

1. APPLICATION DETAILS

Ref: 22/00085/CONR
 Location: Ark Apartments, 54 Arkwright Road, South Croydon, CR2 0LL
 Ward: Sanderstead
 Description: Retrospective planning permission for the demolition of the existing building, erection of a two/three storey building with accommodation in roof space comprising 6 x two bedroom and 1 x three-bedroom flats, formation of vehicular access and provision of 7 parking spaces, cycle and refuse storage and landscaping.
 Drawing Nos: 1902-00 (Site and Location Plan as Existing), 1902-01 Rev.C (Floor Plans), 1902-02 Rev.C (Elevations) 1902-03 Rev.A (Section), 1902-04 (Proposed Bin Store), 1902-05 Rev.A (Proposed Site Plan).
 Applicant: Arkwright SSB Ltd
 Case Officer: Joe Sales

	1 beds	2 beds	3 beds	4 bed	TOTAL
No. of Homes (All market housing)		6	1		7

Number of car parking spaces	Number of cycle parking spaces
7	14

1.1 This application is being reported to Planning Committee in accordance with the following committee consideration criteria:

- Objections above the threshold in the Committee Consideration Criteria
- Petition received (in compliance with the Committee Consideration Criteria)
- Application referred by Local Ward Councillor, Lynne Hale.

2. RECOMMENDATION

- 2.1 That the Planning Committee resolve to GRANT planning permission.
- 2.2 That the Director of Planning and Sustainable Regeneration has delegated authority to issue the planning permission and impose conditions and informatives to secure the following matters:

CONDITIONS

1. Development to be carried out in accordance with the approved drawings and reports.

2. Implementation of car parking as shown on plans with no boundary treatments above 0.6m in the sightlines.
3. At least 20% of parking spaces to have EVCPs.
4. No new side facing windows to be allowed within side elevations.
5. Obscure glazed side facing windows (excluding rooflights) above ground floor level.
6. Ground floor bedrooms at unit 3 to have opening windows (within 3 months of consent).
7. Entrances to building to have step-free access (within 3 months of consent).
8. Water use no more than 110l per day.
9. Energy efficiency.
10. Landscaping.
11. Cycle storage and access path (within 3 months of consent).
12. SUDS.
13. Any other planning condition(s) considered necessary by the Director of Planning and Sustainable Regeneration.

INFORMATIVES

1. Community Infrastructure Levy
2. Any other informative(s) considered necessary by the Director of Planning and Sustainable Regeneration

3. HISTORY AND BACKGROUND TO THE PROPOSAL

- 3.1 The site is subject to extensive planning history which is detailed later in this report.
- 3.2 In 2017, planning permission was granted (17/03916/FUL, “the first consent”) for the demolition of the existing building, erection of a two/three storey building with accommodation in roof space comprising 6 x two bedroom and 1 x three-bedroom flats, formation of vehicular access and provision of 7 parking spaces, cycle and refuse storage and landscaping.
- 3.3 Several applications were submitted to discharge conditions. An application (“the second consent”) was then submitted (18/03680/CONR) to vary the conditions relating to the approved plans and landscaping, approved on 06.03.2019. This application was implemented and comprises a “fall back” position (i.e., if the current application is refused, the applicant can still build what was previously consented).
- 3.4 Development commenced, but it was not built fully in accordance with the plans. In order to regularise the development, another application was then submitted to further vary the plans. Application 20/04314/CONR (made under s73 of the TCPA 1990) was approved by the Council, and subsequently subject to a legal challenge.
- 3.5 A claim for judicial review against the decision of the Local Planning Authorities decision to grant planning permission for the application ref. 20/04314/CONR was lodged in 2021. In such cases, the Local Planning Authority has the choice

to either defend its decision or to consent to the decision being quashed by the courts (which effectively revokes the planning permission). The principal issue was whether the application had been determined under s.73 (variation of condition) or s.73A (retrospective application) to the Town and Country Planning Act 1990. The application was determined by the Council under s.73, and the claimant's position was that it should have been determined under s.73A as it was a retrospective application. Although it is possible for a s.73 application to be determined retrospectively, the Council decided to consent to the decision being quashed, which would usually result in the application then being determined again by the Council. The Court did not instruct the Council to re-determine the application, and the applicant chose to then withdraw the application and submit a new s.73A application, which is the subject of this report.

- 3.6 The second consent has been implemented, although not in compliance with condition 1 (drawing numbers). This application is made under s.73A of the Town and Country Planning Act 1990. S.73A(1) states:

“Planning permission for development already carried out.

- (1) On an application made to a local planning authority, the planning permission which may be granted includes planning permission for development carried out before the date of the application.*
- (2) Subsection (1) applies to development carried out—*
 - a) without planning permission;*
 - b) in accordance with planning permission granted for a limited period; or*
 - c) without complying with some condition subject to which planning permission was granted.*
- (3) Planning permission for such development may be granted so as to have effect from—*
 - a) the date on which the development was carried out; or*
 - b) if it was carried out in accordance with planning permission granted for a limited period, the end of that period.”*

- 3.7 The application is for planning permission for development which has already been carried out, without complying with conditions (s.73(a) part (c)). The effect of the decision would be to grant or refuse planning permission for the entire scheme, and for that reason the whole scheme has been assessed within this report (not just the amendments). However, the 2018 planning consent (the second consent) is very similar and is a strong “fallback” position, which should be afforded very significant weight in the decision-making process.

- 3.8 The Town and Country Planning Act requires decision makers to have regard to the development plan, material considerations and financial considerations relevant to and applicable at the time of the decision. Therefore, this report assesses the whole scheme and where the scheme does not comply with the

current development plan policies, also explains where officers have placed weight on the “fallback” position as a material consideration.

- 3.9 As the development has already been substantially constructed, if the application were to be refused, this would trigger consideration if planning enforcement action would be expedient in the circumstances. Any enforcement action is also required to be proportionate to the breach in planning control, and given that the principle of development on the site has already been established, it is therefore unlikely that the building would be demolished, but instead it may not be expedient to take action, or remedial works could be required. If that was case, the applicant would be entitled to appeal both the Council’s decision, and any enforcement notice issued by the Council. Although the cost of taking enforcement action would have financial implications on the Council, officers have placed extremely limited weight on the potential cost of enforcement in their recommendation. A sound decision should be made based primarily on the development plan, fallback position, and other material considerations.

PROPOSAL AND LOCATION DETAILS

Proposal

- 3.10 Retrospective planning permission for the demolition of the existing building, erection of a two/three storey building with accommodation in roof space comprising 6 x two bedroom and 1 x three-bedroom flats, formation of vehicular access and provision of 7 parking spaces, cycle and refuse storage and landscaping.
- 3.11 The application site has been subject to an extensive planning history and a judicial review which is outlined with the planning history section below however, the development as built is considered to be in breach of the previously granted permissions and has been subject to an enforcement case. The principal changes between the proposal and the previously granted permissions comprise of the following items:
- Amendment to dormer window on the first-floor level.
 - Formation of retaining wall due to land levels and neighbouring structures.
 - Amendment to proposed cycle store location due to position of retaining wall.
 - Installation of photovoltaic panels on flat roof to satisfy condition 9 – reduction in carbon emissions.
 - Omission of window on flank elevation.
 - Up stands for approved flat roof lights and flat roof showing firing pieces to enable drainage onto pitched roof with associated downpipes.
 - Internal alterations including lobby entrances within units and service cupboards.
 - Relocation of the refuse store to the parking forecourt area.

Site and Surroundings

- 3.12 The application site is located on the eastern side of Arkwright Road and was previously occupied by a bungalow which has since been demolished and now

comprises a two/three storey building with accommodation in roof space (4 storeys of accommodation including the roof space).

- 3.13 Land levels rise from south to north and generally from east to west. Arkwright Road is varied in character, comprising a mix of single and two storey detached properties set within generous plots with good spacing in-between. The surrounding area is suburban in character.
- 3.14 Part of the site is subject to surface water flood risk and there are no Local Plan policy designations associated with the site.
- 3.15 The site has a Public Transport Accessibility Level (PTAL) of 1a.



Figure 1: Aerial View

4. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The development remains acceptable in principle.
- The design and appearance of the development with the associated changes would not harm the character of the surrounding area or the existing building.
- The living conditions of adjoining occupiers would be protected from undue harm.
- The development would provide a suitable quality of accommodation for occupiers of the development.
- The quantity of parking provision and impact upon highway safety and efficiency would be acceptable.

5. CONSULTATIONS

5.1 The views of the planning service are set out below within the assessment of the material planning considerations as set out below.

6. LOCAL REPRESENTATION

6.1 The application was publicised by letters of notification that were sent to 7 neighbouring properties. A site notice was erected on 04.11.2022. The number of representations received in response to the consultation are as follows.

6.2 No of individual responses: 16 Objecting: 16 Supporting: 0

6.3 The responses received also included a petition which was signed by 74 local residents who objected to the proposed development.

6.4 The following issues were raised in representations. Those that are material to the determination of the application, are addressed within the assessment of the material planning considerations section of this report.

Objection	Officer comment
<i>Principle of development</i>	
<i>Net loss of a 3-bedroom home.</i>	<i>Addressed in report.</i>
<i>Character and design</i>	
Height of the building unacceptable.	<i>Addressed in report.</i>
Excessive hardstanding.	
<i>Quality of accommodation</i>	
Poor quality of accommodation.	<i>Addressed in report and condition 9.</i>
Does not meet the nationally described space standards.	
M4 requirements not achieved.	
<i>Neighbouring amenity impacts</i>	
Overlooking and privacy concerns from roof lights.	<i>Addressed in report and conditions 6 and 7.</i>
<i>Parking and highways</i>	
Overspill car parking on surrounding roads.	<i>Addressed in report</i>
Lack of refuse storage facilities.	
Lack of cycle store provision.	
<i>Other</i>	

Drainage strategy not complied with.	<i>Addressed in report</i>
Incorrect application submitted.	The application forms submitted have ticked that development has commenced and therefore the application has been assessed correctly under s.73A of the Town and Country Planning Act.

6.5 Local Ward Councillor, Lynne Hale, objected to the proposed development and referred the planning application to be considered by planning committee. The councillor raised the following concerns in relation to the proposed development:

- Development fails to meet minimum space standards.
- Development is harmful to the local character.
- Detrimental impacts on neighbouring properties.
- Inadequate accessibility.
- Refuse storage unacceptable.
- Drainage unacceptable.

7. RELEVANT PLANNING POLICIES AND GUIDANCE

7.1 The application is for retrospective planning consent under s.73A of the Town and Country Planning Act 1990.

7.2 Decisions on planning applications must be taken in accordance with the development plan unless there are material and/or financial considerations that indicate otherwise (section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004).

7.3 Planning permission 18/03680/CONR (the second consent) is an extant consent and comprises a “fall back” position (i.e., if the current application is refused, the applicant can still build what was previously consented). This is a significant “material consideration” which should be afforded substantial weight when making a decision on the current application.

7.4 The Council's adopted Development Plan consists of the London Plan (2021), the Croydon Local Plan (2018) and the South London Waste Plan (2022).

7.5 Government Guidance is contained in the National Planning Policy Framework (NPPF) (2021). The NPPF sets out a presumption in favour of sustainable development, requiring that development which accords with an up-to-date local plan should be approved without delay.

7.6 It should be noted that the development plan at the time of the assessment of the original application included the old London plan that was superseded by an updated London Plan in 2021. The policies relating to new housing have

remained relatively consistent, albeit with increased/new targets for housing delivery on small sites.

7.7 The main planning Policies relevant in the assessment of this application are:

London Plan (2021):

- D3 Optimising site capacity through the design-led approach.
- D4 Delivering good design.
- D5 Inclusive design
- D6 Housing quality and standards
- D7 Accessible housing
- D12 Fire Safety
- H1 Increasing housing supply.
- H2 Small sites
- H10 Housing size mix
- S4 Play and informal recreation.
- G5 Urban Greening
- G6 Biodiversity and access to nature
- G7 Trees and woodlands
- S11 Improving air quality.
- S12 Minimising greenhouse gas emissions
- S13 Energy infrastructure
- S112 Flood risk management
- S113 Sustainable drainage
- T4 Assessing and mitigating transport impacts.
- T5 Cycling
- T6 Car parking
- T6.1 Residential parking
- T7 Deliveries, servicing and construction

Croydon Local Plan (2018):

- SP2 Homes
- DM1 Housing choice for sustainable communities
- SP4 Urban Design and Local Character
- DM10 Design and character
- DM13 Refuse and recycling.
- SP6 Environment and Climate Change
- DM23 Development and construction
- DM25 Sustainable drainage systems and reducing floor risk.
- DM27 Protecting and Enhancing our Biodiversity.
- DM28 Trees
- SP8 Transport and communications
- DM29 Promoting sustainable travel and reducing congestion.
- DM30 Car and cycle parking in new development

Supplementary Planning Documents/Guidance

- Section 106 Planning Obligations in Croydon and their relationship to the Community Infrastructure Levy (2019)
- London Housing SPG (Mayor of London, 2016)
- Accessible London: Achieving an Inclusive Environment SPG (Mayor of London, 2014)
- Character and Context SPG (Mayor of London, 2014)
- Sustainable Design and Construction SPG (Mayor of London, 2014)

8. MATERIAL PLANNING CONSIDERATIONS

8.1 The main planning issues relevant in the assessment of this application are as follows:

- a) Principle of development
- b) Design and impact on the character of the area
- c) Quality of accommodation
- d) Impact on neighbouring residential amenity
- e) Trees and landscaping
- f) Access, parking and highways impacts.
- g) SuDs, Flood Risk and Energy Efficiency
- h) Other matters

a) Principle of Development

Demolition

- 8.2 The site previously contained one house, which has been demolished. Planning permission has already been granted for the demolition of the house by the first and second consents.
- 8.3 Local Plan Policy SP2.2 does not permit developments which would result in the net loss of homes or residential land. The planning application is to replace the demolished house with new housing, which would comply with Policy SP2.2.
- 8.4 Local Plan Policy DM1.2 also explains that The Council will permit the redevelopment of residential units where it does not result in the net loss of 3-bedroom homes (as originally built) or the loss of homes smaller than 130m².
- 8.5 The house previously on the site was granted consent in 1924 (Record no.028234). Although officers have been unable to locate the original floor plans, an application was submitted in 2011 (11/00834/P) for extensions to the house, which show the “existing” house having two storeys, with 4 bedrooms (1 downstairs, 3 upstairs), 2 reception rooms, a kitchen, bathroom and garage. The ground floor measured approximately 115sqm (including the 17sqm garage), and the first floor measured approximately 51sqm, totalling 166sqm (or 149sqm excluding the garage). The plans, including the position of the staircase, appear to have been conventionally laid out so officers do not have any reason to believe that the house was constructed with a different layout. The original house

therefore appears on the balance of probability to have been more than 130sqm as originally built (within the meaning of Local Plan Policy DM1.2).

