
Appeal Decision

Site visit made on 12 December 2016

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 04 January 2017

Appeal Ref: APP/L5240/W/16/3160525

279 South Norwood Hill, South Norwood, London SE25 6DP

- 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 Mr S Navaratnam against the decision of the Council of the London Borough of Croydon.
 - The application Ref 16/01045/P, dated 8 February 2016, was refused by notice dated 15 June 2016.
 - The development proposed is the change of use from A1 to mixed A3 + A5 mixed use and installation of extractor flue pipe.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issues

3. The main issues are the effect of the proposal on:
 - (i) the retail function and vitality of the shopping parade;
 - (ii) the character and appearance of the area;
 - (iii) the living conditions of neighbouring residential occupiers, with particular regard to noise and disturbance; and
 - (iv) highway safety, with particular regard to on-street parking.

Reasons

Retail function and vitality

4. The appeal site consists of a ground floor retail unit site within a parade comprising of thirteen commercial/retail properties with residential accommodation above. At the time of my visit all of the units apart from the appeal site were occupied and there was no visual evidence to demonstrate that the parade or surrounding area was in decline. From the evidence before
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me, I note that the unit was previously in use as a convenience store, which is a use falling within an A1 (retail) use class¹.

5. The row of units in which the appeal site is located is designated as a 'Shopping Parade' on the proposals map supporting the Croydon Local Plan: Strategic Policies 2013 (the LP). Saved Policy SH6 of the Croydon Replacement Unitary Development Plan 2006 (the UDP) seeks to protect the retail function and vitality of designated shopping parades by ensuring non-retail uses are not overly concentrated. Amongst other things, this is to be achieved by limiting the overall number of non-retail uses to less than 50% of the total number of units in the parade. At the time, of my site visit, six of the units were in A1 retail use and seven were in non-retail use.
6. The appellant states that due to the presence of two larger convenience stores within the same parade, and current market conditions, it is not economically viable to continue trading and as such, the unit has been closed since 2014. I am aware of the previous planning history of the site and that the appellant contends that the unit has been marketed for two years for other business opportunities. Notwithstanding the appellant's case, the limited evidence submitted does not, in my opinion, fully demonstrate that the property has been marketed effectively for retail use. In particular, there is no substantive evidence regarding such matters as comparative rents; terms and agreements; or length of marketing. In the absence of such information specific to the appeal site, I am not persuaded that a non-retail use is the only viable option for the unit.
7. In addition, I consider that the proposed use would prejudice the dominance of A1 uses and the principal role of the parade as a shopping centre. The proposal would result in the further loss of another A1 retail unit and would make the concentration of hot food takeaways an even more dominant element of the parade.
8. In consequence, the proposal would further reduce the retail function and vitality of the parade contrary to Policy SH6 of the UDP and Policies 2.15, 4.7 and 4.8 of The Spatial Development Strategy for London Consolidated with Alterations Since 2011, 2015 (TLP). Taken together, these policies, amongst other things, seek to safeguard the retail function and vitality of local shopping parades as they provide a useful local service within walking distance of residential areas.

Character and appearance

9. The proposal includes a steel extractor flue pipe, which would be fixed to the flank wall of the rear elevation of the unit on Spa Close. The ducting would be attached to both the first and second storey rear elevations and would terminate approximately one metre above the eaves.
10. I acknowledge that the proposed extraction and ducting system is seen in a variety of locations throughout the country. Indeed, from observations made during my site visit my attention was drawn to other similar flues that have been erected on the external walls of nearby buildings. However, in my opinion they do not make a positive contribution to the local environment and, therefore, they should not be regarded as a precedent for this appeal.

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

11. The proposed flue pipe would be of a significant scale and when viewed against the rendered walls would appear as a bulky alien feature of the building. Views of the flue would be, on the whole, restricted to the rear elevation of the appeal site. However, due to its bulk and industrial appearance it would appear as an unduly prominent and intrusive feature on the rear elevation of the appeal site and in the wider Spa Close street scene.
12. Accordingly, I find that the extraction and ducting system would represent a highly conspicuous and incongruous feature and therefore conflicts with the design objectives of Policies UD2 and UD3 of the UDP, Policy SP4.1 of the LP and Policies 7.4 and 7.6 of TLP.

Living conditions

13. Residential dwellings are located on the first and second storeys directly above the parade of shops. Given the mix of uses in such proximity to one and other, I would expect that the immediate area in proximity to the appeal site will be considerably busier and noisier than an area consisting of solely residential dwellings.
14. Policy EP1 of the UDP states, amongst other things, that development which results in noise pollution will only be permitted if the health, safety and amenity of the surrounding area is not put at risk. The policy further acknowledges that the use of planning conditions may be implemented to control aspects such as hours of opening.
15. With regard to the existing units closest to the appeal site, I note that there is a general store that is open until 22.00 most nights. In addition a coffee bar and take away is located at No 281, which opens until 22.00 Monday to Friday and 23.00 on a Saturday. In addition, there is a bus stop located a short distance from the appeal site with regular buses until after 23.00.
16. The proposal would be likely to generate more trade for the shopping parade as a whole. However, given the relatively small scale of the proposal, I have no reason to suppose that this would result in excessive disturbance over and above that resulting from the existing level of activity in the area.
17. Moreover, the appellant has indicated his acceptance of a planning condition limiting the hours of operation from 08.00 to 23.00 Monday to Saturday and 10.00 to 22.00 on a Sunday and bank holiday. These timings generally correlate with the opening hours of the nearby units and the times of late evening buses.
18. Accordingly, I do not consider that there is any reasonable likelihood of the proposed use resulting in significant harm to the living conditions of the occupiers of neighbouring dwellings by way of noise or disturbance. On this basis, the proposal would not conflict with the control of potentially polluting uses objectives of Policies EP1 of the UDP.
19. The Council has also referred to Policy UD8 of the UDP in the decision notice. However, this policy is concerned with the protection of residential amenity in relation to new residential development including extensions and alterations to existing buildings. In addition, Policy 7.6 of TLP has also been referred to, which is concerned with ensuring the architecture of new development contributes to the creation of a cohesive built environment. As neither policy

makes reference to specific noise considerations, I do not consider they are of relevance in this instance.

Highway safety

20. The appeal site is set back a short distance from the A215, which at the time of my site visit was heavily trafficked. As with other units located on the parade, the proposal would not provide any off-street car parking.
21. However, safe and unrestricted parking spaces are available outside the unit and along the whole length of the shopping parade. In addition, the unit is located on the corner with Spa Close which has unrestricted on-street parking availability. I also noted that unrestricted parking was also available on Glyn Close and Grange Hill, which are located within a short walking distance of the site junction.
22. I appreciate that the nearby on-street car parking spaces will be well used, given the mix of both residential dwellings and commercial and retail units. I also accept that hot food takeaways generally rely on a regular turnover of 'short-stay' customers arriving by car and that a peak time for business could coincide with peak traffic flows in the evening rush hour, which is often between 1700 and 1900.
23. I have taken into account the presence of other units in proximity to the site which also have similar opening hours and parking requirements. I note the concern of the Council in respect of existing local parking pressures, although no substantive evidence has been provided with regard to this matter.
24. Taking into consideration the lack of objection from the Council Highway department, and from my own observations on site, I am satisfied that sufficient on-street parking is available outside the parade of shops and in adjacent streets to safely accommodate the level of parking which is likely to arise from the proposed use.
25. Consequently it is unlikely that the proposal would cause highway safety problems for vehicle users or pedestrians. Nor, taking into account the potential level and nature of vehicle movements and the arrangements of available parking spaces, is it likely that there would be any materially adverse effect on the free flow of traffic.
26. As such, I find that the proposal would not have an adverse impact on the safety of road users or the efficient operation of the highway network in the vicinity of the site. Policy T8 of the UDP states that development will not be permitted unless the proposal complies with the parking standards set out in the associated Appendix 2. In this instance, the proposal before me is not listed within Appendix 2 and as such, it is appropriate to undertake an assessment based on the merits of the proposal. Taking the above factors into consideration, as no harm in terms of highway safety has been identified I therefore find no conflict with Policy T8 of the UDP.

Conclusion

27. I have not found harm in relation to the living conditions of neighbouring occupants or highway safety. In addition, I acknowledge that the proposal would result in employment opportunities for 2 to 3 people. However, the

harm I have identified regarding the retail function and vitality of the shopping parade and the character and appearance of the area is decisive.

28. For the reasons given above, and taking account of all matters raised, I conclude that the appeal should be dismissed.

Helen Cassini

INSPECTOR