



Appeal Decision

Site visit made on 15 July 2025

by **P Burley BA(Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 July 2025

Appeal Ref: APP/L5240/W/25/3358404

22 Marlpit Lane, Coulsdon CR5 2HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Scott Hart against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 23/04782/OUT.
 - The development proposed is demolition of workshop and construction of new three-bedroom house.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The planning application form, dated 29 December 2023, indicates that access was a reserved matter. However, in its Statement of Case (SoC) the Council says that access was considered to be fundamental to the proposal, that the application was amended and additional plans were received in April 2024 and therefore details relating to access are not reserved. The Council amended the description of development to include “*appearance, layout, scale and access*”.
3. However, the appellant has indicated that the Council’s revised description of development was not agreed and in its SoC says that access is a reserved matter, that the appeal proposal seeks permission for appearance, layout and scale only, and that the Council’s assessment of access is misplaced.
4. I have no evidence before me, for example a revised application form, to demonstrate that the appeal application was formally amended by the applicant to seek the approval of access, or that the Council followed the procedure in Article 5 (2) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) (the DMPO) and notified the applicant within 1 month of the date of receipt of the application that it would be unable to determine the application unless further details were submitted.
5. In the absence of such information I must determine the appeal on the basis that it was submitted and, accordingly, I am assessing reserved matters relating to appearance, layout and scale only. I am content that I have sufficient information to assess the appeal and that the application complies with Article 5 (3) of the DMPO which requires that where access is a reserved matter, the application for outline planning permission must state the area or areas where access points to the development proposed will be situated.

Main Issues

6. The main issues are:

- whether sufficient information has been provided to assess the effect of the appeal scheme on protected species;
- the effect on the character and appearance of the local area, including on the existing locally-listed dwellinghouse on the site and its setting;
- the effect of the path and access road to the proposed dwellinghouse on the living conditions of the occupiers of the existing dwellinghouse on the site;
- whether safe and adequate access and car parking would be provided; and
- whether there would be appropriate provision for the management of domestic waste.

Reasons

Protected Species

7. The appellant's Preliminary Ecological Appraisal identified that the appeal scheme could affect features that have medium bat roost potential. It said that two bat emergence or re-entry surveys were required and that these were likely to be required before planning permission could be granted. The Council's advisor considered that there is a high potential for bat roosting, also noting that justification should be submitted prior to the determination of the application to support the appellant's position that further surveys for reptiles were not necessary or proportionate.
8. Whilst differences remain between the parties as to the extent of survey work that should be undertaken, I have not been presented with any bat surveys or convincing justification as to why the recommended reptile surveys should not be undertaken. Therefore, I consider that I have not been provided with enough information to enable me to fully consider the full impact of the development proposal on protected species which should normally be done before planning permission is granted. I have not been provided with any justification for departing from this approach in this case.
9. As such I consider that it has not been demonstrated that the appeal scheme complies with policies SP7.4 and DM27 of the Croydon Local Plan (2018) (CLP) which seek to protect and enhance biodiversity. I also find that it does not comply with Policy G6 of the London Plan (2021) (LP) which says proposals should manage impacts on biodiversity, should be informed by the best available ecological information and addressed from the start of the development process.
10. Whilst the Council has stated that this issue also results in non-compliance with CLP Policy DM28, I do not agree – that policy seeks to protect and enhance the borough's woodlands, trees and hedgerows and therefore is not directly related to the sufficiency of information about protected species on the appeal site.

Character and Appearance

11. The existing dwellinghouse on the appeal site is a locally-listed building. The appeal scheme would result in the demolition of an outbuilding (referred to as the gatehouse) to the side of the existing dwellinghouse which the Council considers should be retained and re-used, albeit it has not explained to what degree this might contribute to the significance of the non-designated heritage asset.
12. Part of the flint wall to the front of the premises, which was installed in the 1970s, would be removed, as would a cattle grid. The access gate would be replaced. Further into the site, a flint retaining wall would be removed. Although some of these features post-date the building's original use as a farmhouse, they nevertheless contribute to the character of the non-designated heritage asset and to its setting. A number of other features have been identified as being of interest (such as a name plate, a letterbox and lampstands), the retention of which could be secured by condition if necessary.
13. The proposed dwellinghouse would replace existing buildings at the rear of the site, which have a longstanding relationship with the existing dwellinghouse, with a higher structure. The Council has said that the height and scale of the proposed dwellinghouse would be completely at odds with the existing pattern of development and make it a visible and incongruous feature within the rear garden setting – an opinion that the local residents' association, which supports the appeal scheme, disagrees with. Furthermore, the Council says that whilst it would be on a lower level and set away from the streetscene, the proposed dwellinghouse would fail to be subservient to the existing dwellinghouse and would compete with the appearance of the locally-listed building due to its scale, form, design and height.
14. However, it is clear that the setting of the locally-listed building has evolved over time such that it is now closely neighboured by dwellinghouses and forms part of a residential area rather than a rural location. A number of buildings that are within its setting are significantly larger and display a variety of styles and materials.
15. When I visited the site I saw, as a result of the undulating topography, glimpses of roofs and buildings through the gaps between some of the existing dwellings on Marlpit Lane. Thus, whilst the appeal scheme would be higher than the buildings that it would replace, the glimpsed view along the driveway of the roof of the proposed dwellinghouse would not be at odds with the character of the wider area. Similarly, and taking into account the visually-layered nature of the townscape, whilst most buildings are in a linear arrangement fronting the road, I do not consider that this should preclude, as a matter of principle, appropriately-designed buildings in back gardens, particularly where previously-developed land is available for redevelopment.
16. The appeal scheme has been designed to complement the materials and architecture of the locally-listed building, would not be out-of-scale when seen in the context of the prevailing built form and would be sufficiently subordinate in both scale and appearance so as not to compete with the locally-listed building.
17. There would be an increase in hardstanding on the site with some loss of soft landscaping / natural vegetation. However, I consider that the impacts of this change could be largely addressed by an appropriate scheme of landscaping such that the generally soft-landscaped and verdant character of the plot could be maintained.

18. Overall, I consider that the appeal scheme has been thoughtfully designed, is sympathetic to the appearance of the locally-listed building, and is compatible with the wider character and local context. I find it to be acceptable in terms of its appearance, layout and scale, and that it complies with LP Policy D3 which seeks to optimise site capacity through a design-led approach, and with LP Policy D4 and CLP Policies SP4 and DM10 which relate to design and character.
19. Nevertheless, I consider that there would be a very small amount of harm to the significance of the non-designated heritage asset and its setting to facilitate the delivery of the new dwellinghouse. Accordingly, I find that the appeal scheme conflicts with LP Policy HC1, CLP Policy DM18.5 and the Council's Local List of Buildings of Architectural or Historic Interest SPD No. 1 (2006) which seek to preserve and enhance the character, appearance and setting of locally-listed buildings in the borough.
20. Whilst the Council concluded that the appeal scheme conflicts with national policy, the National Planning Policy Framework (the Framework) says that in weighing applications that directly or indirectly affect non-designated heritage assets a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Accordingly, I will discuss this matter in the Planning Balance section of this decision.
21. The Council also cited LP Policy D6 in the reason for refusal relating to character and appearance. I do not consider this policy to be relevant to the issue of character and appearance; it relates to housing quality and standards including daylight and sunlight and internal space standards.