- 8.6 The house on the site was later extended, following the 2011 planning application (such that it was even larger by the time it was demolished).
- 8.7 As the original house was more than 130sqm, its demolition does not conflict with the Local Plan, subject to there being no net loss of homes or residential land. The new development provides 7 homes, which would comply with the Local Plan in this regard.

New Homes

- 8.8 The application is for a block of flats, to replace the house which has been demolished.
- 8.9 The established use of the site is residential (C3), and therefore no change of use is proposed. The continued use of the site for residential use does not conflict with the development plan.
- 8.10 Policy SP2.1 of the Local Plan applies a presumption in favour of development of new homes.
- 8.11 The Local Plan sets out a housing target of 32,890 homes over a 20-year period from 2016-2036. The London Plan requires 20,790 of those homes to be delivered within a shorter 10-year period (2019-2029), resulting in a higher annual target of 2,079 homes per year.
- 8.12 There is limited developable land available for residential development within the built-up area of the borough, and Croydon Local Plan Policy SP2 explains that developments should ensure land is used efficiently. In addition to allocated sites, the Local Plan anticipates a large proportion of housing delivery to come forward on unallocated sites, with a target of 10,060 homes on windfall sites (approximately 503 per year). The London Plan requires 6,410 net completions on small sites (below 0.25 hectares in size) over 10 years, or 641 per year. London Plan policy H1 states that boroughs should optimise housing delivery, particularly on (but not limited to) sites of PTAL 3-6 or within 800m of a train station or town centre boundary. The application site is in a PTAL 1a and more than 800m from the nearest station or town centre.
- 8.13 On such sites Croydon Local Plan Policy SP2 requires development to ensure land is used efficiently, and London Plan Policy H2 requires boroughs to proactively support well-designed new homes on small sites, to significantly increase the contribution of small sites to meeting London's housing needs; and support small and medium-sized housebuilders.

8.14 The principal of providing new homes on the site is therefore supported by the Local Plan's "presumption in favour" and the retention of the new homes on the site would contribute to accommodating the borough's housing needs.

Affordable Housing

8.15 The development provides 7 homes which would not trigger affordable housing contributions in line with Local Plan Policy SP2 or London Plan Policies H4 or H5.

8.16 Housing Mix

8.17 Local Policy DM1.2 seeks to avoid a net loss of small (up to 130sqm) 3-bedroom family-sized homes in order to ensure that the borough's need for family sized units is met and that a choice of homes is available in the borough. As explained in the "Demolition" section of this report, the original house was larger than this and therefore not protected from demolition. The Local Plan requires it to be replaced by a new home so there is no net-loss of housing, but there is no policy requirement for it to be replaced by a similarly sized home.

8.18 The policy has changed since the previous development was approved. The first consent was granted before the adoption of the 2018 Local Plan.

8.19 Local Plan Policies SP2.7 and DM1.1 set a strategic target for 30% of all new homes over the plan period to have 3 or more bedrooms. This is a target which is strongly encouraged by officers as beneficial but is a strategic requirement across all development and is not an absolute requirement for each development proposal.

8.20 The current development proposes one 3-bedroom home. As discussed below, it would not comply with the minimum space standard for a 3-bedroom home, such that in effect it would be akin to a 2-bedroom home with a study. Therefore, limited weight should be placed on the benefits of the scheme's delivery of "family sized" accommodation. However, as there is no net loss of small (up to 130sqm) 3-bedroom family-sized homes, this does not in itself warrant refusal of the application.

8.21 The strategic target of a 30% delivery of three-bedroom units would not be achieved across the development site. However, this does not conflict with the development plan, and refusal on that basis is not warranted.

8.22 It should be noted that weight should be placed on the previous consent, which only included one 3-bedroom home; and that the London Plan (Policies GG4, H2 and H10) and the Local Plan (Policy DM1.1) promote a mix of housing sizes and types. Given that the Arkwright Road predominantly comprises larger family houses, the introduction of some smaller homes is of benefit to supporting a more mixed community.

8.23 On balance, it is considered that the proposed unit mix does not justify refusing the application, given the weight afforded to the previous permissions granted, and the overall compliance with policy.

