



Appeal Decision

Site visit made on 12 March 2025

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

an Inspector appointed by the Secretary of State

Decision date: 09 April 2025

Appeal Ref: APP/L5240/W/24/3349300

Adjacent 244 High Street, Croydon, London CR0 1NF

- 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 Sam Shah of Sterling Rose Home Ltd against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 24/01689/FUL.
 - The development proposed is described as “construction of a second floor to create 2 x C1 apartments; associated site alterations to include landscaping, retention of 3 parking spaces, pedestrian and vehicular access, with provision for refuse and cycle storage within No. 252 High Street.”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised on 12 December 2024 and later amended on 7 February. As the changes do not materially affect the main issues in this case, the parties have not been invited to comment further and there would be no unfairness as a result.
3. I saw on my site inspection that construction works were underway at the appeal site, but the proposed development the subject of this appeal had not commenced.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the building and the area, with particular regard to its scale and design; and,
 - the living conditions of neighbouring occupiers with particular regard to outlook and daylight in regard to the occupiers of the adjoining properties on Wandle Road.

Reasons

Character and appearance

5. The appeal site contains an ‘L’ shaped complex of buildings that have a frontage onto High Street, they extend along the side and rear of the appeal site. The buildings have been much altered and extended, they have many different roof heights and a varied design, including pitched and flat roofs. Along this side of High Street, the buildings are mostly tall and there is a very tall building on the

opposite side of the road. The building heights are generally much lower on nearby West Street and Wandle Road that are respectively located near to the side and rear of the appeal site. The part of the building where the additional storey of accommodation is to be added, is two-storeys high and is the lowest part of the buildings at the appeal site. The building is clad in brick under a part slate and part flat roof, there is only a limited view of this building from High Street, through a narrow gap between two properties. The rear side of this building adjoins the rear boundaries of no's 30,31,32, and 33 Wandle Road, these are two storey semi-detached properties with spaces between them.

6. The appeal site is also very close to the boundary of Laund Heritage Area, a Local Area of Special Character (LHA), designated in 2013 (it includes the properties and their rear gardens that adjoin the appeal site on Wandle Road), the area is said to comprise predominantly nineteenth century terraced residential properties, which are said to be well-preserved. In addition, nearby Providence Chapel and Elim Cottage are recognised by the Council as locally listed buildings, they are both brick built and face onto nearby West Street. In the language of the Framework, these are non-designated heritage assets. Paragraph 216 of the Framework says the effect on the significance of non-designated heritage assets should be taken into account in determining the application that directly or indirectly affect them, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
7. Notwithstanding the alterations to other parts of the buildings at the appeal site, the existing building the subject of the appeal has a modest scale, largely uncomplicated design and unassuming appearance, which ensures it is not overly conspicuous and it is seen differently to these other attached buildings. Moreover, its rear courtyard location and its close relationship with the two-storey properties on Wandle Road, means it is seen much differently to the taller street frontage buildings on High Street.
8. The proposed design includes a flat roof over part of it, along with a part pitched roof on its side nearest Wandle Road. The design of the proposal, particularly from its rear and side elevations would relate poorly to the existing building and appear as a disjointed add-on. This harm would be exacerbated by its increased height and flat roof, particularly from its rear and side elevations. Although the proposed fenestration and roof form on its front side would relate satisfactorily to the existing building, which also has a partly flat roof, the proposal would introduce a contrived and overly complicated design and roof form with different roof planes, that would harm the character and appearance of the building.
9. I don't doubt that the matching brick proposed and the use of aluminium cladding on its sides under a part tiled roof could in principle be appropriate external materials for a suitable extension to the building. However, in the manner proposed, particularly in view of the proposed aluminium cladding on its rear side, they would appear unconnected with the existing building and not part of a cohesive design.
10. The addition of the second storey of accommodation, even taking into account the current appearance of the building and that it has been set-in from the rear boundary, would still introduce a significantly taller and dominant addition to the building in this rear location, said to be some 8.5 metres tall (some 2.9 metres or so taller at its highest point than the existing building), creating a roof design and

form that would be visually jarring. There would be views of it between properties on Wandle Road and from within the courtyard itself, in addition there would also be views from the many surrounding private properties. Whilst the appearance of the proposal would not be highly visible from public vantage points, this is not a reason to justify poor design, which would be harmful to the character and appearance of the area. The appellant's comments about the proposal replicating the design and appearance of the building at the appeal site that fronts High Street are noted. However, given the much different height, proportions and rear/inner location of the building the subject of the appeal, I did not find such a design approach to be entirely appropriate.

