filtered into this room from the living/dining area.
22. On the eastern side elevation of the building that faces No 3, the full-length windows for the single bedroom in the basement flat would be within a lightwell, located only one metre from the adjoining fence separating it from No 3. Although there would be grass and landscaping outside the room, this would be within an enclosed space between two, relatively high, buildings, and this would not mitigate against the lack of outlook from this room. Whilst a similar scenario is stated by the appellants to have existed when the site at No 3 was developed, I am not aware of the full circumstances and whether it is comparable to this appeal site.
23. The private patio area for the basement flat would have a green buffer zone of planting next to the patio, with curved wooden fins providing privacy around window and door openings. Consequently, the privacy of the occupiers would not be harmed.

24. However, despite this, I conclude that the living conditions of the occupiers of the basement flat would be harmed because of a lack of daylight, and only limited outlook from some rooms. Therefore, the proposal would not accord with CLP Policy DM10, which amongst other things, requires high quality design which respects layout and siting, as well as adequate sunlight and daylight to potential future occupants.

Parking and sustainable transport

25. The site is not in a Controlled Parking Zone (CPZ) and has a Public Transport Accessibility Level (PTAL) of 3. Policy T6 of the LP states that for a site in outer London with a PTAL 3, a maximum of 7.5 parking spaces should be provided. Instead, there would be six parking spaces, including one for disabled persons. However, there is limited substantive evidence as to how the disabled space would become available to a future blue badge holder, if this space had previously been leased out to occupiers.
26. Four of the spaces would be in a car stacking system. The position of the car stacking, despite the assurances of the appellant, is next to the boundary of the site, and does appear to be in a restricted position, close to the other parking space. Whilst there would be an opportunity to familiarise occupiers with the use of the stacking system, the position and accessibility of it may mean that some would not wish to use it.
27. Moreover, although car parking is provided, it is limited. Three of the flats would have three bedrooms, and three would have two-bedrooms. Family sized properties may well own a car, and there is a strong likelihood that nine individual flats would have visitors who arrive by car, with the only parking being on-street. Therefore, based on the evidence, and from what I saw of the numbers of flats within the immediate vicinity, there would be pressure on parking in the area.
28. More Close is a cul-de-sac. Based on the width of the road, and vehicles being able to pass each other, parking is likely to be restricted to one side of the road. Furthermore, the spacious residential plots, with wide openings for driveways, limits on-street parking. Whilst previously, other similar developments were not required to undertake on-street parking surveys, the cumulative effect of an increase in residents as a result of the construction of blocks of flats within More Close, led the Council to request such a survey. This is not within the evidence. Therefore, I am not persuaded that the development would not result in parking on the adjoining road, which would cause parking pressure and congestion within the area.
29. To manage car use and contribute to sustainable transport in this location, the Council requires a planning obligation. This is to prevent future occupiers applying for car parking permits from within an existing or any future CPZ and season tickets from Council run car parks, as well as providing a sustainable contribution of £1,500 per unit and 3 years free membership to a car club. Although a draft Unilateral Undertaking (UU) was submitted with the appeal, it was not signed or dated. Despite this, and based on the evidence before me, I conclude that the proposed development would not provide satisfactory parking arrangements and promote the use of sustainable transport.
30. It would not accord with LP Policies DF1, T4 and GG3, CLP Policies SP8, DM29 and DM30, which collectively, and amongst other things, requires mitigation,

including through financial contributions, adequate car parking, the provision of sustainable transport, and not affecting highway safety.

31. The Council considers that the proposal does not accord with LP Policies T2 and T5 and CLP Policy DM16. However, there is limited substantive evidence that the proposal would not support walking or cycling, as well as there being access to open space. Furthermore, LP Policy T3 relates to transport capacity, connectivity and safeguarding, mainly in development plans, and is not relevant to this individual housing site, nor Policy D1 which is a strategic policy for growth.

Waste disposal

32. A refuse store providing sufficient bins and storage would be located at the front of the building. The Council's Waste and Recycling Planning Document, 2015, (WRPD) states that a maximum distance of 20m should be measured from the furthest point within the storage area to the loading position at the back of the waste vehicle, and that where there is a ramp, that this should have a maximum gradient of 1:12.
33. The revised plan shows a distance from the door of the refuse store to the kerbside as being 18.7m, and the gradient of the ramp would be 1:12.5. This would be acceptable. However, whilst the revised plan is purported to now show a 2m wide footpath, the submitted evidence does not convince me that this has been achieved, or whether there would be room at the front of the site to provide this. Therefore, I conclude that based on the evidence, the proposal would not achieve appropriate measures for waste disposal.
34. It would not comply with LP Policy DM13 as the proposal would not be easily accessible by operatives and their vehicles.
35. The Council refer to LP Policy SP8, transport and communication. However, despite my findings on the storage and disposal of waste on the site, the evidence does not suggest that the removal of waste on the site would impede access to the adjoining footpath or road network. Therefore, it would accord with this policy, which amongst other things seeks to de-clutter the streetscape.

Other Matters

36. The appellant's evidence includes plans and details submitted for planning approvals at Nos 1, 2, and 3 More Close. However, despite being a similar form of development to the appeal site, which provides moderate weight, I have determined the appeal based on the evidence before me. Details of an application at No 6⁹ has also been supplied, however, this was not determined and is of limited weight.
37. The appellants refer to the dismissal of an appeal at No 5¹⁰, highlighting the differences between No 5 and the appeal site. They contend that based on the position and design of No 4, the proposal should be viewed in context with flats to the east, and would have a lesser impact on the character of the cul-de-sac than the proposal at No 5. Whilst the inspector does not refer to No 4, I have based my findings on what I saw on site and the evidence before me.

⁹ REF 21/05035/FUL

¹⁰ APP/L5240/W/23/3318465

38. Although third parties support more housing in the area to help the working age population and economy, they also suggest that more affordable housing in the area is required, which the proposal does not provide. However, there is no dispute that a large amount of outdoor space would be provided.
39. Whilst a similar scheme on the site was recommended for approval¹¹, the legal agreement was not signed, and the application was disposed of. Since then, the London Plan has been adopted¹² and the Suburban Design Guide Supplementary Planning Document (SDG), 2019, withdrawn. The Council contends that this has led to a different approach to provide high quality design, and that the numbers of houses required has been reduced. Despite the Council's change of emphasis, the appeal has been determined based on the evidence before me.
40. The appellants consider that CLP Policy SP2, Homes, should have been considered. Whilst the proposal would accord with this policy, the Council has confirmed that at the present time, they are meeting the required supply and delivery of housing.

Planning Balance

41. The proposed development would provide an additional eight housing units, with a large area of outdoor space, in a residential area within walking distance of local services. Moreover, it would provide some employment and economic benefits during construction, and during its life through accessing local services and facilities. However, the existing trees on the site make a significant and positive contribution to the visual amenity of the area. There would be development within the RPA of TPO trees, and despite the proposed mitigation, it would risk their long-term health and survival. This significant harm to the character and appearance of the area, is as well as the other harms that I have identified. Therefore, despite changes to the Framework that have been cited by the main parties, this does not lead me to a different conclusion.

Conclusion

42. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, including the Framework, that outweigh the identified harm and warrant a decision other than in accordance with the development plan.
43. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

M J Francis

INSPECTOR

¹¹ Ref 19/04478/FUL

¹² 2021