



Appeal Decision

Site visit made on 31 October 2023

by **L Francis BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 December 2023

Appeal Ref: APP/L5240/W/23/3323068

145 Purley Oaks Road, South Croydon CR2 0NZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Red Banksia against the decision of the Council of the London Borough of Croydon.
 - The application Ref 22/04682/FUL, dated 7 November 2022, was refused by notice dated 14 April 2023.
 - The development proposed is erection of 2 x 3-storey dwellings accessed from Sanderstead Road with associated landscaping and bin and bike stores
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Decision

1. The appeal is allowed and planning permission is granted for erection of 2 x 3-storey dwellings accessed from Sanderstead Road with associated landscaping and bin and bike stores at 145 Purley Oaks Road, South Croydon CR2 0NZ in accordance with the terms of the application, Ref 22/04682/FUL, dated 7 November 2022, subject to the conditions set out in the schedule.

Preliminary Matters

2. I have taken the description of development from the Council's decision notice since this succinctly describes the proposal.

Main Issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the area.
 - Whether the proposed accommodation would provide acceptable living conditions for future occupiers with particular regard to accessibility.
 - Whether the proposal would create a need for mitigation in relation to sustainable transport.

Reasons

Character and appearance

4. The proposal involves the erection of a pair of semi-detached dwellings which would continue the row of houses fronting Sanderstead Road to the north-west. Whilst the site comprises the rear section of the garden to 145 Purley Oaks Road, the proposal separates the appeal site from the host property and there would be independent access to each dwelling from Sanderstead Road.
5. Development is low density in the vicinity of the appeal site, with substantial detached and semi-detached houses set back from Sanderstead Road in large

plots. To the north-east side of the road there are more recent flatted developments. The area has a very green, wooded appearance and the land slopes steeply away from Sanderstead Road towards Purley Oaks Road, with a significant difference in height between the two roads.

6. The proposed houses would be consistent with the pattern of development in the area. The height of the buildings would be in line with nearby houses, presenting 2 storeys to Sanderstead Road, and 3 to the rear; the siting and scale of the houses would respond to the topography of the site. Whilst each plot may be smaller in width than some others locally, the area is not characterised by a uniformity of plot widths.
7. Other buildings along Sanderstead Road typically have a front forecourt, the extent of which appears to be informed to some degree by the individual topography of each site. The appeal proposal shows steps from the pavement to the front door of each house, to which there would be a small, sloping front forecourt. Whilst the forecourt area of each house would be small when compared to others along the street, it would enable the continuation of the building line of the houses to the north-west and would allow a suitably sized rear garden to each house.
8. The central front facing gable and pitched roof of the proposed houses would provide a contemporary reference to the form of the adjacent house at 240 Sanderstead Road. The use of red brick, terracotta hanging tiles and a tiled roof would fit with the materials of other houses in the area. The bronze metal framed windows, whilst not a typical window treatment in the area, would provide visual interest and enrich the overall design and appearance of the houses.
9. I find the design approach to be consistent with the aims of Policy D3 of the London Plan 2021 (LP) and Policies SP4.1 and DM10.1 of the Croydon Local Plan 2018 (CLP). These policies seek, amongst other things, the pursual of a design led approach; high quality development which respects local character, development pattern, layout and siting; the scale, height, massing and density, the appearance, existing materials and built and natural features of the surrounding area.

Living conditions for future occupiers

10. LP policy D7 aims to provide suitable housing and genuine choice for London's diverse population, including disabled people, older people and families with young children. The policy essentially requires that new build dwellings meet Building Regulation requirement M4(2) for accessible and adaptable dwellings. In this respect, step free access to new dwellings is required, and is one of a range of measures that can allow dwellings to be more accessible. Significantly, LP Policy D7 also allows some flexibility where the development is small scale infill development, such as the appeal proposal.
11. Whilst I acknowledge that step free access would be desirable to achieve, the topography of the site would not lend itself to provide step free access without other compromises in terms of setting the buildings further back into the site and reducing the available garden space, and that is not the proposal before me. I note that the steps proposed would be short runs of no more than 7, that there would be WCs on each floor, and that there would be step free access to the rear patio from the living space. On balance, given the flexibility allowed by

LP Policy D7 and the other accessible design features included, the proposal would be in line with the aims of this policy and the proposed houses would provide acceptable living conditions for future occupiers with regard to accessibility.

Sustainable transport

12. No off-street parking is proposed for the dwellings. Future residents who have a vehicle would therefore have to park on-street. Given the restrictions on Sanderstead Road, the closest opportunities for on-street parking would be Britton Hill Road, Purley Oaks Road or Downsway. Although the Council acknowledge there would be sufficient on-street capacity, there would be an increase in on-street parking demand and in the use of private vehicles arising from the development.
13. Policy SP8.13 of the CLP requires new development to contribute to the provision of electric vehicle charging infrastructure, car clubs and car sharing schemes; Policy DM29 promotes sustainable travel. Policy T4 of the LP sets out that where appropriate, mitigation either through direct provision of public transport, walking and cycling facilities and highway improvements or through financial contribution will be required to address adverse transport impacts that are identified.
14. Mitigation would be necessary to make the development acceptable in planning terms given the increased pressure on on-street parking and vehicle use in connection with the development, when considered alongside the aims of CLP Policies SP8.13, DM29 and LP Policy T4. In the absence of mitigation measures provided on site, I consider a financial contribution towards sustainable transport initiatives would be appropriate. I have had regard to the High Court decision¹ which accepted the reasoning of the Council in respect of how the £1500 per dwelling figure was arrived at. Paragraph 38 of that decision acknowledges that whilst it was based on a transport study commissioned for Kenley ward, the figure was calculated on the basis that it would be applied across the whole borough.
15. In relation to the appeal scheme therefore, I am satisfied that the proposed financial contributions towards sustainable transport initiatives are necessary to make the development acceptable in planning terms, that they would be directly related to the development, and fairly and reasonably related in scale and kind to the development as required by paragraph 57 of the National Planning Policy Framework 2023 (the Framework), and by Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.
16. I have been provided with a signed copy of a Unilateral Undertaking dated 9 November 2023 binding the appellant to pay to the Council a sustainable transport contribution of £3000 index linked on or prior to commencement of development.

Other Matters

17. In terms of the effect of the proposals upon the living conditions of neighbouring residents, I am satisfied that there would be sufficient separation from nearby houses both adjacent and to the rear to avoid an unacceptable degree of overlooking or loss of outlook, subject to conditions requiring the use

¹ Reference CO/1225/2022 dated 21 December 2022

of obscure glazing to the side elevation nearest 240 Sanderstead Road, and removing the permitted development rights in relation to extensions and new window openings. I note the sunlight and daylight report submitted with the appeal shows that there would be no material loss of daylight or sunlight to windows facing the appeal site.

18. Whilst I understand residents' concerns regarding highway safety on Sanderstead Road, I note that the highway authority has not raised any objection to the principle of new dwellings in this location and I have not been provided with any compelling evidence to show that the development itself would materially impact upon the safety or operation of the highway.
19. In terms of the impact upon trees, I note that since the refusal of the planning application, the Council has made a Tree Protection Order for the Lime Tree at 147 Purley Oaks Road. The proposed development would result in a small incursion into the root protection area (RPA) of that tree. The Council's concerns regarding the lack of clarity over ground protection measures and detail over how the walls on the eastern elevation adjacent to No. 147 Purley Oaks Road would be constructed to avoid harm to the Lime tree, could be addressed by a pre-commencement condition. This would require an updated tree protection plan and arboricultural method statement to include details of a floating/raised floor scaffold framework to be used in proximity to the TPO Lime tree, details of how the eastern elevation will be constructed and backfilled to avoid further encroachment into the RPA, along with further details of how land will be retained during construction.
20. The proposed houses would comply with the relevant space standards, both internal and external, set out in the development plan. I am satisfied that in relation to its effect upon protected species and ecology, carbon reduction, water efficiency, and flood risk that the proposal is acceptable subject to appropriate conditions. I have taken account of comments made by interested parties in respect of these matters, however, I do not have substantive evidence to contradict the conclusions of the Council in this respect.

Conditions

21. The Council has provided some suggested conditions which I have considered against advice in the Framework and Planning Practice Guidance; as a consequence I have amended or omitted some of the suggested wording. I have attached the standard time limit condition (1) and a plans condition (2) as this provides certainty.
22. Condition 3 requires the submission of a construction method statement and is necessary to maintain highway and pedestrian safety and safeguard the living conditions of nearby residents. Condition 4 requires an updated tree protection plan and arboricultural method statement as set out above. This is necessary to ensure that the RPA of the Lime tree at No. 147 is protected before, during and after construction. Both conditions 3 and 4 are required to be pre-commencement conditions, to which the appellant has agreed in writing.
23. I have added a condition concerning materials and samples to ensure a satisfactory appearance (5). The landscaping details condition (6) is also necessary in the interests of ensuring a satisfactory appearance and enhancing biodiversity.

24. Condition 7 requires an updated surface water drainage scheme and is necessary to ensure surface water run-off is managed and flood risk minimised. Conditions 8 and 9 regarding bicycle and refuse storage are required in the interests of extending sustainable transport options and providing appropriate living conditions for future occupiers.
25. Bearing in mind the advice in paragraph 54 of the Framework that there must be clear justification to use conditions restricting the future exercise of permitted development rights, I have not been provided with sufficient evidence to suggest it would be reasonable or necessary to remove rights under Class C of Schedule 2, part 1 of the Order. Condition 10 therefore has been amended to restrict rights under Classes A and B in relation to extensions, new window or door openings and roof extensions due to their potential impact on the living conditions of nearby residents and the appearance of the approved dwellings. Condition 11 requires the windows above lower-ground floor level in the side elevations to be obscure glazed with restricted opening and is necessary to protect the living conditions of adjacent occupiers.
26. Condition 12 is necessary to ensure water efficiency. I consider that the Council's suggested condition requiring the development to be carried out in accordance with the fire safety strategy is not necessary since this matter is controlled by other legislation.