11. The spaces between properties on Wandle Road that bound the appeal site, allow views of the building. The increased scale, and unsympathetic design and materials would harmfully contrast with the two-storey well-proportioned semi-detached properties that it would be seen against. As a result, there would be some harm to views out of LHA, these would weigh against the proposal.
12. In terms of the locally listed buildings, as these face onto West Street, and given their separation distances from the proposed development, along with the intervening structures, I am content that the proposal would have a neutral effect on them.
13. Whilst the additional landscaped areas within the courtyard would improve its current appearance, this would not off-set the identified harm above.
14. I therefore conclude that the proposed development would be harmful to the character and appearance of the area, and the proposal would conflict with Policy D3 of The London Plan, The Spatial Development Strategy for Greater London, dated March 2021 (LP) and Policies DM10, DM18 and SP4 of the Croydon Local Plan 2018 (CLP), insofar as they require high quality development that responds to existing character, enhances local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, and preserve and enhance the character, appearance and setting of Local Heritage Areas.
15. It is noted that CLP Policy DM10 says new development should seek to achieve a minimum of 3 storeys. However, Policy DM10 also says that this should be considered alongside the existing built context and its effect on the area. In this case, the additional storey, particularly as proposed, would be harmful to the character and appearance of the building and the area, which is considered to outweigh the requirement for the building to be a minimum of 3 storeys high in this case.

Living conditions

16. The rear elevations of no's 30,31,32 and 33 Wandle Road directly adjoin the building the subject of this appeal, which is said to be approximately 12.5 metres from their rear sides and said to be as close as 8.5 metres from some rear extensions on these properties.
17. Whilst the proposed new storey would be set in from the rear boundary wall by some 2.9 metres or so with a roof that slopes towards these properties, it would still introduce a significantly higher building mass (said to be some 8.5 metres or so at its highest) very close to the rear sides of these properties and their gardens.

Although there are tall buildings nearby, these are not directly adjoining no's 30,31,32, and 33, so their effect would be likely to be much different, particularly in terms of the effect on day light and outlook.

18. The increased mass and scale as a result of the additional storey of accommodation, even taking into account the tapered roof design and its distance from the rear boundary would harm the outlook for the occupiers of these properties, creating an unacceptable and oppressive sense of enclosure from within these properties and their gardens. I note the appellant's comments that the proposal has been reduced in size from that originally proposed, however that has not altered my findings. Nor has the argument relating to the approval of taller buildings nearby, as they did not have the same close relationship with those nearby properties as in this case.
19. The close arrangement of these existing properties and the proposed increased scale and mass of the proposed building could also significantly affect daylight to the rear sides of no's 30,31,32 and 33 and their gardens. I note the Council has submitted a diagram that shows there would be a considerable reduction in daylight, which they say would be contrary to a 25-degree rule and relevant BRE standards, and that it would have an unacceptable effect on these neighbouring occupiers. However, it is unclear if the Council's diagram is drawn to scale and accurately represents the situation at all four of the adjoining properties. In addition, to counter this point, the appellant has not provided a day light assessment to confirm that there would be adequate day light to these properties. As such, and in view of the close arrangement and the information before me, I cannot be certain that the adjoining occupiers would receive adequate levels of day light as a result of the proposals.
20. The appellant has drawn my attention to a development at Cherry Orchard Road. In that case taller properties were approved near to existing two storey residential properties. However, on the information provided the separation distances between the development and the existing properties was much greater than in this case. As such I did not find that example to be directly comparable to the appeal scheme and it has not led me to conclude differently regarding this proposal.
21. I also note the Council did not refuse an earlier application said to have a similar relationship with properties on Wandle Road for a reason relating to its effect on their living conditions. Whilst I can appreciate the appellant's frustration on this matter, the Council has explained why it has changed its position, and after undertaking my own assessment, this does not outweigh my findings above. It is also noted that there was no fall-back position from the earlier decision with it being a refusal of planning permission.
22. Given that the proposal is oriented to face into the courtyard, with only high-level roof lights on its rear side, I am satisfied that there would be no unacceptable privacy issues arising for neighbouring occupiers. In addition, due to the appeal building's orientation in relation to nearby buildings and spaces, I am content that there would likely be no unacceptable loss of sun lighting.

