



Appeal Decision

Site visit made on 14 February 2025

by **David Wyborn BSc(Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 March 2025

Appeal Ref: APP/H5960/W/24/3350441

Land to the rear of 14 Cromer Villas Road, London, SW18 1PN

- 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 Alex Macaulay of Kinland Limited against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref is 2023/4327.
 - The development proposed is the erection of two residential units with landscaping and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the appeal stage, an updated layout plan and accompanying landscaping details have been submitted which show the external amenity area for each dwelling. The layout plan is amended by the addition of two dotted lines which identify the garden space at each end of the units.
3. I do not consider that this updated plan shows a substantial difference or fundamental change to the scheme, it simply highlights where the amenity space for each unit would be located and the size. This is a helpful clarification and I consider that there would be no procedural unfairness if this plan was accepted and I will deal with the appeal on the basis of considering this plan. I will treat the hard and soft landscaping details as indicative of what the appellant has in mind for this area and this could form the basis of a condition in any approval.
4. The information indicates that the appeal site is subject to a covenant that allows residents of 16-28 Cromer Villas Road¹ the ability to pass and repass over all the rear land the subject of the appeal. This right, in turn, allows them to be able to access the rear of their properties, including garages and storage buildings.
5. The presence of the covenant is a private matter and does not prevent the grant of a planning permission. In the event of any approval the covenant would be a private issue to resolve. However, even without the covenant, occupants of the dwellings Nos 16-28 would, in my view, still wish and need to retain the ability to access the rear of their properties from this area, including with vehicles to access storage buildings and garages opening onto this rear land. I have considered the appeal on that basis.

¹ In conjunction with 14 Cromer Villas Road which at the time of the covenant had ownership of the land.

Main Issues

6. The main issues are:

- whether or not the loss of protected trees would be acceptable, and
- whether or not the scheme would provide acceptable living conditions for future occupants having particular regard to privacy and outdoor amenity space.

Reasons

Trees

7. The rear land, behind Nos 14-28, is fairly narrow and broadly rectangular in shape, and is accessed via a single vehicle width drive from Cromer Villas Road. Within this rear land there is an unsurfaced track that leads along the back of the existing properties and allows access to the rear of the gardens, and to some garages and storage buildings. To the broadly north of the track is an overgrown area with a mix of trees and shrubs. The mix of trees include some sizeable horse chestnuts and other more modest height trees including elms, sycamores and another horse chestnut. The trees combine to form a linear feature with other trees that are located behind other properties to the east along Cromer Villas Road.
8. The two horse chestnuts at the western edge of part of the site are protected by a Tree Preservation Order, as are three elm trees located further to the east of the two horse chestnuts. The three elms are protected for their group value. This Preservation Order was confirmed on the trees in June 2023.
9. The two protected horse chestnuts are substantial and mature trees. Parts of these trees are visible above the ridges of buildings from public areas around the adjoining roads. The group of three elms are more modest trees and are visible from some adjoining properties, including from some garden areas and windows. I appreciate that the appellant does not consider the three elms worthy of protection because of their considered low quality, that they are not mature trees, and it is argued that they have little or no public amenity value. However, it is a matter of fact that they are protected as a group by the Order.
10. The elms are located in amongst other trees and together this treed strip makes a pleasant feature to this rear area of land. Even if the unprotected trees were to be removed, the three elms would then have more space to mature and could develop into an even more pleasant and important grouping of trees, reinforcing the verdant appearance of this space between built development. In this way, the group of elms are important and valuable trees.
11. I have very carefully considered all the arboricultural submissions in support of the scheme, including in respect of objections to the tree preservation order, and at the application and appeal stages. With the elms, it is argued, amongst other things, that they are likely to have a life of about 10-20 years, and their loss, with compensatory planting, would be the appropriate course of action with no harm to the arboricultural value of this rear area and there being longer term benefits. However, I am also conscious of the advice of the Council's Tree Officer and that the species of elm that are present are relatively disease resistant and should have a life span of longer than 20 years. It is the view of the Tree Officer that they have a slightly impaired condition, but do contribute as a collective and have a material conservation value.

