



# Appeal Decision

Inquiry held on 7 and 8 February 2008

Site visit made on 8 February 2008

by **Martin Pike BA MA MRTPI**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

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Decision date:  
13 March 2008

**Appeal Ref: APP/L5240/A/07/2051674**

**40-42 Elgin Road, Croydon, Surrey CR0 6XA**

- 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 St Martins Homes against the decision of the Council of the London Borough of Croydon.
- The application Ref: 07/01113/P, dated 19 March 2007, was refused by notice dated 20 June 2007.
- The development proposed is demolition of existing dwellings and erection of 11 two-bedroom flats and 3 one-bedroom flats.

## Decision

1. I dismiss the appeal.

## Procedural matters

2. Prior to the inquiry the appellant sought to overcome one of the Council's reasons for refusal (and address other concerns) by submitting revisions to the proposed development. The amended drawings show the deletion of the basement flat, removal of one parking space from the Elgin Road frontage, and minor alterations to the design and materials. The appellant undertook a consultation exercise which informed local residents about the revised scheme and gave them the opportunity to make further representations.
3. At the inquiry the appellant argued that it would be appropriate to determine the appeal on the basis of the revised scheme because it satisfies the tests established in the case of *Bernard Wheatcroft Ltd v Secretary of State for the Environment and Another (1980)*. The Council did not oppose the introduction of the amended plans, and no member of the public present at the inquiry objected to the revised scheme being considered. A local resident pointed out that some of the representations made by members of the public in response to the appellant's consultation were initially returned by the Planning Inspectorate as being out of time, though subsequently they were resubmitted and accepted.
4. I am satisfied that all parties with an interest in the application were given the opportunity to comment on the revised plans. It appears that most, if not all, of the letters that were initially returned to the parties by the Planning Inspectorate were resubmitted, and can therefore be taken into account. However, there remains the slight possibility of a returned representation not being resubmitted. I have therefore considered the revised scheme against the

*Wheatcroft* tests. It is clear that the removal of one of the flats and a parking space constitute a small reduction in the amount of development, while the design alterations are relatively minor and generally reduce the scale of the proposal, for example by marginally lowering the height. Overall I believe that the revised scheme is not substantially different to that refused permission by the Council, and that the alterations produce a scheme that would have less impact on the immediate locality. The resubmitted letters bear this out: they mostly reiterate objections that were previously made, rather than specifically addressing the revisions; nowhere is it argued that the revised scheme would be more harmful than the original proposal rejected by the Council.

5. In these circumstances I consider that the interests of any third party who might have commented, but whose comments I do not have, would not be prejudiced by my determining the appeal on the basis of the revised scheme. I have proceeded on this basis, and I have amended the description of the proposal to read "the erection of 11 two-bedroom flats and 2 one-bedroom flats". The revised plans are those listed at paragraph 5.10 of the Statement of Common Ground, apart from plan 2006-212/104 revision D which has not been updated and should be disregarded.

### **Main issues**

6. The revised scheme overcomes the Council's objection to the basement flat, and this matter was not debated at the inquiry. Consequently there are two remaining main issues in this appeal:
  - (i) whether the loss of two buildings listed by the Council as being of local architectural or historic interest would be harmful, having regard to the proposed replacement building; and
  - (ii) the effect of the layout, scale and appearance of the proposed development on the character and visual amenity of the street scene.

### **Reasons**

#### ***Locally listed buildings***

##### *Policy framework*

7. Croydon Replacement Unitary Development Plan (UDP) policy SP4 states, amongst other matters, that the Council will seek to retain buildings on the local list of buildings of architectural or historic interest which contribute to the character of an area. Policy UC9 provides further detail, indicating that substantial weight will be given to the benefit of protecting and conserving the particular interest that accounts for their designation as locally listed buildings. The accompanying text states that all such buildings should satisfy at least two of five criteria: these are authenticity, architectural significance, historical significance, technical significance, and townscape value. In cases where demolition is proposed, the UDP text seeks a demonstration that all reasonable attempts have been made to retain the building. Where retention proves impractical, a photographic record is sought prior to demolition.
8. The locally listed buildings are identified in Supplementary Planning Document (SPD) No 1, published in December 2006. The SPD indicates that only those buildings of genuine special local interest or significance will be included. Paragraph 5.2 advises that where demolition is proposed, the benefits of

redevelopment should outweigh any losses in the local public interest. It states that demolition will only be permitted where the replacement scheme is of equal or superior quality.

