
Appeal Decision

Site visit made on 18 December 2018

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 3 January 2019

Appeal Ref: APP/L5240/W/18/3206895
19 London Road, Croydon CR0 2RE

- 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 Mariwan Ali (Naeem Meer Property Services Ltd) against the decision of the Council of the London Borough of Croydon.
 - The application Ref 18/01461/FUL, dated 21 March 2018, was refused by notice dated 24 May 2018.
 - The development proposed is describes as proposed change of use from A1/B1 Use to C3 (Residential) Use.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council change the description of the proposal from that contained on the application form to 'Alterations; Use of lower ground, first and second floors as self-contained studio units'. I have therefore taken this description into account in the determination of this appeal.
3. At the time of my site visit the lower ground floor unit was occupied. The appellant indicates that the proposal should have been subject to 'prior approval' procedures as permitted development rights allow the change of use from Use Class B1 to Use Class C3. The Council indicate that at the time the planning application was submitted the residential use had commenced and therefore 'prior' approval could not have been considered. I have no demonstrable evidence to indicate whether the change of use had, or had not, commenced prior to the submission of the application. However, the fact remains that a full application for planning permission was submitted and duly considered by the Council. I am therefore obliged to only consider that application and subsequent decision on which this appeal is made.

Main Issues

4. The main issues are:
 - The effect of the proposal on the living conditions of the prospective occupiers of the lower ground unit with particular regard to outlook and daylight.

- The effect of the proposal on the living conditions of the prospective occupiers of the lower ground, first and second floor units with particular regard to private/communal amenity space.

Reasons

Living conditions – Lower ground unit

5. The appeal property comprises a three storey, plus lower ground floor, mid terrace building located on a busy road that predominantly comprises two/three storey commercial/retail units on the ground floor with storage and some residential units on the floors above. The ground floor of the property is used as a Barbers Shop which is proposed to be retained.
6. The change of use relates to the lower ground floor, first floor and second floor. No external alterations are proposed. The first and second floor units have windows in the front and rear elevation. The Council's concern in respect of the first issue identified in this appeal relates to the lower ground floor (basement) unit only which has a single aspect window in the rear elevation.
7. The appellant indicated that the window now installed in the rear elevation of the lower ground floor unit is larger than that shown on the submitted drawings. Whilst this may be the case, I observed that the window is positioned between, and close to, the flank walls of two rear extensions of the appeal property and the adjoining property at No 17 London Road. In addition, the window is positioned close to a facing wall that forms part of the change in ground level between the ground floor unit and the rear yard beyond. These physical factors in combination limit the amount of daylight and sunlight received at the window.
8. I was able to assess the level of internal daylight received at the window during my site visit. It was clear that the daylight received at lower ground floor unit was limited to that which occurred in relatively close proximity to the window. The remainder of the unit could only be reasonably be illuminated by internal lighting. As such, the window provides an unacceptably limited and inadequate level of daylight.
9. In addition, outlook from the lower parts of the window at a person's eye level are primarily towards the facing wall with outlook from the upper portion of the window being towards the rear yard. Owing to the position of the flank walls of the rear extensions there are no realistic oblique views attainable from the window. Taking these factors into account the window provides a very limited and oppressive outlook.
10. I have taken into account the appellant's view that the lower ground floor unit also has two doors and a double aspect window. However, I agree with the Council that the submitted drawings, as evidenced at my site inspection, clearly show a single aspect window and a door that provides access to an internal stairway only. The door does not realistically facilitate any natural daylight to enter the unit. As such, natural light is only received at the rear window.
11. Taking the above factors into account, the proposal would have an unacceptable effect on the living conditions of the occupants of the lower ground floor unit as a consequence of inadequate levels of daylight and a limited and oppressive outlook. It would therefore be contrary to Policy DM10.6 of the Croydon Local Plan 2018 (Local Plan) and Policy 7.6 of the

London Plan 2015. These policies, amongst other things, require proposals to provide adequate sunlight and daylight to potential future occupants and provide high quality indoor spaces.

Living conditions – Basement, first and second floor units

12. The appeal property has an enclosed rear yard which at the time of my site visit was being used for outdoor storage with little, if any, useable amenity space available. Although the appellant suggested that the rear yard could be used as a private/communal amenity area this is not shown on the submitted plans or within the application. Furthermore, given the amount of storage use that is occurring, it is clear that this yard is currently incapable of performing such a function.
13. Policy DM10.2 of the Local Plan requires that proposals should create clear and well defined and designed private spaces. The supporting text to this policy indicates that in exceptional circumstances where site constraints make it impossible to provide private outdoor space for all dwellings, indoor private amenity space may help to meet policy requirements.
14. Although the internal floor areas of the self-contained studio units exceed the minimum floor area requirements as set out in the Nationally Described Space Standards (NDSS), I am mindful of the requirement of the policy and its supporting text. In this case, the modest additional space has not been added to create an amenity area as it comprises the existing floor area of the units and is not shown in the application as being designated and added amenity space.
15. The appellant indicates that the additional floor space beyond that prescribed in the NDSS comprises 11m² for the lower ground floor unit, 9.5m² for the first floor and 8m² for the second floor. I have no evidence to indicate that the Council has any adopted standards that define a minimum floor area of internal amenity space that may be required to serve each unit in lieu of any designated outdoor space. However, in my view, these existing and modest additional areas of floor space beyond those prescribed in the NDSS, which are not shown or dedicated for amenity use on the submitted drawings, cannot reasonably be considered to constitute a clear well defined and designed private space within the context of Policy DM10.2.
16. Furthermore, given the presence of the rear yard, I have no evidence to indicate why site constraints make it impossible to provide outdoor space to the extent that an exceptional circumstance exists to suggest that policy requirements can only be met by the provision of additional internal floor space.
17. For these reasons I find that the proposal does not make adequate provision for private/communal space and would therefore have a detrimental effect on the living conditions of the occupants of the units. It is therefore contrary to Policy DM10.2 of the Local Plan and Policy 7.4 of the London Plan 2015 which requires proposals to provide high quality indoor and outdoor spaces.

Other matters

18. The appellant has drawn my attention to other planning decisions within the Borough for changes of use to Use Class C3. Whilst these demonstrate a varied approach to the consideration of proposals changes of use to residential

use, I do not have full details of the nature of the proposals or the circumstances and material considerations that were relevant to their determination. Consequently, I cannot be sure that these are wholly representative of the circumstances in this appeal. In any case, these have not led me to a different conclusion on the main issues of this appeal which I have determined on its own merits.

Conclusion

19. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR