



Appeal Decision

Site visit made on 29 September 2020

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 03 November 2020

Appeal Ref: APP/L5240/W/20/3254332

9-11 Whytecliff Road South, Purley, CR8 2AY

- 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 Waqar Ahmed against the decision of the Council of the London Borough of Croydon.
 - The application Ref 20/00865/FUL, dated 21 February 2020, was refused by notice dated 13 May 2020.
 - The development proposed is proposed front bay windows and rear windows. Proposed new side entrance and 600mm front wall with gate.
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Preliminary Matters

1. The description of development given on the application form differs from that given on the notice of decision refusing planning permission. It appears that this is a result of amended plans being received during the course of the planning application. I have used the description of development given on the notice of decision issued by the Council in the formal decision on this appeal given below, as this is consistent with the plans submitted by the appellant and the details contained in his statement of case.

Decision

2. The appeal is allowed, and planning permission granted for proposed front lightwell; front, side and rear windows; side entrance; and front boundary treatment and gate at 9-11 Whytecliffe Road South, Purley, CR8 2AY in accordance with the terms of the application Ref: 20/00865/FUL dated 21 February 2020, and subject to the following conditions;
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan DWL 03, received by the Council on 22 February 2020; Site plan DWL 04, received by the Council on 22 February 2020; Elevations and Floor Plans DWL 01a, received by the Council on 20 April 2020.
 - 3) No above ground development shall commence until details, including samples, of the materials to be used in the construction of the brick wall and gate to surround the forecourt of the building and the black grating over the lightwell, hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and samples.

- 4) No above ground development shall take place until details of the design of the proposed new front ground floor windows, including detailed drawings at a scale of 1:20 or 1:10, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Main Issues

3. The main issues are:

- the effect of the proposed development on the character and appearance of the area; and
- whether the proposal would provide acceptable living conditions for the occupants of flats 1 and 3.

Reasons

Background

4. The building which is the subject of this appeal has an extant planning permission for change of use from office to residential flats, LPA ref: 19/06061/GPDO granted on 21 February 2020.
5. From my site visit the building appeared to be vacant and to have been last used for retail/office purposes. The appeal proposal relates to alterations to the building to form new openings, the construction of a lightwell and a low brick wall to enclose the forecourt.

Character and appearance

6. The appeal building has large display windows on the ground floor and bay windows above.
7. The side of the road where the appeal site is located is characterised by a mix of shops, offices, food premises with living accommodation above. The premises lying between the appeal site and the major road junction, to the south, all have forecourts, some of which are enclosed, either by walls or railings. The newer flat block to the right of the appeal site, to the north, has raised planting beds or partitions separating the front of the building from the road at ground floor level.
8. The proposal to introduce a low wall to surround the forecourt of the appeal building would be similar to the way some other forecourts close to the appeal site have either been fully or partially enclosed. Some of these enclosures also have gates or gaps in them to allow access to the space behind. The proposed low brick wall, subject to a suitably worded condition along the lines suggested to control the materials from which it is constructed, would not look out of place in this location. Consequently, the enclosure of the forecourt with a low brick wall would not be detrimental to the street scene or the character or appearance of the area.
9. The Council contend that the area behind the proposed low wall would be likely to become a disused and potentially unmaintained space. However, provision of the proposed gated access to the area would ensure that it was capable of being used by the occupants of the building and that access was available for maintenance. I consider that this would not harm the character and

appearance of the locality, as the area behind the wall is accessible and is capable of being used. I therefore give this matter limited weight in this appeal.