Conclusion

27. I have found that the proposal is in line with the development plan read as a whole, and the material considerations in this case do not indicate that a decision should be taken otherwise than in accordance with it. For the reasons set out above, the appeal is allowed.

L Francis

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 following approved plans: location plan; POK LP-01; GA-01A; GA-02A; GA-03A; GA-10A; GA11A; GA-20A; GA-30; EX-01; EX-02.

- 3) Prior to the commencement of development (including demolition) a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. It shall include the following information for all construction phases of the development:

- a) Hours of construction;
- b) Hours of deliveries;
- c) Parking of vehicles associated with deliveries, site personnel, operatives and visitors;
- d) Facilities for the loading and unloading of plant and materials;
- e) Details of the storage facilities for any plant and materials;
- f) The siting of any site huts and other temporary structures, including site hoardings;
- g) Details of the proposed security arrangements for the site;
- h) Details of the precautions to guard against the deposit of mud and substances on the public highway, to include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances prior to entering the highway
- i) Details outlining the proposed range of dust control methods and noise mitigation measures;

All construction phases of the development shall be carried out in accordance with the details approved.

- 4) Prior to the commencement of development, an updated Tree Protection Plan and Arboricultural Method Statement in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction – recommendations (or in an equivalent British Standard if replaced) shall be submitted to and approved in writing by the Local Planning Authority. The updated details shall include:

- i) Details of a floating/raised floor scaffold framework to be used in proximity to the Lime tree (T09).
- ii) Details of how the eastern elevations (in proximity to 147 Purley Oaks Road) shall be constructed and backfilled to avoid further encroachment in the Root Protection Area of the Lime tree (T09).
- iii) Details to show how land will be retained during construction.

The scheme for the protection of the retained trees shall be carried out as approved. The installation of protection measures and the excavation must be supervised by a suitably qualified arboriculturalist. A copy of the supervisory report with photographic evidence must be submitted to and approved by the Local Planning Authority before any further demolition, construction or excavation works are undertaken.

- 5) Prior to the commencement of above ground works, full details of the following shall be submitted to and approved by the local planning authority:
- external facing materials including samples of all facing materials and finishes.

The development shall be carried out according to the approved details and thereafter maintained.

- 6) Prior to the commencement of above ground works, details of a hard and soft landscaping scheme in accordance with drawing GA-20 rev A (KHD Architecture, November 2022) shall be submitted to and approved in writing by the local planning authority. These details shall include:

- a) Hard landscaping materials, including samples.
- b) Soft landscaping details including existing planting to be retained, the species, size and density of proposed new planting, as well as the dimensions of new trees.
- c) Boundary treatments.
- d) Biodiversity enhancement measures.

The landscaping, with the exception of new planting, shall be carried out in accordance with the approved details prior to first occupation of the development and maintained for the lifetime of the development.

The new planting shall be provided and completed in accordance with the approved details prior to the end of the first planting season following completion of the development and maintained for a period of 5 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.

- 7) Prior to the commencement of above ground works, a finalised surface water drainage scheme in accordance with the Surface Water Drainage Strategy prepared by Aegaea dated 09/11/22, incorporating the following measures shall be submitted to and approved in writing by the Local Planning Authority:
- a) 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);
 - b) Confirmation of the impermeable and permeable site areas used for the infiltration calculations;
 - c) Details of the on-site infiltration drainage;
 - d) Details of the on-site attenuation tank;

- e) Details of further sustainable drainage measures;
- f) An updated layout plan, to scale, of the proposed drainage scheme;
- g) 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 for the lifetime of the development.

- 8) The bicycle storage shown on drawing GA-01A shall be completed and made available for use prior to first occupation of the development and maintained for the lifetime of the development.
- 9) The dwellings shall not be occupied until details of refuse and recycling storage have been submitted to and approved by the local planning authority. The approved storage shall be provided prior to first occupation and maintained for the life of the development according to the details approved.
- 10) 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 pursuant to Class(es) A and/or B of Part 1 of Schedule 2 (Permitted Development Rights) shall be undertaken.
- 11) Any window above lower ground floor level located in a wall or roof slope forming a side elevation shall be obscure-glazed and restricted to opening no more than 150mm and thereafter maintained as such, where any part of the window or its opening element falls below 1.7m of finished floor level.
- 12) The dwelling shall not be occupied until the Building Regulations Optional requirement under Regulation 36(2)(b) of Part G2 of the Building Regulations (water efficiency) has been complied with. The water efficiency measures installed shall thereafter be maintained as approved.

END