b) Design and impact on the character of the area

- 8.24 Design and character considerations were considered within the assessment of the first consent. Since that decision was issued, the development plan has changed, and both the Local Plan and London Plan have been replaced. There is greater emphasis on housing delivery, with increased housing targets. However, the general promotion of good design which respects the local character, remains. The Local Plan is clear at paragraph 6.42 that “the need to deliver 32,890 homes does not outweigh the need to respect the local character, and amenity and to protect biodiversity.”
- 8.25 Policies SP4.1 and DM10.1 of the Local Plan explain that the Council will require development which respects and enhances Croydon’s varied local character and contributes positively to public realm, landscape and townscape. Proposals should respect the development pattern, layout and siting; the scale, height, massing, and density; and the appearance, existing materials and built and natural features of the surrounding area. London Plan policy D3 explains that a design-led approach should be pursued and that proposals should enhance local context by delivering buildings and spaces that positively respond to local distinctiveness.
- 8.26 The site is located in Sanderstead. Local Plan Policy DM10 also refers to the requirement to consider “place-specific” policies and the Borough Character Appraisal.
- 8.27 The site is located in the area covered by Local Plan Policy DM43 “Sanderstead” which is described (para 11.188) as:
- 8.28 *“An area of sustainable growth of the suburbs with some opportunity for windfall sites will see growth mainly confined to infilling with dispersed integration of new homes respecting existing residential character and local distinctiveness.”*
- 8.29 The Borough Character Appraisal describes the area’s predominant residential character as “Detached Housing on Relatively Large Plots.” It explains that the majority of housing types are medium/large houses built in a consistent style with a similar relationship to each other and the street. The majority of houses and streets are laid out and built between 1910 and 1940 on former farmland. There are some street trees, but often minimal front boundaries which allow gardens to contribute to a generally green environment. Architecture of houses is generally in a neo-vernacular style, often referred to as ‘Tudorbethan’. Private driveways leading to a detached or integral garage and parking areas mean that on street parking is less of a problem than other housing types.
- 8.30 The London Plan requires boroughs to “proactively explore the potential to intensify the use of land to support additional homes” (Policy GG2), “achieve a change in densities in the most appropriate way” (Policy D3) and recognise “that local character evolves over time and will need to change in appropriate locations to accommodate additional housing on small sites” (Policy H2).
- 8.31 There is therefore a key policy objective to facilitate new housing and accept that the local character will change, but to manage that change through a design

which respects the existing local character and distinctiveness. Aligned with this requirement, the Local Plan (Policy SP2) requires development to ensure land is used efficiently and address the need for different types of homes in the borough. Policy DM10.1 encourages buildings to achieve a minimum height of 3 storeys.

- 8.32 The development is a detached building set back from the street behind a parking area and some soft landscaping. It is set in from the side boundaries, with a substantial rear garden. In terms of plot layout, it respects the existing development pattern of detached housing types on relatively large plots, set behind a driveway. The surrounding houses are mix of bungalows and 2-storey houses under pitched roofs. Officers are of the view that the as built development would comply with the relevant policies. The development comprises a building of three stories which is line with policy. The depths of the building respect the neighbouring properties and building lines, with suitable separation distances to the adjoining side boundaries. The front building line is consistent with the development pattern of the area which continues to remain in compliance with Local Plan policy DM10.
- 8.33 The basement accommodation is not visible from the streetscene, being located at the rear, and set within large rear garden lightwells with stepped retaining walls and soft landscaping. This respects the predominantly soft landscaped nature of the back gardens.
- 8.34 The architectural design and style of the building is sympathetic to the wider context and the traditional design of the development uses features and forms which can be found within the existing street scene. Materials and details have been considered and agreed previously, and provide an acceptable finish to the development in keeping with the materials used within the street scene.
- 8.35 A dormer window with a gabled roof has been constructed on the front elevation of the first-floor level, which cantilevers over the ground floor level and comes further forward when compared to the planning permissions previously granted. The other buildings on the street feature bay windows and front facing gables, such that this feature reflects the character of the street scene.
- 8.36 The previous consent included an internal refuse store, which has been relocated out of the building into the front garden. It would be a timber structure, screened by a hedge (with a condition recommended to ensure future retention). Several of the nearby houses have substantial hedges within their front gardens and the scale of this feature would therefore not be out of scale with the other similar features in the street scene.
- 8.37 The location of the refuse store due to its size and scale would appear as a modest outbuilding in relation to the existing flatted block. The siting and location of the bin store are not considered to negatively impact the visual amenities of the street scene or detract from the character of the flatted block, (even without the hedge, which would future reduce the impact) and are acceptable when assessed against Local Plan policy DM10.
- 8.38 As part of the as built development, upstands for the roof lights and the firing pieces located on the flat roof have been included which did not form part of the

previously approved development. Due to their minor nature and location, these additional elements are not considered to cause harm to the character of the building and the visual amenity of the street scene and are therefore acceptable as the development continues to comply with Local Plan policy DM10.

- 8.39 The downpipes which have been incorporated onto the external elements of the building during construction are located in discreet locations on the principal elevations of the building and run down the side elevations which will not be prominent within the street scene. Downpipes on this principal elevation are a common feature that are found within the existing street scene and are typical on older style dwellings. It is not considered that their introduction has resulted in a development that would harm the visual amenities of the street scene or the character of the existing building and are therefore in accordance with Local Plan policy DM10.
- 8.40 The building includes lightwell gardens and balconies which are not a feature of the street scene. However, these are located at the rear, such that they are not visible from the street and therefore do not affect the character of the street scene.
- 8.41 In order to achieve reductions in CO2 emissions photovoltaic panels have been installed onto the roof of the building. The as-built panels are located on the flat roof section of building which is set back from the main elevation of the building. It is considered that the panels have been installed in a way that is discreet and will minimise any impact to the street scene when viewed front the road. The locations of the panels are therefore not considered to result in harm to the character of the building or the visual amenities of the street scene and are considered acceptable when assessed against Local Plan Policy DM10.
- 8.42 Two retaining walls are situated within the development along the northern boundary and around the landscaped area located outside of unit 3. Whilst not originally approved, the retaining walls are not considered to significantly harm the appearance of the landscaping of the proposed development. The retaining wall along the northern boundary of the site is at a low level and therefore result in minimal adverse impact to the character of the development and the wider area. The retaining wall nearest to the southern boundary will be located above the terraced area which serves unit 3. Whilst the retaining wall is taller than originally approved, the front gardens of the nearby houses feature walls, hedges and fences of varied heights, and the sloped nature of the street means that it is not out-of-keeping with the street scene.
- 8.43 Overall, the retaining walls are not considered to significantly harm the appearance of the development or the character of the existing area.
- 8.44 The windows, soffits and fascias are white PVC, as are the entrance doors, and the rainwater goods are also PVC (black). These are similar to the features of the neighbouring properties. The brickwork and tile hanging / roof tiles are the half-timbering are of acceptable quality. Some of the windows are of varied designs; however, there is some variation of fenestration (predominantly PVC) on the street, such that this is not considered out-of-keeping with the street. The front door is located on the side of the building, which is unusual, although as

there is a door on the front (to one of the flats), this is not harmful to the street scene and again does not warrant refusal.

- 8.45 The development is a detached residential building under a pitched roof, surrounded by soft landscaping and sitting behind a front driveway. As such, it is in keeping with the established typology of development on Arkwright Road. The development achieves the policy aims of increased housing mix and density whilst respecting (although not necessarily preserving) the existing character. As such, the retention of the building results in a development that is compliant with Local Plan policy DM10 and the aforementioned policies and is acceptable in terms of design and character.
- 8.46 As explained above, the extant consent on the site is a “fall-back” position, meaning that if the development was not approved, the developer could fall back on their previous consent instead. The design changes compared to the previous consent (the front dormer, bin store, and detailing) are relatively minor compared with the previously approved scheme, and as significant weight should be placed on the fall-back position, officers are not of the view that the changes to the approved development are of such magnitude that they would warrant refusal of the application on design grounds.

c) Quality of Accommodation

- 8.47 The National Design Guide states that well designed homes should be functional, accessible and sustainable. They should provide internal environments and associated external spaces that support the health and well-being of their users and all who experience them. Homes should meet the needs of a diverse range of users, taking into factors such as ageing population and cultural differences. They should be adequate in size, fit for purpose and adaptable to the changing needs of their occupants over time. London Plan Policy D6 states that housing developments should be of a high quality and provide adequately sized rooms with comfortable and functional layouts. It sets out minimum Gross Internal Area (GIA) standards for new residential developments. Local Plan Policies DM10.4 and 10.5 also set out standards for private and communal amenity spaces.
- 8.48 The Nationally Described Space Standards (NDSS) provide minimum technical space standards for new dwellings in terms of the gross internal floor areas and storage.
- 8.49 The original permission ref. 17/03916/FUL and subsequent section 73 application ref. 18/03680/CONR approved the floor layouts and accommodation which were implemented on site.
- 8.50 The development was not built completely in accordance with the approved plans, and there are some discrepancies between the development which has been constructed and that which was consented.
- 8.51 Permission was granted for a development which contains a three-bedroom home (unit 3). The as-built scheme includes a home with three bedrooms, but it does not comply with the relevant space standards for a three-bedroom home. The width of the smallest bedroom is too narrow to achieve the dimensions

required by the Nationally Described Space Standards. The home would however exceed the standard for a 2-bedroom home, with an additional study. It would be dual aspect, with a private garden. Therefore, this home would provide an acceptable standard of accommodation for occupiers who require a 2-bedroom home, and the presence of an additional room would not harm the accommodation provided.

- 8.52 The second bedroom of unit 3 does not have an opening window. The reason given at the site visit was to avoid fumes from a nearby flue (however that flue does not exist). The applicant has since advised that opening the window may obstruct people running into the garden, which officers consider can be mitigated through restricted or inward opening, so to allow passive ventilation, a condition is recommended requiring that window to be replaced with an opening window within 3-months of the grant of consent.
- 8.53 The retaining wall outside of unit 3 extends higher than that which was originally approved. Given the separation distance between the unit at the lower ground floor level and the retaining wall, it is considered that the development continues to deliver an acceptable level of daylight and outlook for this unit which is in accordance with Local Plan policy DM10.
- 8.54 As explained above, there is no absolute policy requirement for a three-bedroom home to be re-provided (although there is a target for 30% of homes to have 3+ bedrooms), therefore refusal based on the standard of accommodation provided by that home is not warranted.
- 8.55 The other concern raised by objectors is whether the headroom requirements within the homes located in the sloped roof space have been achieved. The roof space contains 2no. 2-bedroom flats. The NDSS requires that the minimum space for a 2b3p flat is 61sqm, with a floor to ceiling height of 2.3m for at least 75% of the Gross Internal Area (46sqm for a small 2-bedroom flat). Unit 6 would have 75sqm (oversized by 14sqm), of which 39sqm (52%) is at least 2.3m high. Unit 7 would have 65sqm (oversized by 4sqm), of which 37sqm (57%) is at least 2.3m high. These units would fall short of the minimum standard. However, they are triple aspect units, their overall floorspace exceeds the minimum standard, and therefore on balance accommodation provided would provide an acceptable standard of accommodation.
- 8.56 Throughout the development, the as-built ceiling heights do not achieve the London Plan requirement of 2.5m but exceed or achieve the NDSS minimum of 2.3m. The London Plan advocates higher ceilings partly to avoid overheating, and in this case all units would be dual-aspect, resulting in cross-ventilation which would also address overheating; therefore this is not considered by officers to warrant refusal.
- 8.57 Planning permission ref: 17/03916/FUL highlighted that a number of the apartments as originally approved did not have their own private amenity space. The same would apply in relation to the current proposals which would result in a development that does not fully comply with Local Plan policy DM10.4 in terms of the delivery of private amenity spaces for all the units built on site.

- 8.58 The site would also fail to comply with London Plan policy D7 in terms of delivering wheelchair accessible and adaptable units across the site. There are no accessible and adaptable units. The entrances to the building have been constructed without step-free access to the entrance doors, and there is no step-free or accessible path to the communal garden at the rear. This is of note given the lack of private amenity space to the upper floor homes. A condition is therefore recommended to require the entrance paths to be amended to provide step-free access to the building, rear garden and cycle store. The Local Planning Authority is required to consider accessible design as part of the duties contained within the Equalities Act and avoid discriminating against those with protected characteristics, and this is considered a proportionate requirement which complies with that act.
- 8.59 Furthermore, the ceiling heights of the homes, whilst at least 2.3m, do not achieve the London Plan standard of 2.5m. This standard is in place to avoid overheating, allow space for sufficient lighting and provide good living conditions. Given that all the homes are dual aspect, these requirements would largely be achieved and the lower ceiling heights do not warrant refusal of the application.
- 8.60 The existing building on the site provides homes for local residents, and rectifying some matters, like the ceiling heights, would require substantial demolition and re-building. These issues could not be easily rectified, and to achieve complete policy compliance, would require substantial demolition and re-build. A consequence would be that the existing residents would lose their homes and need to move elsewhere. The extent of work needed to achieve complete policy compliance, and the impacts, are material considerations.
- 8.61 Other matters are easier to rectify, and as explained above, conditions are recommended requiring step-free access to the building, garden and cycle store, and a replacement window. These matters are simple to rectify and can be secured by planning conditions.
- 8.62 The building is occupied and provides a small number of homes, all of which are dual aspect, with good access to sunlight and daylight, and access to outdoor amenity space. On balance it provides an acceptable standard of accommodation to its residents. As such, whilst the retrospective application should consider the application against the development plan at the time of its assessment, officers have taken an on-balance view that the quality of accommodation proposed given the circumstances would be not warrant a reason for refusal based on the planning history and the established permissions which have been implemented previously.

d) Impacts on neighbouring residential amenity.

- 8.63 Policy DM10.6 of the Local Plan states that the Council will ensure proposals protect the amenity of occupiers of adjoining buildings and will not result in direct overlooking into their habitable rooms or private outdoor space and not result in significant loss of existing sunlight or daylight levels.
- 8.64 The relationship to adjoining properties would be similar to that already approved. Any changes to the elevations, windows, balconies and roof-lights

would be minimal. The previous approval (the second consent) contained side-facing rooflights which are not obscured glazed, and a concern has been raised by neighbours about overlooking. This is a previously approved arrangement and due to the angled nature of the rooflights on the roofslope, does not result in significant overlooking towards the neighbours' windows or gardens (with predominantly sky views). The established development was considered to not result in significant harm to the outlook and the amenity of the adjoining occupiers and given the minimal change in the general layout of the development and the built form, officers maintain that the development continues to comply with Local Plan Policy DM10.

e) Trees and landscaping

8.65 Policy DM10.8 seeks to retain existing trees and vegetation and policy DM28 requires proposals to incorporate hard and soft landscaping.

8.66 The site is not covered by a Tree Preservation Order. There are some small trees and shrubs on the site and an arboricultural report was submitted with the original application ref. 17/03916/FUL. The alterations to that of the original planning permission are not considered to result in a development that would have resulted in an officer's opinion that differed from that as originally assessed within the original application. The relocation of the cycle and refuse stores to alternative locations where hardstanding exists ensures that any harm to the existing trees would have been minimal and therefore in compliance with Local Plan policy DM10.8.