12. Policy LP56 of the Wandsworth Local Plan 2023-2038 (adopted July 2023) (the Local Plan) sets out the approach to dealing with proposals concerning tree management and landscaping. In particular, the policy seeks to resist development that would result in the damage or loss of trees, including trees considered to be of townscape or amenity value, unless the tree is dead, dying or dangerous, or the tree has little or no amenity value and it is not possible to retain the tree as part of the development, or felling is for reasons of good arboricultural practice.
13. Policy G7 of the London Plan 2021 includes that development proposals should ensure that, wherever possible, existing trees of value are retained and if planning permission is granted that necessitates the removal of trees there should be adequate replacement based on the existing value of the benefits of the trees removed.
14. In this case, the development could go ahead without the need to remove the two protected horse chestnuts, but would require the removal of the three protected elms and other trees.
15. The removal of the three elms would not be required in terms of good arboricultural practice as they are presently in reasonable condition and have years of growth left. Furthermore, the elms are subject to a Tree Preservation Order for their amenity value and are visible as a group of trees from some surrounding properties. They contribute positively to the character of the surroundings and have amenity value, even with them being young to middle aged. I consider that the removal of these elms fall within the criteria where development should be resisted as a matter of policy. I coming to this view I have taken into account the comments regarding their susceptibility to Dutch Elm Disease.
16. The submissions include a comprehensive replanting scheme in conjunction with the development of the two dwellings. I accept that these would be appropriate species, including with replacement elms. However, I agree with the Council's Tree Officer that the planting appears very congested with trees and that the on-going maintenance would mean that they will likely need to be pruned at regular intervals such that the new planting may struggle to reach its full potential.
17. Indeed, there is a new tree proposed under the canopy of the large horse chestnuts which I consider could struggle to fully succeed and some new planting close to the new dwellings which in time could likely overhang the roof and overshadow some windows. Furthermore, other replacement planting would include trees positioned so as to potentially impede or detract from elements of the vehicular access and manoeuvring spaces along the rear of the properties in Cromer Villas Road. The planting could also, for some existing properties, appear to hinder or overhang some of the accesses to garages, stores and rear doorways.
18. The effect of this situation would be that elements of the planting would be such that they could be damaged or affected by the use of the area by vehicles, and could need to be cut back on a regular basis to facilitate good access or not to overhang or affect light to domestic windows. The result, even with many more trees planted than would be lost, would be that the proposed planting scheme would be likely to be much less effective than anticipated.
19. The proposed planting scheme could be protected by planning condition in any approval and/or by tree preservation order. However, the practical realities of the

planting, because of the drawbacks I have highlighted, are such that it would not be reasonable to prevent works to the trees in the future and the replacement planting scheme would be unlikely to be effective and reach its anticipated potential.

20. I appreciate the efforts that have gone into devising an arboricultural scheme and the technical details that support it. However, because of the narrowness of the site, and the access and residential needs of new and existing residents, I do not consider that the proposed replacement planting scheme would be a reasonable or effective alternative to the present situation.
21. Consequently, while I have taken into account all the arboricultural and other evidence in support of the appeal, I give greatest weight to the conclusions of the Council's Tree Officer. The loss of the protected trees on the site would not be acceptable or policy compliant, and this loss would not be outweighed by the proposed planting scheme, even in the longer term.
22. Drawing these matters together, I conclude that the loss of the protected elms would not be acceptable and that there is insufficient arboricultural reasons to justify their loss. As a consequence, the scheme would conflict with Policy LP56 of the Local Plan and Policy G7 of the London Plan which sets out the approach to tree management and landscaping.

Living conditions

23. Policy LP27 of the Local Plan provides housing standards for development. In terms of private outside space, the policy sets a minimum of 15sqm for dwellings with three or more bedrooms. The supporting text explains that external amenity space of all kinds must be fit for purpose, have sufficient privacy, preferably be of a regular shape and receive as much daylight and sunlight as possible.
24. This approach is reinforced by the National Planning Policy Framework (the Framework) which seeks to create places with a high standard of amenity for existing and future users.
25. In terms of external amenity spaces, the revised plans show that the two units would each have a side garden. The eastern unit would have a garden size of 15sqm and the western unit 49sqm. However, with the eastern unit, to provide a more private space, the area would need some form of fairly extensive landscaping along the frontage and this would likely compromise the useable space available. This garden space would also include the air source heat pump and the bin store, which while both enclosed within structures, would be items that could detract from the external environment for a modest sized garden. This eastern unit is a three bedroom dwelling and could be used for family occupation. Given the size and surroundings for the users of this garden, I am not satisfied that this space would provide the high standard of amenity required for future users of this three bedroom accommodation.
26. With the other unit, the proposed garden would be larger. However, it appears to be almost entirely under the canopy of the two large horse chestnut trees, and with another tree proposed for this area. It seems to me that this external amenity space would be severely compromised by the existing large trees within and overshadowing parts of this space, in proximity to the dwelling itself. With much of the garden space under the canopy of such large trees, I consider that this would

