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## Appeal Decisions

Hearing held on 9 September 2025

Site visit made on 9 September 2025

**by E Dade BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 October 2025

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### **Appeal A Ref: APP/L5240/W/24/3341508**

#### **275 Addiscombe Road, Croydon CR0 7HY**

- 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 A Datoo on behalf of Marlpark 275 CR0 Ltd against the decision of the Council of the London Borough of Croydon.
  - The application Ref is 23/01263/OUT.
  - The development proposed is demolition of existing house and buildings and erection of new three storey building with accommodation in the roof space.
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### **Appeal B Ref: APP/L5240/W/24/3345390**

#### **275 Addiscombe Road, Croydon CR0 7HY**

- 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 A Datoo on behalf of Marlpark 275 CR0 Ltd against the decision of the Council of the London Borough of Croydon.
  - The application Ref is 24/01005/OUT.
  - The development proposed is outline consent (layout and scale only) for the demolition of existing buildings and erection of 3 storey building with accommodation in roof space comprising 9 self-contained flats.
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### **Appeal C Ref: APP/L5240/W/24/3352094**

#### **275 Addiscombe Road, Croydon CR0 7HY**

- 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 A Datoo on behalf of Marlpark 275 CR0 Ltd against the decision of the Council of the London Borough of Croydon.
  - The application Ref is 24/02185/OUT.
  - The development proposed is outline consent (layout and scale only) for the demolition of existing buildings and erection of 3 storey building with accommodation in roof space comprising 9 self-contained flats.
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## **Decisions**

1. Appeal A is dismissed.
2. Appeal B is dismissed.
3. Appeal C is dismissed.

## Applications for costs

4. Applications for costs relating to Appeals A, B, and C were made by Mr A Dato on behalf of Marlpark 275 CR0 Ltd against the decision of the Council of the London Borough of Croydon. These applications are the subject of separate decisions.

## Preliminary Matters

### Context of linked appeals

5. The appeal decisions relate to three alternative proposals which seek outline permission in respect of layout and scale. Since the proposals relate to the same site area, implementation of a proposal would preclude the development of any other proposal.

### Revised plans (Appeals B & C)

6. The appellant has submitted revised plans for Appeal B and Appeal C. Paragraph 16.1 of the *Procedural Guide: Planning Appeals – England*<sup>1</sup> advises that the appeal process should not be used to evolve a scheme and there are no provisions for amendments to be submitted. It is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the Council and by interested parties at the application stage.
7. The revised plans for Appeal B include a vehicle waiting area in front of a traffic light-controlled access to the basement car park. The vehicle waiting area would be close to ground floor bedroom windows and would reduce the area of communal green space. The revised plans for Appeal C show lightwells reduced in area from those shown on the plans considered by the Council.
8. The meaning of development, as set out at 55(1) of the Town and Country Planning Act 1990 (as amended) (TCPA), includes the carrying out of building, engineering, mining or other operations in, on, over or under land. The Town and Country Planning (Development Management Procedure) (England) Order 2015 defines “layout” as the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.
9. The proposed alterations to the internal road and lightwells shown on the revised plans for Appeal B and C, respectively, would comprise material changes to the layout of the schemes considered by the Council and interested parties. Therefore, the revised plans cannot be accepted.
10. I have therefore determined Appeal B and Appeal C on the basis of the plans which accompanied the planning applications and were considered by the Council in its determination of those schemes.

### Withdrawn reasons for refusal (Appeal A)

11. The third reason for refusal, as set out at the decision notice relating to Appeal A, concerns the proposal’s effects on highway safety arising from the proposed car free layout. The Statement of Common Ground (SoCG) confirms the Council no longer contests this matter.

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<sup>1</sup> Updated 30 June 2025

12. The submitted Transport Statement concludes the site is in a highly accessible location, making car ownership unnecessary. Restrictions can be imposed prohibiting future occupiers from on-street parking, and surrounding roads would accommodate any overnight parking stress. The evidence demonstrates the proposed development would not have an adverse impact on on-street parking and would not harm highway safety. On this basis, the matter is no longer in dispute, and I need not consider this issue further.
13. The fourth reason for refusal concerns the capacity of the proposed bin storage facilities. The SoCG confirms the Council no longer dispute this matter. I am satisfied that refuse storage could be secured through a planning condition, and I need not consider this matter further.

#### Biodiversity Net Gain (Appeal C)

14. Biodiversity Net Gain (BNG) is a mandatory requirement of Schedule 7A of the TCPA (as inserted by Schedule 14 of the Environment Act 2021). The fourth reason for refusal cited on the decision notice for Appeal C relates to the assessment of biodiversity, including mandatory information requirements for the purposes of BNG. As set out in the SoCG, the Council accepts the biodiversity baseline established under a recent planning permission<sup>2</sup> and withdraws its objection, subject to the imposition of conditions.
15. The Planning Practice Guidance (PPG) indicates it would generally be inappropriate to refuse an application on grounds the biodiversity gain objective will not be met but indicates decision makers may need to consider more broadly whether the biodiversity gain condition is capable of being successfully discharged<sup>3</sup>. I have considered this matter in my reasoning below.

#### Planning history

16. The site has an extensive planning history with several schemes having previously been granted or refused planning permission on the site. Notably, a scheme for demolition of existing buildings and erection of two storey building, with accommodation in roof space comprising nine self-contained flats, was allowed at appeal<sup>4</sup>. In addition, the Council granted planning permission for demolition of the existing house and erection of new four storey building to contain 9no flats, and associated site alterations, with all matters reserved apart from layout and scale<sup>5</sup>. Furthermore, details of an approved scheme to vary the approved plans of the outline planning permission were provided during the appeal<sup>6</sup>. As this information could not have been provided earlier, I have accepted this late submission.
17. Decision-makers must have regard to the importance of consistency, and the PPG advises the planning history of a site may be a relevant consideration in the determination of an application<sup>7</sup>. In my decisions I have had regard to the site's planning history.

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<sup>2</sup> LPA ref: 25/00262/OUT

<sup>3</sup> Planning Practice Guidance, Paragraph: 019 Reference ID: 74-019-20240214

<sup>4</sup> Appeal decision ref: APP/L5240/W/23/3326610, 05 July 2024

<sup>5</sup> LPA ref: 25/00262/OUT

<sup>6</sup> LPA ref: 25/01681/CONR, 16 July 2025

<sup>7</sup> Paragraph: 010 Reference ID: 21b-010-20190315

## Main Issues

18. Having regard to the above, the main issues in this appeal are:

- The effect of the proposed development on the character and appearance of the area, with particular regard to scale and layout (*Appeals A, B, & C*);
- Whether the proposed layout would achieve a suitable standard of design, with particular regard to legibility, safety and security (*Appeals B & A*);
- Whether the proposed internal road layout would be of a safe and suitable standard for all users (*Appeal B*);
- The effect of the proposed development on the living conditions of the occupants of no 277 Addiscombe Road, with particular regard to noise and disturbance (*Appeals B & C*);
- Whether the statutory biodiversity net gain condition is capable of being successfully discharged (*Appeal C*); and
- Whether the proposal would make adequate provision for sustainable transport (*Appeals B & C*).

## Reasons

### *Character and appearance (Appeals A, B, & C)*

19. The appeal site fronts onto Addiscombe Road, an A-road with pedestrian footways, cycle lanes, and bus stops which provides a key route to/from Croydon. The site is therefore in a visually prominent location.
20. The appeal site comprises an existing dwelling, garage building, and garden. The area is mainly residential in character, predominantly comprising two-storey, detached houses.
21. The site's existing detached dwelling is of two-storey height. However, there is variety in the height, form, and scale of dwellings in the immediate area. To the west of the appeal site, a three-storey block of flats, Winstonrose Court, is prominently sited at the junction with Northampton Road. To the east of the site are a pair of detached bungalows, and beyond which are two-storey houses. This provides a gentle transition in the scale of buildings along Addiscombe Road.
22. With the exception of its vehicular access, the appeal site is elevated above street level, supported by a brick wall along the front boundary. Addiscombe Road is a sloping street which appears to fall away below the ground level of dwelling plots which sit on a broadly consistent horizontal plane. The level of dwellings relative to the street provides a regular, uniform appearance to the siting of dwellings and contributes positively to the area's character.

### Appeal A

23. The application form describes the proposal as a three-storey building. However, atop the main three-storeys would be a smaller volume set in from the elevations, providing an additional storey of living accommodation. From the street the building would be perceived as comprising four storeys. The proposal would exceed the typical number of storeys in the area and at neighbouring plots.

24. The roof height would be similar to the level of the existing dwelling's roof ridge and marginally lower than the roof of Winstonrose Court. However, the site would be excavated to lower the ground level. The proposed building would sit conspicuously below the level of neighbouring plots, and the proposed front elevation would appear taller than the front of Winstonrose Court.
25. Whilst the massing of the proposed building would include a main volume and an outrigger, the front elevation would span most the width of the plot and would appear much wider than the Winstonrose Court building.
26. Through the combined effect of height, width, and number of storeys, the proposed development would appear to significantly exceed the scale of surrounding dwellings. This would disrupt the transition in the scale of buildings. The proposal would therefore appear incongruous within the street scene and disrupt the pattern of development along Addiscombe Road.

#### Appeal B

27. Whilst described by the application form as a three-storey building with accommodation in the roof space, the submitted plans indicate the proposed building would comprise five storeys including a basement storey.
28. The front elevation would span most the width of the site and, to accommodate the height of the building without breaching the level of Winstonrose Court's roof ridge, the building would be set down below the ground level of adjoining plots.
29. The appellant asserts that 27% of the front of the site would be lowered with the remainder at the existing ground level. However, the submitted plans suggest the excavated ground level would be noticeable from the street and would reveal the ground floor storey. From the street the building would read as four storeys.
30. The perceived scale of the building would therefore significantly exceed that of surrounding development.

#### Appeal C

31. The application form indicates the proposal would comprise a three-storey building with accommodation in the roof space. However, the proposed building would consist of five storeys including a basement.
32. The proposed building would have three storeys above ground level, with the main entrance situated at the upper ground floor. The building would sit within expansive lightwells, with the lower ground floor storey projecting above ground level. The lower ground floor storey would be clearly visible from the front of the building and would contribute to the perceived scale of the building. The building would appear significantly larger in scale than surrounding development.
33. Within the surrounding area, there are no apparent examples of buildings with lightwells or storeys below ground level. Whilst nos 231-243 possess lightwells, these are situated some distance from the site, beyond the junction with Ashburton Road, at a section of Addiscombe Road with buildings of distinctly different character from the vicinity of the appeal site. Therefore, lightwells are not a common architectural feature in the area.

34. The lightwells would serve a functional purpose in bringing natural light to subterranean floors, including living accommodation at the lower ground floor. As discussed above, layout matters include how buildings and open spaces within the development are provided, situated and orientated in relation to each other. Therefore, lightwells are relevant to the consideration of layout at the outline stage.
35. The lightwells would be set back from the street but would span most the width of the plot and would include a large void area to the front of the outrigger. Since the lower ground floor storey would be visible within the lightwells, the large scale of the lightwells at the front of the building would be readily apparent from the street.
36. Furthermore, the elevation plan shows safety railings spanning the building's frontage to enclose the lightwells. Details of materials and appearance would comprise a reserved matter. Nonetheless, such structures would increase the lightwells' visual prominence within the street scene.
37. The appellant asserts the lightwells could be concealed by planting and landscaping. However, landscaping is a reserved matter and therefore would be the subject of future determination. It is unclear whether landscaping would conceal the lightwells without undermining their function through obstructing outlook and natural light.
38. Whilst the appellant asserts the layout would be accessible for all users, this does not justify the inclusion of lightwells of the proposed scale which, for the reasons set out above, the proposed lightwells would be an uncharacteristic feature that would detract from the character of the area.

#### Planning history (Appeals A, B, and C)

39. The application granted outline permission for nine flats in March 2024<sup>8</sup> would have three storeys above ground and would be sited at the existing ground level. A scheme was allowed at appeal<sup>9</sup> comprising a three-storey building sited at existing ground level and with a roof ridge height markedly lower than Winstonrose Court, thus maintaining a visual transition in building heights. These consented schemes are therefore of significantly lesser scale and thus materially different from appeal proposals Appeal A, B, & C.
40. Whilst the roof ridge of each proposed building would sit at a level comparable with the height of the existing building and other schemes permitted on the site, appeal proposals A, B and C are predicated on excavation works to lower the site's ground level or to form lightwells. The appellant asserts that no objection was raised to excavation of the site in a previous appeal decision<sup>10</sup>. However, the decision does not positively endorse the site's excavation. Rather the Inspector concluded the proposed development would significantly affect the character and appearance of the surrounding area and would conflict with the development plan.
41. An approved dwelling<sup>11</sup> on the site would comprise four storeys including a basement, which would be partly visible via two lightwells at the front. However, only a relatively modest section of the basement would be exposed, and the basement would generally be concealed by its subterranean siting. The elevation

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<sup>8</sup> LPA ref: 23/02976/OUT

<sup>9</sup> Appeal decision ref: 3326610

<sup>10</sup> Appeal decision ref: 3299657

<sup>11</sup> LPA ref: 22/03222/FUL

drawings illustrate the permitted building would sit at the existing ground level and would present as a three-storey dwelling. Therefore, the approved dwelling would appear lesser in scale than the Appeal A, B, and C proposals.

42. In a dismissed appeal decision<sup>12</sup>, the proposal included lightwells to the front of the proposed building's main elevation. However, the previous appeal did not include lightwells to the front of the outrigger. The proposed lightwells in the Appeal C proposal are significantly larger in scale than the former scheme.
43. Whilst the Inspector concluded the lightwells would not be prominent, they considered the lightwells would form ground level voids that "would not contribute positively towards the character of the development at the point at which it addresses the road" and "would either appear as hard surfaces or as shaded recesses" and would "lead to the front of the property appearing as stark and lacking in soft landscaping"<sup>13</sup>. In the absence of full landscaping details, there is insufficient information to demonstrate the lightwells would not appear as hard surfaces or shaded recesses.
44. In addition, the approved proposal for a replacement detached dwelling<sup>14</sup> included two front lightwells, and a permitted scheme for a part two-storey and part single-storey side and rear extensions, rear dormer roof extensions and the creation of a new basement level included formation of large lightwells at the existing dwelling's frontage<sup>15</sup>. However, in both permitted schemes, the proposed lightwells are significantly lesser in scale than the current proposal, and thus not comparable.
45. Planning permission was recently granted for the erection of a four-storey building comprising nine residential flats on the appeal site<sup>16</sup>. Of which, three storeys would sit above ground level. The lower ground level would be served by lightwells, including at the building's frontage on either side of the main entrance and in front of the outrigger. However, the lightwells are significantly smaller in area than the lightwells in the Appeal C proposal and would ensure the below ground storey remains partly concealed, limiting the perceived scale of the building and visual prominence of void areas from the street.

#### Scale and layout – conclusions (Appeals A, B, & C)

46. The appellant asserts subterranean elements do not influence the scale of the building. I have assessed the proposals in terms of how the building would interact with the built environment, including visual impacts on the street scene.
47. As discussed above, through the cumulative effect of the height and width of the buildings, the number of visible storeys, and excavation works to lower the site level or form lightwells, appeal proposals A, B, and C would significantly exceed the scale of surrounding development, including the three-storey flats and detached bungalows. The appeal proposals would disrupt the transition in building heights and interrupt the consistent ground level along Addiscombe Road and therefore would appear out of keeping with the character of the area.
48. The site has an extensive planning history. However, the scale of the Appeal A, B, and C proposals would significantly exceed that of the previous approved

<sup>12</sup> Appeal decision ref: 3322433

<sup>13</sup> Paragraph 13 of Appeal Decision 3322433

<sup>14</sup> LPA ref: 22/03222/FUL

<sup>15</sup> LPA ref: 22/02520/HSE

<sup>16</sup> LPA ref: 25/01681/CONR

schemes, as perceived within the street scene. The identified harms would be avoided through implementation of extant planning permissions, and appeal proposals A, B, and C are not justified by other permitted schemes.

49. The appellant advocates use of strategic planting to assimilate the proposed developments into the street scene. However, it would be premature and speculative to make presumptions about landscaping since this would comprise a reserved matter. There is insufficient certainty landscaping would mitigate the adverse visual impacts arising from the appeal proposals' excessive scale.
50. For these reasons, appeal proposals A, B, and C would harm the character and appearance of the area.
51. Appeals A, B, and C would therefore conflict with Policies D3 and D4 of the London Plan 2021 which require proposals demonstrate they meet the design requirements of the London Plan and enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout and scale and respond to the existing character of a place.
52. In addition, the proposal would fail to comply with Policies SP4 and DM10 of the Croydon Local Plan 2018 (CLP), which requires proposals be high quality, which respects and enhances Croydon's varied local character and contributes positively to the public realm and townscape and, whilst seeking to achieve a minimum height of three storeys, respect the scale of built features of the surrounding area.

#### *Design quality (Appeals B & A)*

##### Screening of ground floor (Appeal B)

53. The proposal indicates that a vegetative screen would be planted at the front of the site which would conceal the ground floor. The Council consider this would obscure the entrance level to the building, offering poor legibility to the street.
54. As landscaping is a reserved matter, I have treated the proposed planting shown on the submitted plans as merely indicative. Since full details of the landscaping would be subject to later determination, it would be inappropriate to draw conclusions on the suitability of the landscaping.
55. Policy D5 of the London Plan 2021 requires proposals achieve the highest standards of accessible and inclusive design, including being able to be entered, used and exited safely, easily and with dignity for all. Appeal B would have a front facing main entrance on the foremost front elevation. I am satisfied this layout would be accessible and legible.

##### Location of entrance (Appeal A)

56. The existing dwelling's entrance is situated at the side. From the east, the entrance porch is obscured by the front of the building. However, approaching the site from the west, the entrance is eye-catching since it sits within an ornate porch, elevated above street level, and projecting from the side elevation.
57. The proposed development would be situated on the footprint of the existing building and would maintain the position of the entrance. However, the proposed layout indicates the entrance would sit flush with the flank wall and, following excavation, the entrance would be set down below the natural ground level.

Therefore, the proposed entrance would differ significantly in layout, form and siting from the existing dwelling's entrance.

58. The front elevation would comprise extensive fenestration serving the ground floor flat and bin store. This would visually compete with the side entrance, creating opportunity for confusion for visitors.
59. The appellant asserts that through clear signage, distinct architectural features, and strategic landscaping, the side entrance can be made easily identifiable and accessible. However, these would be the subject of reserved matters, and I cannot be certain they would secure the site's legibility.
60. The entrance would be overlooked by windows at the ground floor front flat. However, it would be set back in the site, would be enclosed by the flank wall and outrigger, and set down below the natural ground level. The entrance would experience poor natural surveillance from surrounding dwellings and the street.
61. Measures such as CCTV cameras could enhance security. However, a development designed to be overlooked would maximise natural surveillance, reduce fear of crime, and make potential offenders feel vulnerable to detection.
62. Policy D3 of the London Plan 2021 seeks to encourage and facilitate active travel with convenient and inclusive pedestrian and cycling routes, crossing points, cycle parking, and legible entrances to buildings, that are aligned with peoples' movement patterns and desire lines in the area. The policy does not specify the location of entrances, and there may be circumstances where a side entrance is necessary and appropriate.
63. Planning permission was granted for conversion and extension of the dwellinghouse to five two-bedroom flats<sup>17</sup> with a side entrance. The layout of a proposal for a building conversion would be constrained by the existing built form, and thus materially differs from the proposed development.
64. The appellant refers to proposals comprising a layout with a side entrance, which were refused planning permission by the Council<sup>18</sup> and dismissed at appeal<sup>19</sup>. Whilst legibility did not comprise a main issue in either appeal decision, each Inspector concluded the proposed designs would conflict with the development plan, including Policy D3 of the London Plan 2021. Furthermore, neither appeal decision positively endorses the side entrance and therefore it cannot be inferred that the proposed layouts were deemed acceptable in this regard.
65. Moreover, the site's planning history illustrates that acceptable design solutions can be achieved on the site with the entrance situated at the front of the building. Therefore, the site does not necessitate a layout with the entrance at the side.
66. As set out above, Appeal B would provide a legible layout and would comply with the development plan in this regard. However, having particular regard to legibility, safety and security, for the reasons set out above, Appeal A's proposed layout would not achieve a suitable standard of design.
67. Appeal A would conflict with London Plan 2021 Policies D3, D5 and D11, which together encourage and facilitate active travel through legible entrances to

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<sup>17</sup> LPA ref: 19/04985/FUL

<sup>18</sup> LPA refs: 21/05093/FUL and 23/00013/FUL

<sup>19</sup> Appeal decision refs: APP/L5240/W/22/3299657 and APP/L5240/W/23/3322433

buildings, that are aligned with peoples' movement patterns, achieve the highest standards of accessible and inclusive design, with measures to design out crime considered at the start of the design process to ensure they are inclusive and aesthetically integrated into the development. In addition, the Appeal A proposal would not accord with CLP Policy DM10 which supports proposals which increase the amount of natural surveillance and avoid dark and secluded areas.

### *Internal road layout (Appeal B)*

68. As indicated on the submitted plans, the basement layout would include seven car parking spaces and storage for 24 cycles and would be accessed via an external ramp. The basement would be accessible from within the building via an internal staircase and lift, and therefore the access road would not comprise a pedestrian route. However, the ramp access would be used by vehicles and cyclists, either mounted or pushing a cycle whilst on foot.
69. It is unclear from the submitted plans whether there would be sufficient space for vehicles to pass one another near the highway access without overrunning the communal green area. The access road would narrow considerably at the proposed building's turret feature, ramp, and at the basement entrance, where there would be insufficient space for motor vehicles to pass other users.
70. The tight turn into the basement entrance would limit visibility along the access road, and therefore users exiting the basement would not be aware of approaching road users. Consequently, the layout of the access road would create significant opportunity for conflict between users and present an unacceptable safety risk.
71. The appellant refers to a dismissed appeal decision<sup>20</sup> in which the ramped access did not comprise a reason for refusal. However, the scheme comprised a traffic light-controlled access with a vehicle waiting area positioned in front of a bin store and therefore differs considerably from the layout of the Appeal B proposal.
72. For the reasons set out above, the proposed internal road layout would not be of a safe and suitable standard for all users.
73. The Appeal B proposal would conflict with Policies T4 and T6 of the London Plan 2021 and CLP Policies DM29 and DM30 which require development proposals not increase road danger, ensure efficient and emergency access, not impede the movement or highway safety of pedestrians, cyclists and private vehicles.

### *Living conditions (Appeals B & C)*

74. No 277 is a chalet bungalow which fronts onto Addiscombe Road, set back behind a deep driveway and set in from the shared boundary. A garage is situated between no 277 and the shared boundary with the appeal site, and there is an existing 2.2m tall, brick, boundary wall. Therefore, the existing layout and boundary treatment provides separation between the access and no 277.
75. Addiscombe Road is a classified A-road. Data from the Department for Transport shows there was an annual average daily flow of 19,445 motor vehicles in 2023. Addiscombe Road is therefore busy, and the volume of traffic is a significant contributing factor to the background noise environment.