8.67 A landscaping proposal was approved under application ref. 18/03680/CON and the landscape plan submitted with the application currently under assessment has amended this slightly to reflect the as built conditions. It is therefore considered that the landscaping proposals are acceptable given the established permissions and the minimal changes to the overall landscaping proposals and strategy. A condition is recommended requiring this landscaping to be maintained.

f) Access, Parking and Highway Safety

8.68 The site has a Public Transport Accessibility Level (PTAL) of 1a which indicates poor access to public transport. 7 parking spaces (1 per home) have been provided in a parking area at the front of the site, which would accord with the maximum car parking standards set out within London Plan policy T6. The policy position has not altered significantly despite the adoption of the new London Plan and officers consider that based on the unit mix and proposed car parking provision, the development continues to be acceptable and policy compliant in this regard.

8.69 Acceptable turning space has been provided to allow vehicles to manoeuvre within the site and exit in a forward gear as have visibility splays which would ensure the safety and efficiency of the highway providing a development that is compliant with Local Plan Policy DM29.

Cycle parking

8.70 Local Plan Policy DM30 and London Plan policy T5 and Table 10.2 would require the provision of a total of 14 cycle parking spaces for residents and given the scale of development, there is no requirement for visitor cycle parking. Cycle parking has been located to the rear area of the development site with access provided down the side of the existing building. This location would be acceptable, subject to the provision of a path to the cycle store (recommended by condition). The second consent included details of a cycle store, which have not been complied with. Therefore, another condition is recommended requiring compliance or approval or alternative provision. Given the existing layout of the development site, and that the cycle store would be accessible to future occupiers of the development, this arrangement is considered acceptable.

Refuse / Recycling Facilities

8.71 The application proposes a new, larger refuse store, located within the forecourt. Based on the council's waste guidance document for new developments, the store would be able to accommodate enough bins for the development. Furthermore, the arrangement allows for easy transport of the receptacles for operatives accessing the site which would be considered acceptable and in line with Local Plan policy DM13. The surrounding houses have relatively substantial hedges and landscaping in their front gardens, alongside relatively tall fences and structures which in some cases come forward of the building line. The proposed bin store would be located close to the front boundary, however given the site's context and the proposed landscaped boundaries, the appearance and location of the proposed bin store would be acceptable.

g) SuDs, Flood Risk and Energy Efficiency

8.72 The original application considered the flood risk of the site, and a drainage strategy was provided to the council which was dealt with under application ref. 18/02441/DISC. There has been no alteration to the flood risk of the site and given the minimal changes to the overall site layout which the application is seeking retrospective permission for, it is not considered that this has an impact on the drainage measures that have been approved previously. Within the public consultation responses, concerns were raised about the implementation of the SUDS scheme. A condition is recommended requiring the ongoing compliance with the previously approved SUDS details, meaning that future enforcement would be possible if the condition is not complied with. Overall, it is considered that there would be a neutral impact in this regard and that subject to the recommended condition, the development continues to comply with Local Plan policy DM25.

8.73 In order to ensure that the proposed development achieves appropriate standards of sustainable design in accordance with Local Plan policy SP6, a condition will be attached requiring the proposed development to continue to achieve the higher minimum water efficiency standard of 110 litres/person/day as set out in Building Regulations Part G.

8.74 The second consent was subject to a condition requiring a 19% carbon emissions reduction (compared to the building regulations). An application was submitted in 2022 to demonstrate compliance (22/00127/DISC). That application was withdrawn, but provided sufficient evidence such that the requirement could be achieved; that policy requirement has since been replaced by a higher building

regulations standard, however it would still be appropriate to apply a condition requiring ongoing compliance and such condition is recommended.

h) Other matters

8.75 The development would be liable for a charge under the Community Infrastructure Levy (CIL).

8.76 The previous approvals on the site pre-dated the current requirement for small housing developments to provide financial contributions towards sustainable transport measures. The second consent (the fallback position) did not have a s.106 agreement or contribution towards sustainable transport. Given that amendments to the scheme do not increase the transport impacts of the development, there would be no additional harm to mitigate in terms of sustainable transport. On that basis, no s.106 agreement has been entered into.

8.77 The requirement for Fire Safety Statements was introduced by the London Plan (2021) after the outline consent was approved by the Council, and therefore no conditions were imposed securing a Fire Safety statement. The development has already been constructed, such that the requirement for a Fire Safety statement has been overtaken by the Building Regulations, which require assessment of Fire Risks; as such this matter has been considered (as required by London Plan Policy D12) but no planning-application stage Fire Safety Statement is required.

8.78 All other planning considerations including equalities have been taken into account.

Conclusion

8.79 The application for retrospective planning permission for the amendments to the original planning permission includes design elements which are not fully in compliance with the development plan.

8.80 The existing planning consent is a material consideration, and the building is providing accommodation to local residents. The development which has been constructed does not harm the street scene. Some harm has been identified within this report, and conditions are recommended, which must be complied with to rectify some of the harm caused by the as-built development.

8.81 Subject to compliance with those conditions, the development is considered to provide an acceptable standard of accommodation, such that the minor policy conflicts do not warrant ordering the demolition of the building and eviction of the existing residents.

8.82 On balance, and subject to compliance with the recommended conditions, approval is recommended.