9. At the time that the UDP and SPD were adopted there was Government support in Planning Policy Guidance (PPG) 15: *Planning and the Historic Environment* for the protection of buildings which, while not of sufficient importance to warrant national designation, are valued for their contribution to the local scene. Paragraph 6.16 of PPG15 indicated that it is open to planning authorities to draw up lists of locally important buildings and formulate policies for their protection. The UDP policies and SPD were prepared in accordance with this guidance.
10. In March 2007 CLG Circular 01/2007 replaced the whole of section 6 of PPG15, which deals primarily with the principles governing the selection of nationally listed buildings. The revised section 6 does not mention locally listed buildings. At the same time, however, the Government published a White Paper: *Heritage Protection for the 21<sup>st</sup> Century*, which proposes a new, unified approach to protecting the historic environment. Paragraphs 23-25 of section 1.1 and 56-60 of section 1.3 of the White Paper confirm the support for local designation as a means of identifying and protecting buildings that matter to local communities. The production of local lists is encouraged, and the Government signals its intention to (1) publish new criteria and practice guidance for local designation, and (2) strengthen the protection against demolition of locally designated buildings.
11. As the appellant points out, there is currently no extant Government policy which supports locally listed buildings. However, given the endorsement of the concept in the White Paper and the intention to provide further guidance and control, I think it would be wrong to conclude that locally listed buildings no longer have Government support. Whilst some uncertainty exists as a result of the removal of the former paragraph 6.16 from PPG15, in my view this does not detract significantly from the weight that should be given to the UDP policies which seek to protect locally listed buildings, or to the associated SPD.

*Justification for local listing of 40 and 42 Elgin Road*

12. 40, 42 and 44 Elgin Road are a group of three late 19<sup>th</sup> century Victorian detached houses in the East India Estate area of Addiscombe which was laid out as a spacious grid. They are two-storey red brick properties which display elements of neo-Gothic and Arts and Crafts styles; though they are broadly similar in scale and design, there are subtle differences between them. The houses were added to the Council's local list during the recent review process on the basis of the 'authenticity' (of the group) and 'townscape value' criteria.
13. The UDP defines 'authenticity' as a building which is substantially unaltered and retains the majority of its original features. The basic 'T' plan form of No 42 is unchanged; it has prominent full-height front and rear gables under a plain tiled roof, and is built of a distinctive, semi-glazed local red brick. A largely unaltered front elevation incorporates two-over-two horned sash windows with painted cills and lintels, relieving arches above the first floor windows of the gable, a simple painted barge board below a projecting verge, a pendant set below the ridge, and a diagonal brick cornice under the eaves. There are

crested ridge tiles on parts (though not all) of the roof, corbelled brick stacks on two of the four chimneys, a gothic entrance porch and door on the north elevation, and original sash windows on the rear elevation. Despite some changes, including the addition of shutters to two windows on the front elevation and the loss of the front garden wall, both parties agree that No 42 qualifies as authentic. I agree with this assessment.

14. The basic structure and form of No 40 is the same, though a number of original features appear to be missing. The four brick chimneys have been reduced in height and capped, the ridge tiles are round rather than crested, and the porch is much plainer than that at No 42, with a concrete lintel above a modern glazed door. The rear elevation has been significantly altered, for all the sash windows have been replaced by large aluminium-framed casement windows with concrete lintels. On the south elevation the window has been replaced and there are the remains of a small extension. In addition, the property has been badly repointed and the front garden wall removed. Overall, whilst the front elevation is sufficiently original, it is doubtful whether the building as a whole satisfies the authenticity criterion.
15. Although outside the appeal site, No 44 is part of the group. It has been extended at the sides and rear, refurbished with modern upvc windows, and has a new roof with no chimneys. It is the only one of the three that is currently occupied, and is clearly better maintained than Nos 40 and 42. In my view its authenticity lies somewhere between the other two.
16. In terms of townscape value, the three detached houses are distinctive in a street composed primarily of Victorian terraces and semi-detached houses, with some more recent infill. Their modest scale and coherent design, the repetition of prominent gables and the use of red brick and tiles add interest and variety to the generally larger scale but more muted tones of most of the Victorian buildings, which are constructed of yellow stock brick or render. The houses are consistent with the grain and pattern of the 19<sup>th</sup> century layout, yet being detached they provide a sense of spaciousness which is missing from the more dominant terraces opposite. Consequently, as a group I believe that Nos 40, 42 and 44 make a positive contribution to the character and appearance of Elgin Road, and thereby satisfy the townscape value criterion.
17. On this basis No 42 qualifies as a suitable candidate for local listing, as it meets two of the five criteria. I also consider that this building satisfies the SPD test by having "genuine special local interest". Although the inclusion of No 40 (in particular) and No 44 is questionable on authenticity grounds, and whilst No 40 cannot reasonably be regarded as genuinely special, I can see why the Council has included them for their group value. Overall I am satisfied that the demolition of No 42 should be considered against UDP policy UC9, which starts from a presumption in favour of protection.
18. I note the Council's contention that Nos 40, 42 and 44 form part of a larger group which includes two similar buildings to the east on Havelock Road. Whilst these two are patently built in the same style, and indeed are better examples of that style, they are not readily recognisable as such from Elgin Road. Consequently, in terms of their contribution to the street scene, I consider that these two form a small group on Havelock Road rather than contributing to a larger group extending across both streets.

*Application of policy*

19. Because the Council's decision to include Nos 40 and 42 on the local list was marginal, the appellant argues that the benefit to be derived from their particular interest must be smaller than would occur with buildings that more fully meet the criteria. As a consequence, it submits that the weight to be given under policy UC9 is reduced, and correspondingly the SPD test that any replacement building should be of equal or superior quality is set at a lower level than if the buildings to be demolished were of higher quality. In principle I agree with this analysis. Nevertheless, as some weight must necessarily accrue as a result of local listing, it follows that the design quality of the replacement building has to be higher to satisfy policy UC9 than would otherwise be the case if the buildings were not locally listed.
20. The Council argues that there has been no justification for the demolition of the locally listed buildings, as sought by the supporting text to policy UC9. Neither the UDP nor the SPD specify what is required, other than acknowledging that retention should be 'practical' and that all reasonable attempts should be made to retain the buildings. Nevertheless, no justification was provided with the application or in the appellant's proofs of evidence, and the attempt to introduce the matter during cross examination fell far short of an appropriate "demonstration" that retention is impractical. As a minimum it is reasonable to expect a statement and drawings which identify the perceived shortcomings of the properties and explain why they could not be retained. If this were to be accompanied by a financial appraisal, as sought by the Council, it would normally carry additional weight.
21. The plain fact is that No 44 (a larger property) is currently used as a single family house, as was No 42 before it was vacated, and No 40 was in multiple occupation. There is no cogent explanation why these uses could not be reinstated, nor why alternatives such as subdivision into a small number of flats would not be practical. I appreciate that the appeal properties are in a poor state of repair, but there is no evidence of structural deficiencies. As to the debate about frontage parking, although this is not desirable, some frontage parking might be regarded as an acceptable trade-off for the retention of the buildings.
22. The absence of adequate justification for demolition is sufficient reason alone to determine that the proposal is contrary to UDP policy UC9. I examine the question of the quality of the proposed replacement building below, under the second main issue.

***Character and visual amenity of street scene***

23. The proposed replacement building would be an L-shaped structure occupying almost the full width of the site and providing accommodation on four floors, with the top floor in the roof. It would have two principal components – a southern element which is the same height and extends a similar distance back as Lingfield Court, the block of flats to the south, and a smaller northern element which reflects the scale of the locally listed building at 44 Elgin Road. The southern element would have a central projecting gable on the street frontage, while a smaller projecting gable at the northern end of the building would be similar to that at No 44. Access to a car park for 10 vehicles in the

- rear garden would be along a gated passage close to the southern boundary and beneath the first floor accommodation; there would be 3 more parking spaces in front of the northern element, with access directly from the street.
24. In terms of the overall size and height of the front elevation, the development would be consistent with the general pattern of buildings on the eastern side of Elgin Road. However, when examined closely I consider that the design exhibits a number of shortcomings. The Council describes the building as “squat”, and to my mind this largely derives from the attempt to squash four floors of accommodation into a building about 10m high. By comparison, the traditional Victorian terraces opposite incorporate 4 floors in buildings that are 13-14m high, including a basement that is partly below ground level. Instead of steps leading up to spacious ground floors and progressively decreasing ceiling heights on the upper floors, as with these terraces, the proposed building would have four limited-height floors with a ground floor slightly below road level, thereby adding emphasis to its squat nature. Indeed, even compared with the mid-20<sup>th</sup> century three-storey block of flats to the south, which has a strong horizontal emphasis, the low ground floor and the low eaves height of the southern element would produce a building that appears rather incongruous in the street scene.
25. The massing of the building would be most apparent from the south, when viewed at an angle across the relatively wide gap created by the access to the rear car park of Lingfield Court. The whole of the 15m flank elevation would be visible, and for the most part it would take the form of a four-storey brick wall topped by a barge board that skirts the edge of the large flat roof which covers the southern element of the building. The top section of this wall would abut the pitched roofs on the east and west elevations; to the west this would be expressed by a gable projecting minimally from the wall, while at the eastern end the wall would merely be shaped by the pitch of the roof.
26. In my experience it is often difficult to achieve a composed and harmonious junction between flat and pitched roof elements, and this scheme exemplifies that difficulty. One of the problems with the full height vertical wall is the emphasis it gives to the massing and scale of the building, for on the south elevation the top floor would no longer be disguised within the roof. In addition, the juxtaposition of flat and pitched roof elements on adjoining faces of the building is inherently inelegant, creating a disharmonious form at the top of the structure. In this case it is questionable whether the attempt to enliven the south elevation by inserting a small gable improves matters or makes them worse, for it would create an imbalance in the elevation and make the junction between the flat and pitched roof elements even more awkward.
27. In summary, I believe that the southern flank elevation would be an unduly massive and unattractive feature of the building. I acknowledge that similar roof forms are found on some modern flats in the East India Estate, but those that I saw were noticeably smaller in scale and less prominent, and thereby able to be assimilated more successfully into the area. Similar problems would be apparent at the northern end of the main element of the building. Although very little of this section of roof would be visible from the public realm, the design is over-complex and, in views from the east, would be exacerbated by the flat roof on top of the stair well.