10. The proposed lightwell would be located next to the appeal building, be surface mounted, relatively narrow and behind the proposed low wall. It would not be visible in the street scene. Consequently, whilst light wells do not appear to be typical of the area, it would not appear as an incongruous or visually intrusive feature in the street scene. In this respect it would not harm the character and appearance of the area.
11. I have been supplied with a wide range of development plan policies. The development proposed relates to the external alteration of a building. Therefore, in my judgement, policies of particular relevance to this appeal are those that seek to protect the character and appearance of the area. However, where they have been referred to in the reasons for refusal, I have considered the other policies, as far as they are relevant to the subject of the appeal.
12. The London Plan (LP) 2016 at Policy 7.4 supports, amongst other things, developments that have regard to the form, function of an area, place or street. At Policy 7.6 it supports developments that make a positive contribution to the street scene and complement the local architectural quality. The appeal proposal would be consistent with these Policy as it would not harm the street scene and is capable of complementing the local architectural quality, as I have set out above. Policy 4.7 relates to retail development. As the use of the building is not being considered as part of this proposal the policy has limited relevance to the appeal proposal.
13. The Croydon Local Plan (CLP) 2018 at Policies DM10, seeks to ensure that the character of the area is respected. The development is consistent with this policy for the reasons set out above. As with the LP I have been directed to Policies DM4 and DM11 which deal with retail uses in town centres and shop fronts. The use of the building for flats has already been approved. Moreover, the large glass windows, typical of retail premises are shown to be retained, albeit in an altered form, in the details submitted with the planning application. I therefore give these policies limited weight in the determination of this appeal.
14. A material consideration in this appeal is the emerging Draft London Plan. This contains policies at D1, D2 and SD6 which seek to ensure that development integrates with its context, respects urban form and supports a mix of uses in town centres. The plan has yet to be adopted. However, the appeal proposal is generally consistent with these policies, but because of the stage the plan has reached towards adoption I give it limited weight in this appeal.
15. I find that the appeal proposal is generally consistent with the approach of the policies of the development plan that promote developments that respect the character and appearance of the area.

Effect on the living conditions of the occupants of flats 1 and 3.

16. The whole of the building to which this appeal relates has approval to be converted from office space into flats. Although from my site visit it appears that the works have not yet started. Therefore, the principle of using the

building, including the ground and lower ground floors, for residential accommodation, has already been established.

17. The appellant has argued that should the appeal proposals be dismissed then there is a 'fall back' position open to him to implement the approval for the six flats without the proposed alterations. It appears that this would be significantly more harmful to the living conditions of the approved flat 1 than the appeal proposal, due to the lack of natural light available to the occupants should the prior approval be implemented without the provision of the lightwell.
18. The approved flat 3, is a ground floor flat which would face on to the forecourt. The appeal proposal would introduce a low wall between flat 3 and the footway alongside the road. This would assist in improving the privacy for the occupants of flat 3 as it would have a barrier between its habitable rooms and the road. Consequently, the suggested 'fall back' position would be significantly more harmful to the occupants of flat 3 than the appeal proposal as it would have no barrier between it and the street.
19. I consider that there is a greater than theoretical possibility that the change of use of the appeal building to 6 flats might take place. I base this assessment on the relatively recent date of the approval and the details contained within the current application. It also appears to me that the approved scheme would be significantly more harmful to the living conditions of the occupants of flat 1 and flat 3 than the appeal proposal. I therefore give significant weight to the proposed 'fall-back' position in the consideration of this appeal.
20. I note the conflict between the appeal proposal and Policy 6.3 of the LP and Policy DM10 of the CLP and the Mayor's Housing Supplementary Planning Guidance (SPG). However, these policies appear to relate in the main to the principles to which new residential development should adhere. In my judgement the principle of changing the use of the appeal building to residential use has already been established through the prior approval process. Moreover, the alterations which are the subject of this appeal could be applied to the building in its existing office use. I have also had regard to the 'fall back' position which has been outlined by the appellant. I therefore give conflict with these policies minimal weight in this appeal.

Overall conclusions on the main issues

21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. In terms of the effect of the proposed low brick wall and lightwell on the character and appearance of the area I find that the proposals are generally consistent with the policies of the development plan in this regard.
22. In terms of the effect of the appeal proposal on the living conditions of the potential occupiers of flats 1 and 3. I find that, whilst there is a conflict between the proposals and the policies of the development plan, the other material considerations, namely the extant approval for residential use and the likelihood of the 'fall-back' position being implemented, outweigh any conflict which exists with the policies of the development plan.

Other Matters

23. I have had regard to the appellant's assertion that the wall surrounding the forecourt would be permitted development. However, I have decided this appeal on its merits and the matter of whether the low wall could be permitted development can only be decided through the submission of an application for a Certificate of Lawfulness.

Conditions

24. As well as the standard commencement conditions I have included a condition referencing the approved plans in the interests of clarity. I have also included conditions requiring the details of the brick wall, gate, new window and grating to be approved by the Council. The appeal site is in a prominent position and the details of its final finish is important to its overall acceptability.

Conclusion

25. For the reasons given above the appeal is allowed and planning permission granted.

Peter Mark Sturgess

INSPECTOR