be a limiting factor in its enjoyment and use for occupants and would also potentially limit the success of any garden planting. This space would also be framed by fencing and the building on three of the four sides, and again this area would include the enclosed bin store and air source heat pump. I have taken into account the efforts shown in the submissions to landscape this space, however, in my view given its limitations it would seem unlikely to provide a suitable and pleasant amenity space for most residents of this three bedroom dwelling. Based on the circumstances, I am not satisfied that the proposed garden would be fit for purpose.

27. I do not consider that the space in front of the dwellings would provide suitable, private or practical amenity space given that this would incorporate the access through the site to the rear of the existing dwellings.
28. In terms of issues of privacy for the proposed occupants of the new housing, the residents in the existing housing in Cromer Villas Road would be likely to continue to use the rear access to their properties, both on foot and by vehicle. Even if this was to the regular extent explained by these residents, I do not consider that these comings and goings would create an undue privacy issue for occupants of the new housing. This is because views towards the ground floor windows and side garden spaces, provided the proposed frontage landscaping was in place, would likely be fairly limited and would be while neighbours were moving through the space. It is not unusual to have some intervisibility between spaces and adjoining residents in a built-up area.
29. However, I consider that privacy would be acceptable for the external amenity spaces only on the basis that it would be restricted to the side of the properties and with the type of hard and soft landscaping proposed. While this arrangement would provide sufficient privacy, the result is that these spaces would be limited and compromised in their quality such that they then would not provide the high quality of external amenity spaces that the Framework requires to be created.
30. Based on the above analysis, I conclude that the layout and design would provide future occupants with adequate privacy. However, for the reasons explained, the external amenity spaces, while in principle could meet the minimum area sizes, would not be fit for purpose because they would be unacceptably compromised. I therefore conclude that these external spaces would not provide suitable amenities for future occupants of the proposed three bedroom dwellings. As a consequence, the proposal would not accord with the approach and intentions of Policy LP27 of the Local Plan and the Framework with respect to the provision of dwellings with a high standard of amenity.

Other Matters

31. I have had regard to all the objections to the proposal, including from Fleur Anderson MP, and have found harm and policy conflicts for the reasons explained above.

Conclusion

32. The scheme would provide two family sized dwellings within the built-up area of the borough providing a boost to housing supply and adding to the mix of housing in the area. The dwellings have been imaginatively designed and would provide an interesting scheme in itself. The scheme would make efficient and effective use of

the land, in a reasonably sustainable location where occupants would have options to access local facilities and public transport. The design would involve a sustainable construction, including with green roofs, resulting in a high urban greening score, and with the units having renewable energy provision. There would be economic and social benefits during construction and in subsequent occupation. There would be contributions under the Community Infrastructure Levy. Furthermore, there would be no material harm to the amenities of adjoining residents, and the scheme would be a development that could be undertaken by a small or medium sized builder and be built out reasonably quickly.

33. These are all benefits of the scheme, however, as only two units would be provided, and in a Council area that can demonstrate a Framework compliant supply and delivery of housing, I attribute these benefits limited weight.
34. On the other hand, the development would not be acceptable because of the loss of the protected elm trees, with the replacement planting not outweighing this harm, and the scheme would not provide future occupants with acceptable living conditions because of the unsuitable external amenity space that would be provided. These are significant adverse aspects of the scheme and result in related policy conflicts. Indeed, the combined harm would be such that the scheme would not comply with the development plan when considered as a whole.
35. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case, the identified harm and related policy conflicts would be significant and would not be outweighed by the benefits, to which I attribute limited weight. Consequently, the conflict with the development plan would not be outweighed by other considerations.
36. Accordingly, I conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR