



Appeal Decision

Site visit made on 10 November 2025

by **L Gardner MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 November 2025

Appeal Ref: APP/L5240/W/25/3370767

2 Lower Road, Kenley, Croydon CR8 5NB

- 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 C Ciment of BC Kenley Estates LTD against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 25/00100/FUL.
 - The development proposed is alterations, erection of basement extension and associated lightwells and provision of additional and replacement windows.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of development in the banner heading above is taken from the decision notice rather than the application form. The description in the application form did not refer to any proposed works to the basement. The appellant has confirmed during the appeal proceedings that the description within the decision notice is an accurate representation of the proposed development, as reflected on the submitted plans. I have therefore proceeded with the appeal on this basis.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the living conditions of the occupiers of 5, 7, 9, and 11 Sylverdale Road and 1 and 2 Roke Lodge Road, with particular regard to privacy and light; and
 - whether the proposed development would have an acceptable effect on flood risk and incorporate appropriate sustainable drainage measures.

Reasons

Living conditions

4. The appeal site forms a two-storey commercial building in an immediately surrounding area which is otherwise predominantly formed of residential uses. Policy SP4 of the Croydon Local Plan (CLP) (2018) sets out that the Council will require development of a high quality, which amongst other matters contributes positively to the townscape to create sustainable communities. Policy DM10 of the CLP, insofar as it relates to living conditions, is supportive of proposals provided that the amenity of the occupiers of adjoining buildings is protected.

5. Specifically, proposals are required to not result in direct overlooking of private outdoor space within 10m perpendicular to the rear elevation of a dwelling. One of the requirements of Policy D3 of the London Plan (LP) (2021) is for development proposals to achieve outdoor environments that are comfortable and inviting for people to use.
6. The proposal seeks to incorporate various new windows into the building. The main parties agree that there would be no harm arising from the proposed insertion of windows on the elevation facing towards Lower Road, or the windows within the proposed lightwells. Based on the evidence before me, I see no reason to take a different view on these elements of the proposed development.
7. Within the elevation facing the rear of properties along Sylverdale Road, a total of five ground floor windows and two obscurely glazed first floor windows are proposed. Given the proximity of the building to the shared boundaries with the dwellings along Sylverdale Road, the windows would be immediately adjacent to the rear gardens serving the adjacent dwellings.
8. The length of the gardens is such that direct intervisibility between the proposed windows and the windows within the rear elevations of the neighbouring dwellings would be limited. However, even when considering existing boundary treatments, outbuildings and vegetation, based on my site observations and the elevations and sections provided, it is entirely plausible that occupiers standing within the appeal property would be able to see directly into neighbouring gardens from at the very least some of the ground floor windows which are proposed to be clearly glazed. This would represent a clear infringement to the privacy of the occupiers of the nearest properties along Sylverdale Road when using their rear gardens.
9. Noting that the first-floor windows proposed in this elevation, and the proposed windows in the elevation facing towards Roke Lodge Road, would be fixed shut and obscurely glazed, they would not compound the level of actual loss of privacy. Nevertheless, the proliferation of the proposed windows, particularly in the elevation towards Roke Lodge Road, would still create a sense of being overlooked.
10. Despite the obscure glazing proposed (which could be secured by condition if the appeal were to otherwise succeed), occupiers of nearby residential properties are still likely to be able to perceive movement from within the appeal property. Given the number of windows proposed, this would amount to an obtrusive form of development. Again, this would be particularly experienced through use of rear gardens, to the detriment of neighbouring living conditions.
11. The proposal may lead to an increase in light spill from within the appeal property. However, the appeal site is within a relatively built up area where artificial forms of light, including street lights and lights within existing buildings are already prevalent. The light spill from the appeal property would not be materially different from the existing circumstances in the surrounding area and therefore this matter alone would not be harmful to the living conditions of neighbouring properties.
12. Nevertheless, when taken as a whole the proposed development would lead to an unacceptable level of harm to the living conditions of the occupiers of 5, 7, 9, and 11 Sylverdale Road and 1 and 2 Roke Lodge Road, with particular regard to privacy. On this basis the proposal is contrary to Policies SP4 and DM10 of the CLP as well as Policy D3 of the LP.

Flood risk

13. The majority of the site, including where the basement alterations and associated lightwells are proposed, is within Flood Zone 1. Nevertheless, the appeal site is within a critical drainage area and at risk of surface water and groundwater flooding.
14. Policy SI 12 of the LP states that development proposals should ensure that flood risk is minimised and mitigated, and that residual risk is addressed. Policy SI 13 of the LP includes a drainage hierarchy which demonstrates a preference for green over grey features, with rainwater use as a resource (for example rainwater harvesting) at the top of the hierarchy.
15. Policy DM25 of the CLP seeks to ensure that development in the Borough reduces flood risk and minimises the impact of flooding, including by steering development to the areas with a lower risk of flooding. Taken solely in respect to fluvial flooding, the development would therefore be appropriate.
16. However, both Policy SI 12 of the LP and Policy DM25 of the CLP require all sources of flooding to be taken into account, including that from surface water and groundwater. The supporting text for Policy DM25 of the CLP sets out that, where a site is at risk of groundwater flooding, a 'Basement Impact Assessment' should be provided for any basement application. This has not been incorporated within the flood risk assessment (FRA) provided to support the appeal, despite the Council's identification that the appeal site is within an area where there is potential for groundwater flooding to occur at surface level.
17. The submitted FRA contradicts the Council's identification of groundwater flood risk concluding the risk at the site to be low. However, this is not substantiated with specific evidence, relying in part on reference to local knowledge. In the absence of a detailed assessment, specifically in relation to the effects of the proposed basement and associated lightwell works, I cannot be satisfied that the appeal proposal would have an acceptable effect on flood risk or that the proposed rainwater harvesting would be an appropriate means of sustainable drainage to fully mitigate the impacts of the proposed development.
18. Based on the above, the appeal proposal would be contrary to Policies SI 12 and SI 13 of the LP as well as Policy DM25 of the CLP.

Other Matters

19. The Council has not resisted the proposal based on design or highway safety matters and I note that no specific change of use is proposed through the development. Nevertheless, these factors do not weigh in favour of the proposal.

Conclusion

20. For the above reasons, having considered the development plan as a whole and all other relevant material considerations, the appeal is dismissed.

L Gardner

INSPECTOR