Living Conditions of Occupiers of the Existing Dwellinghouse

22. The access road and path to the proposed dwellinghouse would run alongside the south-eastern façade of the existing dwellinghouse. The submitted plans indicate that vehicles and pedestrians would pass the side door and the windows of a number of rooms including the lounge and the kitchen. The windows of two first-floor bedrooms also look out onto the road / path.
23. Even if the use of those rooms remained the same as shown on the plans and even without the use of obscured or one-way glazing, I do not consider that there would be an undue loss of privacy or a harmful degree of noise and disturbance. Whilst occupiers of the existing dwellinghouse would no doubt be aware of movements to and from the proposed dwellinghouse, having habitable room windows adjacent to a road or pavement without a defensible buffer is not a unique situation, and noise and disturbance associated with day-to-day comings and goings of residential occupiers are unlikely to cause harm to the living conditions of the occupants of other nearby dwellinghouses.
24. As such, I do not agree that any issues associated with loss of privacy, noise and disturbance would be sufficiently harmful as to result in conflict with LP Policies D3 and D14 which seek to deliver appropriate outlook, privacy and amenity and to reduce, manage and mitigate noise, or with CLP Policies SP4 and DM10.6 which seek high-quality design and to protect the amenity of the occupiers of adjoining buildings.

Access and Parking

25. For the reasons that I have already explained, I have not assessed the access-related considerations which are set out in the fourth reason for refusal. Nevertheless, during my site visit I observed the existing vehicular access to the site and its relationship with Marlpit Lane, saw that a vehicle had accessed and was parked on the site and that there was sufficient space within the site for that vehicle to turn and leave in forward gear. It would seem that a safe and suitable access could be achieved and therefore access is not a matter that I consider to be fundamental to this decision.
26. Although no issue was raised in relation to the amount of car parking, the fourth reason for refusal also states that it had not been demonstrated that the proposed car parking spaces would be adequate to serve the development by reason of their siting, design and layout. The Council said that whilst there may be adequate space for cars to manoeuvre from the parking bays, it was unclear from the details provided as to whether the parking spaces would be cut out of the existing raised bank, would therefore have retaining walls either side of the parking area, and thus whether pedestrian sightlines could be achieved.
27. However, and based on the proposed layout of the appeal scheme, I consider that even if the car parking spaces were cut out of a raised bank, pedestrians would be able to see any cars moving out of the parking spaces before they stepped off the pedestrian path onto the roadway. Accordingly, I consider that the siting, design and layout of the parking spaces would be acceptable and that the appeal scheme would not conflict with LP Policy T6 and CLP Policy DM30 which relate to parking.

Refuse Arrangements

28. The decision notice states that the proposed refuse arrangements would not serve the needs of future residents or be conveniently located for operatives and their vehicles, contrary to LP Policies SI7 and SI8 and CLP Policy DM13. All of those policies relate to the handling of waste but none prescribe where waste should be stored or what would be an acceptable distance to carry waste.
29. The Council has referred to and provided a copy of Part H of the Building Regulations which says that storage areas for waste containers should be sited so that the distance householders are required to carry refuse does not usually exceed 30m (excluding any vertical distance). It also says that containers should be within 25m of the collection point specified by the waste collection authority.
30. Whilst it has not provided me with a copy, the Council has also referred to its own waste management policy document, noting that waste bins for houses must be presented at the edge of the premises, meaning at the front boundary but not on the public highway, or within 20m of the refuse vehicle parked on the road.
31. Having noted that the proposed dwellinghouse is approximately 50m from the front (roadside) boundary of the site, the Council has said that whilst bins could be located within 30m of the proposed dwellinghouse, operatives would have to walk more than 20m to collect the bins and that this would not be acceptable.
32. This appears to be based on the assumption that bins would be collected from a bin storage area. However, occupiers of the proposed dwellinghouse could move their bins from the storage area on collection day to a location that meets the

Council's requirements so that refuse could be collected without the refuse vehicle having to enter the site. Full details of the refuse storage area could be dealt with by condition. On that basis I consider that the appeal scheme is consistent with LP Policies SI7 and SI8 and CLP Policy DM13.

