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## Appeal Decision

Site visit made on 31 March 2025

by **L C Hughes BA (Hons) MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 May 2025

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### Appeal Ref: APP/L5240/W/24/3351412

#### 11 Haydn Avenue, Purley CR8 4AG

- 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 Jack Carvall (Carvall Homes Limited) against the decision of the Council of the London Borough of Croydon.
  - The application Ref is 23/04771/FUL.
  - The development proposed is erection of 2 no. three bed semi-detached properties and 2 no. two bed semi-detached properties. Associated access driveway, parking, and hard and soft landscaping.
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### Decision

1. The appeal is allowed and planning permission is granted for erection of 2 no. three bed semi-detached properties and 2 no. two bed semi-detached properties. Associated access driveway, parking, and hard and soft landscaping at 11 Haydn Avenue, Purley CR8 4AG in accordance with the terms of the application, Ref 23/04771/FUL, subject to the conditions in the attached schedule.

### Preliminary Matters

2. During the appeal, the appellant submitted a unilateral undertaking (UU) pursuant to section 106 of the Town and Country Planning Act 1990. I shall return to this below.

### Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

### Reasons

4. The appeal site forms part of the rear garden area of 11 Haydn Avenue (No 11), a two-storey detached property set back from the road in a generous plot. Due to the topography, in common with neighbouring properties the house is in an elevated position in relation to the road and the houses opposite. Its rear garden is tiered due to the rising levels within the site, which slopes from front to rear.
5. The surrounding residential area largely comprises detached and semi-detached properties. Notwithstanding this, immediately adjacent to No 11 is a recently built apartment block, and to the other side is a detached bungalow. The houses on the opposite side of the road generally sit below road level, again due to the sloping topography of the area.
6. Whilst there is some variety in the size of plots, architectural style and property type, there is a generally consistent building line and space between properties

which creates a sense of harmony. Combined with the presence of street trees and front gardens, this gives the area a traditionally suburban, open and verdant character.

7. Policy DM10.1 of the Croydon Local Plan (2018) (CLP) states that in the case of development in the grounds of an existing building which is retained, development shall be subservient to that building. The supporting text of Policy DM10 indicates that development of buildings in rear gardens is a way of accommodating growth in residential areas without significant impact on their character, and new houses must be subservient in scale to the main house.
8. The overall height of the proposed development would be lower than the host dwelling. The proposed semi-detached dwellings would have a smaller footprint and gross internal area than the large, detached host property. Due to their lower height, and their smaller massing, volume and footprint, the proposed dwellings would be subservient in scale to No 11.
9. Whilst other back land development in the vicinity may generally be for detached dwellings, I observed on my site visit that there are semi-detached dwellings along the street. Despite No 11 being a detached property, the proposed semi-detached dwellings would therefore be an established house type typical of the area, and the proposed plot widths would reflect those of nearby semi-detached properties. The proposed properties would be set back from the side boundaries of the appeal site, with a gap between the two pairs of dwellings. As such, the proposal would not appear as cramped, but would maintain the overall sense of space and characteristic visual gaps between dwellings.
10. A new access is proposed to the lefthand side of the appeal plot which would lead to a turning head and a parking area to the front of the proposed dwellings. Whilst this would not be typical in the locality, landscaping and tree coverage would help screen the area from neighbouring dwellings and would soften the hardstanding and driveway, so as not to harm the character of the area.
11. The proposed dwellings would have smaller gardens than is typical in the locality, but from the evidence before me their proposed private amenity areas would exceed the minimum requirements detailed in Policy DM10 of the CLP. The rear gardens would be appropriate to the size of the proposed dwellings and would not appear as unduly constrained. Moreover, whilst most properties along Haydn Avenue are houses with large rear gardens, the adjacent properties to No 11 are somewhat atypical. No 9b Haydn Avenue (No 9b) has been redeveloped as an apartment block which extends further to the rear than neighbouring dwellings and has a communal garden, and Number 11a Haydn Avenue (No 11a) has a smaller back garden than is typical in the street. As such, the proposed rear gardens would not harm the established character of the surrounding area.
12. The proposal would be set back from the road behind existing built form and landscaping, with very limited views of the proposal from street level. The proposal would not diminish the characteristics of the area, including the attractive street trees, gaps between buildings, and the strong building line of properties fronting Haydn Avenue.