28. Another concern is the contrast in style of the two elements. The intention is to assimilate the building into the street frontage by mimicking the scale of the buildings on either side. However, to then continue that theme by treating the two parts of the front elevation separately produces a building which lacks coherence and a sense of its own identity. Although Elgin Road displays an eclectic mix of house types, ages and styles, each individual building has a consistent and recognisable design. To conceive a block of flats in which one element would reflect the style of the house at No 44 is muddled, in my view, and would not be in keeping with the prevailing character. In addition, the appellant sees the variation in window heights across the front elevation as a benefit by avoiding strong horizontal window lines; to my mind this amount of variation would add to the visual confusion, particularly as the projecting gables serve the purpose of breaking up the frontage and providing verticality.
29. The Council objects to the loss of the two individual plots on the basis that it would be contrary to the original layout and character of this part of the East India Estate. As the appellant points out, however, such a process is an integral part of the piecemeal way that the Estate has evolved since its inception; indeed, the diverse range of building widths, ages and styles is part of the defining character of Elgin Road. Consequently, and separate from the arguments surrounding the retention of the locally listed buildings, I do not believe that an "in principle" objection to plot amalgamation can be sustained. A related concern of the Council is the loss of rhythm in the street frontage once Nos 40 and 42 are demolished. It seems to me, however, that the subdivision of the west elevation into five distinct bays would create sufficient rhythm to replace that lost.
30. The Council also argues that the layout of the site is poor in terms of development up to the side boundaries and the inclusion of forecourt parking. I agree that building close to both edges of the site does emphasise the overall mass of the building, though this is a common feature of the nearby Victorian properties. If sensitively handled, filling most of the available site width need not necessarily be objectionable. As to frontage parking, it is apparent that large expanses of hard surfacing and the absence of boundary walls detract significantly from the quality of the street scene. However, provided any such parking was limited and subservient to a high quality, soft landscaped setting, I am not convinced that the total ban promoted by the Council can be justified.
31. Notwithstanding those matters where I disagree with the Council, my overall conclusion is that the building appears as a contrived design. It conveys the impression of being heavily 'tweaked' in attempts to address the criticisms of the Council without at the same time reviewing the amount of floorspace that the structure can accommodate. In my view this process has not succeeded, and has resulted in a building that fails to exhibit some of the principles of good design promoted in *By Design*, as reflected in Planning Policy Statement (PPS) 1: *Delivering Sustainable Development* and UDP policies SP3, UD1 and UD3. As a consequence, I conclude that the development would detract significantly from the character and visual amenity of Elgin Road.

### ***Other matters***

32. The occupiers of 44 Elgin Road object to the extent to which the southern element of the building would project beyond the existing rear building line,

causing a loss of daylight and sunlight to that property and intruding into views from the conservatory. I appreciate that there would be some loss of sunlight, mostly during the winter months, but in my view the projecting element would be sufficient distance from the boundary of No 44 not to cause significant harm to the occupiers of that property, even taking account of the slight fall in the land. Such impacts are not uncommon in urban areas, in my experience; indeed, the relationship would not be materially different to the current arrangement between the rear element of Lingfield Court and 40 Elgin Road. As to the visual impact, the projecting element would be outside the normal angle of view from the rear facing windows of No 44 and sufficient distance (20m) from the conservatory not to appear overbearing.

33. The impact of the development on other residents nearby would be minimal given the long rear gardens and the adequate separation from Lingfield Court. I appreciate the concern about the many mature trees that have been felled in the rear garden and the effect on wildlife. Whilst the tree felling is regrettable and does little to assist the appellant's desire to integrate the development into its surroundings, it does not add to the case against the proposal. I note the contention that there is no critical need for more new flats to be built in this area, but there is no evidence of a substantial oversupply of land for new housing in the Borough.

### **Conclusion**

34. I have determined that one of the buildings proposed for demolition merits inclusion in Croydon's local list of buildings of architectural or historic interest. According to UDP policy UC9, this creates an initial presumption against redevelopment unless certain criteria can be satisfied. One such matter is a demonstration that retention of the building would be impractical; no real evidence has been presented to this effect. A criterion in the associated SPD is that any replacement building should be of equal or superior quality to those demolished. This adds some weight to the normal policy requirement for high quality design.
35. I have concluded that because of its massing, squat appearance and detailed design, the replacement building would not be of sufficient quality to be acceptable in its own right under UDP design policies. I also consider that the building would not be equal or superior in quality to the demolished No 42, thereby conflicting with policy UC9. I acknowledge the important policy objective of making best use of urban land, but as PPS1 makes clear, this should not be at the expense of high quality design.
36. For these reasons the proposal is not acceptable and the appeal must fail. I have taken account of all the other matters raised, but find nothing to outweigh my conclusions on the main issues.

*Martin Pike*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Johanna Boyd of Counsel

*She called*

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## DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Section 106 agreement
- 2 Extract from LB Croydon Annual Monitoring Report, 2006/7
- 3 Note from Planning Potential regarding housing supply
- 4 Letter dated 13 December 2007 from Mr B Suttle
- 5 Statement and photographs from Mr Young
- 6 Statement from Mrs Appleby
- 7 Additional condition
- 8 Council's closing submissions
- 9 Appellant's closing submissions