Other Matters

Asbestos

33. Whilst a health-related concern has been raised by a local resident relating to the potential presence of asbestos on the site, the safe handling of asbestos is controlled by a regime other than the planning system and therefore this is not a matter that I am able to take into account in making this decision.

Flood Risk and Drainage

34. The site has been identified as falling within a critical drainage area and at risk of ground water flooding occurring. To address this risk the appeal scheme includes a rainwater harvesting tank with an overflow to a soakaway under the car parking area, the details of which could be dealt with by planning condition. On that basis the proposal complies with LP Policies SI 12 and SI 13 and CLP Policies SP6.4 and DM25 which relate to the management of flood risk and sustainable drainage.
35. A representation has been made about the absence of information about foul waste disposal. It is for the local planning authority to decide whether the capacity of wastewater infrastructure is a relevant consideration to a specific planning application and in this case the Council has not identified that it is an issue.

Living Conditions on Chaldon Way

36. The occupiers of a dwelling on Chaldon Way have objected to the appeal scheme, stating that they would be severely impacted by the proposed development which would be in close proximity to the boundary with their property and would directly overlook their garden and a patio. Whilst there is some natural screening, the appeal scheme includes a first floor bedroom window which faces the gardens of residential properties on Chaldon Way. Given the very large area of garden space that the appeal scheme would abut, I do not consider that it would have an undue impact in terms of overlooking, loss of privacy, the creation of a sense of enclosure, or a reduction in daylight or sunlight.

Trees

37. Although the occupiers of a neighbouring property have expressed concern about the effect of development on trees within the curtilage of their dwellinghouse and stated that the submitted Arboricultural Impact Assessment does not include some trees within their garden, the Council concluded that an acceptable level of information had been provided and it did not raise an objection to the appeal scheme in respect of the potential effect on trees. On that basis I do not consider that this representation should weigh against the appeal scheme.

Precedent

38. An objector has stated that allowing back garden development would set a precedent for more. However, each decision must be determined having regard to the particular circumstances of the case and the acceptability or otherwise of the

appeal scheme does not have a bearing on the acceptability of proposals elsewhere.

Housing Delivery

39. The Council has a five-year supply of housing land. However, delivery of 3-bed properties (as is proposed in the appeal scheme) has been below target. Given the pressing need for new housing generally as acknowledged in the Framework, I attach significant weight to the delivery of a new home. I attach a small amount of additional positive weight to the provision of a 3-bed family-sized home.
40. The appellant has stated that the appeal scheme presents an opportunity to restore the existing dwellinghouse. I noted on my visit that although it did not appear to be occupied, works had been undertaken to the existing dwellinghouse, including the replacement of windows and doors and the removal of overgrowth, such that it did not appear to be in the uninhabitable state that some submissions suggest it was in. Therefore, I do not attach any weight to this argument.

Planning Balance

41. I consider that the appearance, layout and scale of the appeal scheme would be acceptable but that it would result in a very small amount of harm to the significance of a non-designated heritage asset. Paragraph 216 of the Framework says that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In that context, I consider that the positive weight that I attach to housing delivery clearly outweighs the harm that would be caused to the non-designated heritage asset as a consequence of the appeal scheme.
42. Having considered the potential effect of the appeal scheme on the living conditions of occupiers of the existing dwellinghouse on the site and of adjacent dwellings on Chaldon Way I do not find that there would be any issues that would be sufficiently harmful as to result in a conflict with relevant planning policy. I also consider there to be an acceptable solution in terms of domestic waste management.
43. However, I have not been provided with enough information to enable me to consider the full impact of the development proposal on protected species which should normally be done before planning permission is granted and no argument has been made as to why an exception should be made to this requirement.
44. For that reason alone I consider that the appeal scheme does not comply with the development plan when taken as a whole and that there are no material considerations which suggest that an alternative conclusion should be reached.

Conclusion

45. For the reason given above the appeal should be dismissed.

P Burley

INSPECTOR