13. My attention has been drawn to an appeal<sup>1</sup> that was dismissed for a row of 6 three-storey terraced properties at the site. The Inspector concluded that the proposal would not be subservient to No 11 and would have been inconsistent with the character of the surrounding area. The scheme before me has been reduced in height, massing and scale, is for fewer dwellings and is for a house type more typical to the locality. In comparison to the dismissed scheme, the overall site coverage has been reduced and the distance to the plot boundaries increased. Each case must be determined on its own merits, and I have considered this appeal accordingly, based on the evidence before me. The earlier appeal decision does not alter my findings in relation to the current appeal.
14. I therefore conclude that the proposal would not harm the character and appearance of the area. As such, it would comply with Policy DM10 of the CLP and Policies D3 and D4 of the London Plan (2021) which seek to ensure that development is of high-quality design, respects local scale, layout and development pattern, and that where development is within the grounds of an existing building, it should be subservient to that building.

### **Unilateral Undertaking**

15. A Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 has been submitted. It requires the appellant to pay a sum to be utilised towards sustainable transport initiatives in the area, in line with CLP Policies SP8 and DM29. I am satisfied that the planning obligation would be effective in securing an appropriate financial contribution. Given the location of the proposed development and the likelihood of the future occupiers of the new dwellings utilising private vehicles, I am satisfied that the UU is necessary to contribute to the provision for sustainable transport initiatives. I am also satisfied that the UU is fairly and reasonably related to the scale and kind of the development. The Council has confirmed that it is satisfied with the UU submitted by the appellant, and I find no reason to consider otherwise.

### **Other Matters**

16. The evidence indicates that the closest proposed dwelling would be sited approximately 12m from the nearest point of the flats at 9b but would be at an oblique angle so as to avoid direct overlooking. I have attached a condition to ensure that the first-floor windows of the flank elevations of the proposed dwellings are obscurely glazed, which will prevent any overlooking from these windows to adjoining amenity spaces. Whilst the scheme would be visible from a number of neighbouring properties and their gardens, it would be sited at appropriate separation distances from the nearest neighbouring dwellings including the host property, No 11a and 13 Haydn Avenue. I am satisfied that the separation distances would be sufficient to ensure that the proposed houses would not appear as overbearing, and that the proposal could be accommodated without causing material harm to the living conditions of neighbouring occupiers in relation to privacy, outlook, noise, loss of light or light pollution.
17. The proposal provides for off street parking. Given the limited number of dwellings proposed, I am satisfied that the risks of overspill parking leading to unacceptable levels of highway stress are low and the scheme would not have an unacceptable

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<sup>1</sup>APP/L5240/W/22/3309526

impact on emergency access, highway or pedestrian safety to an extent that would warrant withholding permission.

18. How CIL money has been distributed locally is a matter for the Council's consideration as part of its wider planning function. There is no substantive evidence before me to indicate that local infrastructure or services would be unable to accommodate the development.
19. I have imposed necessary and appropriate conditions to address matters pertaining to the retaining walls, refuse collection, drainage issues, trees and biodiversity. There is no substantive evidence that the proposal would lead to land stability issues. The construction process is likely to be disruptive, particularly to those people who work from home, but it would be temporary, and I have imposed a condition requiring a Construction Method Statement to appropriately manage the construction impacts of the proposal.
20. Whilst the need to work from home may have increased since the COVID-19 pandemic, the proposal would nonetheless meet the standards of the London Plan and Nationally Described Space Standards regarding living space, and I am satisfied that the proposal would provide future occupiers a suitable standard of accommodation.
21. I have considered the appellant's tree protection plan and I am satisfied that appropriate protective measures such as protective fencing and protective tree boxes will ensure that the roots of trees in neighbouring properties would not be harmed by the proposed development.
22. Whilst I note concerns regarding the lack of need for new housing due to other new builds nearby, and the possibility that this proposal may set a precedent for similar developments, it is necessary for me to consider the appeal on its own merits and I have found it to be acceptable and in accordance with policy.

### **Conditions**

23. I have considered the conditions suggested by the Council, having regard to the Planning Practice Guidance on conditions. I have amended and amalgamated a number of conditions in the interest of clarity. The appellant has confirmed their agreement to the proposed pre-commencement condition.
24. In addition to the standard timeframe condition, it is necessary to impose a condition requiring the development to be carried out in accordance with the submitted drawings in the interest of certainty (conditions 1 and 2). Conditions 3 and 4 are imposed to ensure that the development incorporates necessary tree and fire protection measures.
25. Condition 5 is a necessary pre-commencement condition to require a construction method statement to safeguard the amenity of nearby residents and to maintain highway safety. In order to protect the character and appearance of the area, I have imposed conditions relating to retaining walls and levels, external materials and landscaping (conditions 6, 7 and 8). Condition 9 relates to biodiversity and is necessary to ensure the protection of protected species and priority habitats.
26. A drainage condition (condition 10) is necessary to manage flood risk, and condition 11 is attached in order to ensure the efficient use of water in the new

development. Condition 12 relates to external energy generation and is required to ensure that the appearance of the development is acceptable.

27. In the interests of highway safety and sustainable transport, I have attached conditions 13-16 which relate to refuse and cycle storage, parking spaces and visibility splays.
28. In order to safeguard the privacy of future and neighbouring occupiers, I have attached condition 17 requiring certain windows of the proposed dwellings to be obscurely glazed.
29. To protect the character and appearance of the area, the living conditions of neighbouring occupiers, and ensure that the proposed dwellings remain compliant to the policy requirement of subservience, in this instance the removal of permitted development rights (Classes A-E) is justified (condition 18). These Classes relate to dwellinghouses and their enlargement, improvement or other alteration, additions to the roof, alterations to the roof, porches and buildings incidental to the enjoyment of a dwellinghouse.

### **Conclusion**

30. For the reasons given above, the proposal would comply with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
31. As a result, the appeal should be allowed.

*L C Hughes*

INSPECTOR

## SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the submitted drawing nos: 428-OBA-XX-XX-DR-A-102-10; 428-OBA-XX-XX-DR-A-108-12; 428-OBA-XX-XX-DR-A-109-12; 428-OBA-XX-XX-DR-A-0100-12; 428-OBA-00-ZZ-DR-A-0101-10; 428-OBA-00-B1-DR-A-0103-10; 428-OBA-00-B1-DR-A-0104-10; 428-OBA-00-B1-DR-A-0105-11; 428-OBA-XX-XX-DR-A-0111-02; 428-OBA-00-ZZ-DR-A-0200-10; 428-OBA-00-ZZ-DR-A-0201-10; 428-OBA-XX-XX-DR-A-0250-10; 428-OBA-XX-XX-DR-A-0251-10; 428-OBA-00-02-DR-A-0253-10; 428-OBA-XX-XX-DR-A-0300-10; 428-OBA-XX-XX-DR-A-0350-11; 428-OBA-XX-XX-DR-A-0352-10; 428-OBA-XX-XX-DR-A-0353-10; 428-OBA-00-ZZ-DR-A-0400-10; 428-OBA-00-ZZ-DR-A-0401-10; 428-OBA-00-ZZ-DR-A-0402-10; 428-OBA-00-ZZ-DR-A-0403-10; 428-OBA-00-ZZ-DR-A-0451-10; 428-OBA-00-ZZ-DR-A-0452-10; 428-OBA-00-ZZ-DR-A-0453-10; 428-OBA-00-ZZ-DR-A-0454-10; 428-OBA-00-ZZ-DR-A-0455-10; 428-OBA-00-ZZ-DR-A-0456-10; 428-OBA-00-ZZ-DR-A-0457-10; TSP & TCP 04; and TPP & AMS 04; 154\_GA\_100.
- 3) The development hereby permitted shall be carried out in accordance with the Tree Survey and Constraints Plan and Impact & Tree Protection Plan & Method Statement prepared by JN Tree Consultancy dated 28.11.2023.
- 4) The development hereby permitted shall be carried out in accordance with the Fire Strategy Statement Rev A prepared by Carvell Homes dated May 2024.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
  - i) the parking of vehicles of site operatives, deliveries, site personnel and visitors;
  - ii) loading and unloading of plant and materials;
  - iii) storage of plant and materials used in constructing the development;
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - v) measures to control the emission of dust and dirt during construction;
  - vi) wheel washing facilities;
  - vii) swept paths for manoeuvring and turning of large vehicles inside the site, to leave the site in forward gear; and
  - viii) delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 6) No development above ground level shall take place until full details of the existing and proposed land levels within the front and rear garden areas and details of appearance including height and materials proposed for retaining walls have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) No development above ground level shall take place until samples of all external facing materials and finishes, and detailed drawings in plan/elevation and section

at 1:5 through all typical external elements/details of the facades including all openings in external walls, including all fenestration and rainwater goods have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- 8) No development above ground level shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:

- i) hard landscaping details to include pedestrian access paths/ details of shared surface, including samples as appropriate;
- ii) soft landscaping details, including existing planting to be retained, the species, size and density of proposed new planting including new tree planting;
- iii) boundary treatments, including any partition fencing;
- iv) a maintenance/management plan for all aspects of hard and soft landscaping; and
- v) details of external lighting.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied, and maintained/ managed in accordance with the maintenance/management plan, with the exception of new planting which shall be provided and completed in accordance with this condition prior to the end of the first planting season following completion of the development, and maintained for a period of five years from the date of planting. Any new planting which dies, is severely damaged, becomes seriously diseased or is removed within that period shall be replaced by planting of a similar size and species to that originally planted.

- 9) No development above ground level shall take place until a Biodiversity Enhancement Strategy for biodiversity enhancements, prepared by a suitably qualified ecologist in line with the recommendations of the Preliminary Ecological Appraisal (The Ecology Partnership, December 2019) and the updated Ecological Technical Note (The Ecology Partnership, October 2023) shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- i) Purpose and conservation objectives for the proposed enhancement measures;
- ii) detailed designs or product descriptions to achieve stated objectives;
- iii) locations of proposed enhancement measures by appropriate maps and plans (where relevant);
- iv) persons responsible for implementing the enhancement measures; and
- v) details of initial aftercare and long-term maintenance (where relevant).

Any mitigation or enhancement measures and/or works shall be carried out in accordance with the details contained in the submitted and approved Ecological Technical Note (The Ecology Partnership, 2023).

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall

be carried out, in accordance with the approved details and shall be retained in that manner thereafter.

- 10) No development above ground level shall take place until a detailed surface water drainage scheme for the site, incorporating the following measures has been submitted to and approved in writing by the local planning authority.
- i) Calculation of the existing and proposed run-off rate (which should achieve greenfield run-off rates unless an alternative rate is adequately justified and achieved);
  - ii) Confirmation of the impermeable and permeable site areas used for the infiltration calculations;
  - iii) Details of the on-site infiltration drainage;
  - iv) Details of the on-site attenuation tank;
  - v) Details of further sustainable drainage measures;
  - vi) An updated layout plan (to scale) of the proposed drainage scheme; and
  - vii) Details of the ownership and / or maintenance agreement for the SUDS on the site.

The approved scheme shall be implemented prior to the first occupation of the development and maintained thereafter.

- 11) No development above ground level shall take place until a report has been submitted to, and approved in writing by, the local planning authority, to include full details of water efficiency measures to limit consumption to 110 litres per person per day to be incorporated into the scheme. All measures approved shall thereafter be provided prior to the occupation of any individual dwelling and retained thereafter.
- 12) No dwelling shall be occupied until full details of any external energy generation shall be submitted to and approved in writing by the local planning authority. The details approved shall be provided and completed in accordance with this condition prior to the first occupation of the development and maintained thereafter.
- 13) No dwelling shall be occupied until full details of refuse storage and collection shall be submitted to and approved in writing by the local planning authority. The refuse storage facilities shall be fully installed in compliance with the approved details and retained thereafter.
- 14) No dwelling shall be occupied until full details of the appearance, layout and capacity of the cycle stores shall be submitted to and approved in writing by the local planning authority. The cycle stores shall be fully installed in compliance with the approved details and retained thereafter.
- 15) No dwelling shall be occupied until parking spaces have been laid out within the site in accordance with the approved plan 428-OBA-XX-XX-DR-A-102-10. The parking areas shall thereafter be kept available at all times for their designated purpose.
- 16) The visibility splays shown on approved plan 428-OBA-00-B1-DR-A-0103-10 shall be free of any obstruction exceeding 0.6m in height and shall be retained as such thereafter.

- 17) No additional windows shall be formed in the flank elevations of the dwellings hereby permitted, and the dwellings shall not be occupied until approved windows to be installed at the flank elevations of all buildings at first floor level have been fitted with obscured glazing of an obscurity level of no less than 3, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed the obscured glazing shall be retained thereafter.
- 18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, AA, B, C, D and E of Part 1 of Schedule 2 to the Order shall be undertaken.

**\*\*\*END OF SCHEDULE\*\*\***