Public Sector Equality Duty and Human Rights

23. There have been comments made by an interested parties stating that there are two neighbouring occupiers that have health conditions, which are said to make

them more sensitive to the effects of the proposed development, particularly construction noise, disturbance, and dust, as well as privacy concerns. Based on the information before me, this indicates to me that these occupiers have a protected characteristic.

24. In light of this, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had due regard to the Human Rights Act 1998 (HRA) which at Article 8, requires that decisions ensure respect for private and family life, and the home, and Article 1 of the First Protocol relating to the protection of property, which are also engaged in this case. In reaching my decision, I have kept these interests at the forefront of my mind. However, they are qualified rights, and interference may be justified in the public interest. The concept of proportionality is key.
25. I recognise the paramount importance of the existing occupiers right to have their property, home, private, and family life respected and this is a primary consideration. Any adverse effects experienced from the appeal proposal could interfere with the neighbouring occupier's rights in respect of their property, home, private, and family life. Any such impacts would weigh against the proposal in these respects.
26. It is accepted that there would be some disruption to neighbouring occupiers from construction works, although there are construction works already being undertaken on other buildings at the appeal site, which is a separate matter to this proposal. The construction works regarding the appeal proposal, if it were to be allowed, would be for a temporary period. The use of a construction management plan condition, in the event the appeal was to be allowed, could be imposed to minimise such impacts, particularly regarding, dust, hours of work, noise, disturbance, and vibration. Whilst this would not remove the effects of construction works, it is anticipated that it would ensure that they were mitigated as far as reasonably practical. In addition, in my decision above I have identified that there would be no unacceptable privacy effects for neighbouring occupiers due to the window positions and the design of the proposal.
27. Having regard to the legitimate and well-established planning policy aims in respect of making an efficient use of land and buildings in well-connected areas and delivering sustainable development, a refusal of the appeal relating to its impacts in terms of privacy, noise, disturbance and dust premises would not be proportionate and necessary on the information before me, or consistent with the requirements of the HRA and my PSED duty contained in Section 149 of the Equality Act 2010.

Conclusion

28. In view of my findings above, I conclude based on the information before me that the proposed development would be harmful to the living conditions of neighbouring occupiers at no's 30,31,32 and 33 Wandle Road, in terms of its effect on their outlook and light. In doing so I find the proposal to be contrary to the requirements of CLP Policy DM10 that amongst other things seeks to ensure the

amenity of the occupiers of adjoining buildings are protected and there is no significant loss of daylight levels for adjoining occupiers.

Other Matters

29. I have had regard to the planning history for the appeal site insofar as it relates to the appeal proposal before me.
30. It is noted that the appeal site has a Public Transport Accessibility Level 6A, and it is in a well-connected and sustainable location, that the appellant has undertaken works to the buildings, which are said to have improved the appearance of the buildings and the area. These aspects, to an extent, weigh in favour of the proposal.
31. There have been issues raised by interested parties and local residents in addition to the above main issues, these include but are not limited to; the effects on living conditions of neighbouring occupiers; parking; waste disposal; impact on wildlife; position of ventilation outlets and property access for construction work. 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, access to property for construction works are rights between respective owners and are not usually land-use planning matters.

Planning Balance and Conclusion

32. I have found that the proposal would be harmful to the character and appearance of the area, and the living conditions of neighbouring occupiers, for these reasons there is conflict with the relevant policies of the development plan. 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. There would also be some harm to views from within the non-designated LHA arising from the proposal.
33. The factors that weigh in favour of the proposal include its contribution of 2 no. units of guest accommodation to the area, and that it would make an efficient use of the existing building in a well-connected and sustainable area. In addition, it would provide 3 no. off-street parking spaces and landscaping, although this would mostly be a private benefit. It is also acknowledged that the appellant is seeking to redevelop the buildings at the appeal site, and this would be part of the overall proposal, which could collectively improve the appearance of the appeal site. Future occupants would likely exercise purchasing power in local shops and services in the immediate area. In addition, its development would create construction jobs and economic activity that would likely contribute to the local economy. Even taking all of these benefits together, given the scale of the proposed development, they attract limited weight at most.
34. 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