<sup>20</sup>Appeal Decision ref: APP/L5240/W/22/3299657

76. In a previous appeal decision<sup>21</sup>, the Inspector concluded there would be excessive on-site car parking. However, the Appeal B and C proposals have reduced the proposed car parking capacity from the previously dismissed scheme. Whilst currently unoccupied, the site includes a garage and driveway and can comfortably accommodate two parked vehicles. The Appeal B and C proposals would contain seven car parking spaces serving nine flats, thereby providing a moderate increase in the site's parking capacity.
77. Both the Appeal B and C proposals would utilise the existing vehicular access. An internal road would run parallel to the shared boundary with no 277 to a ramp leading to a basement car park. Therefore, the intensity of use and proximity of the access to no 277 would be very similar in both proposals.
78. The ramp access would result in vehicle headlights pointing downward on accessing the site, and solid boundary treatments such as the existing brick wall, would prevent disturbance from light spill from vehicles turning into the site.
79. In respect of Appeal C, the appellant has provided analysis of the noise exposure expected to be generated by the development, estimating a maximum of 42 vehicle movements per day. Indoor noise levels experienced within no 277 from vehicles using the ramp access would range from 6.7dB to 14.9dB over distances of 4.5m to 11.6m. This would be below the volume of road traffic which is calculated as 20.29dB. The duration of noise exposure from the ramp is calculated to be 6.57 minutes per day and would be significantly below the duration of noise exposure from Addiscombe Road.
80. For both Appeals B and C, the appellant calculates the ramp could be traversed within the normal operating limits of a vehicle's first gear, and therefore the gradient of the ramp would not necessitate excessive revving of engines. In addition, the appellant asserts the difference in ground levels between no 277 and the ramp access would increase separation distance and improve the effectiveness of boundary treatments in containing noise.
81. The appellant's assessment therefore indicates that noise exposure for occupants of no 277 would be short in duration and lower in volume than road traffic noise. Consequently, the appellant's assessment suggests that from no 277 it would be difficult to distinguish vehicle noise arising from the proposed development from background road noise.
82. The appellant's noise assessment has not been independently prepared or verified, and it is unclear if its methodology meets industry standard practices. However, I have been provided no critique of the assessment and have no compelling reason not to accept its conclusions.
83. Furthermore, the appellant identifies opportunities to reduce and mitigate noise and disturbance, such as utilising surfacing materials that would reduce noise, and using insulating acoustic brick as a boundary treatment. The existing boundary wall is understood to be in the appellant's ownership, with no constraints to replacement or enhancement of this boundary treatment. If required, such mitigation measures could reasonably be secured through details of reserved matters. Likewise, the specifications of any traffic light to control access to the basement is a matter to be determined at the reserved matters stage.

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<sup>21</sup> Appeal decision ref: APP/L5240/W/22/3299657

84. The Appeal B proposal does not include the same extent of noise analysis as Appeal C. However, there are significant similarities between the proposals, including the number of proposed dwellings, background noise environment, and proximity of the ramp access and basement parking to the shared boundary. Likewise, there would be opportunity to secure materials and boundary treatments at the reserved matters stage to mitigate any adverse noise impacts.
85. Therefore, having particular regard to noise and disturbance, the submitted evidence demonstrates Appeal B and Appeal C would not result in significant harm to the living conditions of the occupants of no 277 Addiscombe Road.
86. Appeals B and C would therefore comply with CLP Policy DM10 and London Plan 2021 Policy D3 which together require development protect the amenity of the occupiers of adjoining buildings and help prevent or mitigate the impacts of noise.

*Biodiversity net gain (Appeal C)*

87. The application that is the subject of Appeal C post-dates the introduction of BNG. Therefore, unless exempt, it would be subject to the mandatory requirement of the TCPA to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat for at least 30 years.
88. Development is exempt from BNG where it does not impact priority habitats and affects less than 25 square metres of onsite habitat or less than 5 metres of linear habitat. The appellant asserts that the area of the proposed development outside the area of existing hardstanding would be less than 25sqm. However, the development would involve significant works beyond the proposed building's footprint, such as large areas of excavation to form lightwells, additional sealed surfaces for footways, and siting of the lift access and bin stores. The proposal does not demonstrate that it would affect less than 25sqm of onsite habitat, and therefore the de minimis exemption would not apply.
89. The appeal proposal seeks a further outline planning permission on the site and therefore would not be exempt from BNG under the transitional arrangements which enable the variation of approved plans of an existing planning permission. Consequently, the site's planning history would not disapply the BNG condition.
90. The Biodiversity Statement (BS) identifies existing habitats within the site, including species-poor semi-improved grassland, bare earth, hardstanding, scrub, tall ruderals, introduced shrubs, scattered trees, and boundary vegetation, and suggests the site presents a mix of common urban habitats with low to moderate ecological value and no priority habitat. The biodiversity baseline has been established under a separate planning permission<sup>22</sup>, but was not submitted as part of this appeal and therefore is not available for my consideration. Therefore, the pre-development biodiversity value of the site has not been quantified using DEFRA's<sup>23</sup> statutory biodiversity metric tool and the proposal does not meet the mandatory information requirements of the TCPA.
91. For proposals seeking outline planning permission, the PPG recognises the implications for existing onsite habitats and the contribution to onsite gains may be uncertain at the time of the determination of the application. The PPG advises that in these cases, decision makers may want to consider what subsequent approvals

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<sup>22</sup> LPA ref: 25/00262/OUT

<sup>23</sup> Department for Environment, Food & Rural Affairs

will be necessary to ensure significant onsite habitat enhancements are appropriately secured<sup>24</sup>. On-site habitat creation and enhancement would be strongly influenced by the landscaping proposals which would be determined at the reserved matters stage. Therefore, the determination of the outline application carries inherent uncertainty in the approach to BNG.

92. The statutory framework for BNG involves the discharge of the biodiversity gain condition following the grant of planning permission. The determination of the Biodiversity Gain Plan (BGP) under this condition is the mechanism to confirm whether the development meets the biodiversity gain objective and development cannot commence until the BGP is approved.
93. The BS indicates poor-quality grassland would be replaced with diverse, high-value habitats such as trees, species-rich grassland, green roofs, ponds, and sustainable drainage systems, to exceed a 10% net gain in biodiversity. However, the TCPA's biodiversity net gain condition requires the post-development biodiversity value of the site be maintained for at least 30 years after the development is completed. I have been provided no details of any mechanism to ensure habitat enhancement would be maintained over the long term, nor any monitoring or enforcement provisions to ensure compliance with a BGP.
94. As set out above, on-site habitat creation and enhancement would be secured through details of landscaping proposals at the reserved matters stage. However, the proposal fails to provide mandatory information of the site's pre-development biodiversity value, and there is no mechanism to secure long-term management of on-site habitat. Consequently, the proposal contains insufficient information to demonstrate the BNG condition is capable of being successfully discharged.
95. The proposal would therefore fail to satisfy the requirements of Schedule 7A of the TCPA and would conflict with London Plan 2021 Policy G6 and CLP Policy DM27, which together require development enhance biodiversity across the borough, manage impacts on biodiversity and aim to secure net biodiversity gain, informed by the best available ecological information and addressed from the start of the development process.

### *Sustainable transport (Appeals B & C)*

96. The site is served by pedestrian facilities, with lit footways on both sides of Addiscombe Road, controlled crossing points, dropped kerbs and tactile paving. There are demarcated cycle lanes in each direction, and the nearby tram and bus stops offer frequent services to a range of destinations. The site has a Public Transport Accessibility Level (PTAL) score of 4, which the Transport Statement<sup>25</sup> (TS) deems 'good' and the Council describe as 'moderate' accessibility. The site offers travel choice and is well served by a range of transport modes.
97. Policies T3 and T4 of the London Plan 2021 require proposals support capacity, connectivity and other improvements to the bus network, and the cumulative impacts of development on public transport and road network capacity including walking and cycling should be taken into account and mitigated, including through financial contributions to address adverse transport impacts that are identified. The Council's *Section 106 Planning Obligations in Croydon and their Relationship to*

<sup>24</sup> Planning Practice Guidance, Paragraph: 019 Reference ID: 74-019-20240214

<sup>25</sup> Transport Statement, dated 30 October 2023, accompanies Appeal B and Appeal C

*the Community Infrastructure Levy Review November 2019* document requires developers mitigate any impact on the environment or local services that arise directly as a result of the development<sup>26</sup>.

98. In addition, CLP Policies SP8.12 and SP8.13 seek to enable delivery of electric vehicle charging infrastructure throughout the borough to improve air quality and decarbonise private transportation over the plan period. These policies require new development contribute to the provision of electric vehicle charging infrastructure, car clubs and car sharing schemes.
99. Through a net increase in dwellings on the site, the proposed development would result in a small increase in the local population. The TS concludes there would be no adverse impact on public transport from the proposed development.
100. However, to fulfil the requirements of Policies SP8.12 and SP8.13, the Council's Transport Team requested planning obligations to remove access to resident parking permits and to secure financial contributions toward improvements such as on-street car clubs and electric vehicle charging points.
101. Such planning obligations were considered in a recent High Court judgement<sup>27</sup>. The judgement indicates that Policies SP8.12 and SP8.13 provide clear justification for a financial contribution towards sustainable transport initiatives. Whilst the appeal proposal offers comparatively greater accessibility than the site that was the subject of the judgement, this does not obviate the requirements of Policies SP8.12 and SP8.13.
102. The judgement explains that the requested figure of £1,500 per unit was based on a transport assessment study commissioned by the Council and is a matter of expert advice of the Council's strategic transport team. The judgement concludes the contribution would support a variety of sustainable transport initiatives and is a modest sum that was fairly and reasonably related to the scale and kind of the development. The judgement suggests that precise quantification of adverse impacts and the effects of an obligation are not necessary in every case.
103. Appeal B and Appeal C are accompanied by draft deeds of unilateral undertaking pursuant to section 106 of the TCPA (hereafter, 'UU'), which contain planning obligations requiring payment of the sustainable transport contribution and would prevent occupants from obtaining parking permits and season tickets.
104. Whilst the draft UUs identify the types of initiatives that may be funded by the contribution, the Council would not be a signatory to the agreements. This approach can be problematic as there is no obligation on the Council to spend the money as envisaged and in a particular timescale. However, as noted in the Whiteside judgment, section 106(1)(d) includes the requirement to pay a sum to the authority as the type of planning obligation within that section.
105. For these reasons, I am satisfied the draft planning obligations would be necessary to make the development acceptable in planning terms and would be directly related and fairly related in scale and kind to the development. Where secured through a satisfactory legal agreement, such obligations would have a small, positive effect on air quality and decarbonising private transport.

<sup>26</sup> Paragraph 4.1 of *Section 106 Planning Obligations in Croydon and their Relationship to the Community Infrastructure Levy Review November 2019*

<sup>27</sup> *R(Whiteside) v Croydon LBC & Others* (2022)

106. However, the submitted UUs are in draft form. Since I am dismissing the appeals for other reasons, it is not necessary to agree details for the receipt of executed planning obligations. Incomplete planning obligations cannot carry any weight in my decision. Therefore, in the absence of completed planning obligations, the proposals would fail to make adequate provision for sustainable transport.
107. Appeals B and C would fail to comply with Policies T3 and T4 of the London Plan 2021, which require development proposals address identified adverse transport impacts, and CLP Policies SP8, DM29 and DM30 which seek to improve air quality and decarbonise private transportation, promote measures to increase the use of public transport, cycling and walking, and reduce the impacts of car parking.

## **Conclusion**

108. As set out above, Appeal A would harm the character and appearance of the area and, having particular regard to legibility, safety and security, the layout would fail to achieve a suitable standard of design. Appeal A would conflict with the development plan as a whole and there are no other considerations which outweigh this finding. For the reasons given, Appeal A should be dismissed.
109. Appeal B would provide a legible layout and would not harm the living conditions of the occupants of no 277 Addiscombe Road. However, the proposal would harm the character and appearance of the area, and the proposed internal road layout would not be of a safe and suitable standard for all users. Even if I had been in receipt of a completed version of the UU so as to secure the planning obligations relating to provision of sustainable transport initiatives, the benefits of the scheme in this regard would not outweigh the conflict with the development plan arising from the identified harms. Therefore, Appeal B should be dismissed.
110. Appeal C would not harm the living conditions of the occupants of no 277 Addiscombe Road. However, the proposal would harm the character and appearance of the area and fails to demonstrate the BNG condition is capable of being discharged. As above, even if planning obligations to secure sustainable transport initiatives were completed, such benefits would not outweigh the proposal's harms and its conflict with the development plan. Therefore, for the reasons given Appeal C should be dismissed.

*E Dade*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

- Abbas Datoo, Director, Marlpark 275 CR0 Ltd

### FOR THE LOCAL PLANNING AUTHORITY:

- George Clarke, Senior Planning Officer
- Georgina Betts MRTPI, Deputy Team Leader North Team

### INTERESTED PARTIES:

- Cllr Jeet Bains, local ward member
- Hilary Chelminski, local resident

## Appendix 1

List of those who have appealed

| Reference | Case Reference         | Appellant                                    |
|-----------|------------------------|----------------------------------------------|
| Appeal A  | APP/L5240/W/24/3341508 | Mr A Datoo on behalf of Marlpark 275 CR0 Ltd |
| Appeal B  | APP/L5240/W/24/3345390 | Mr A Datoo on behalf of Marlpark 275 CR0 Ltd |
| Appeal C  | APP/L5240/W/24/3352094 | Mr A Datoo on behalf of Marlpark 275 CR0 Ltd |