



Appeal Decision

Site visit made on 7 January 2021

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2021

Appeal Ref: APP/L5240/W/20/3258249

2 - 10 Fairview Road, Norbury, London SW16 5PY

- 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 C Maltby against the decision of the Council of the London Borough of Croydon.
 - The application Ref 20/02330/FUL, dated 2 June 2020, was refused by notice dated 28 July 2020.
 - The development proposed is change of use from A1(retail) to part D2 (gym) and part C3 (6 flats) single storey infill extension and minor external alterations including the enlargement of existing windows and creation of new windows with associated amenity space, parking and refuse store.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from A1(retail) to part D2 (gym) and part C3 (6 flats) single storey infill extension and minor external alterations including the enlargement of existing windows and creation of new windows with associated amenity space, parking and refuse store at 2 - 10 Fairview Road, Norbury, London, SW16 5PY, in accordance with the terms of the application, Ref 20/02330/FUL, dated 2 June 2020, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is whether the residential element of the proposal would provide a satisfactory quality of living environment for future occupiers.

Reasons

3. The proposal would incorporate 10 residential apartments, four of which already exist and which are merely being refurbished. These four existing units are, and would continue to be, compliant with the internal space standard requirements¹. The six new apartments would include a range of 2 and 3 bedroom units and all would also be compliant with the internal space standards. The dual aspect nature of the units would also make them attractive places in which to live.
4. The proposal would include at least the minimum number of family sized apartments (3 bed) (2), along with a number of 2 bed and single bed units. Consequently, the range of unit types would provide an adequate choice of housing.

¹ London Plan Policy 3.5 and the Technical housing standards – nationally described space standard (DCLG, 2015)

5. The proposal would include a communal amenity space which has recently been used as a service yard. In quantitative terms, the space measures and would continue to extend to approximately 115 sqm. In qualitative terms, the hardsurfaced space provides an outlook towards the adjoining substation and side and rear elevations of the adjoining buildings, and the various plant attached thereto. For these reasons, the space is unattractive.
6. Under Croydon Local Plan (2018) (LP) Policy DM10.4, each new apartment should be provided with an amount of private amenity space ranging in size between 5 to 8 sqm. These Policy requirements are broadly consistent with those in the emerging London Plan (eLP), Policy D4. Under the LP Policy and the Council's SPD², it is possible that this private amenity space can be provided as a balcony as long as the width and depth are each at least a minimum of 1.5 m.
7. None of the four existing units have any private external amenity space and nor would any of the proposed apartments be provided with any. The requirement of LP Policy DM10.4 is to provide private external amenity spaces *in addition* to a communal space. The proposal fails to deliver the requisite private external amenity spaces, and therefore, conflicts with LP Policy DM10.4.
8. However, in exceptional circumstances, the SPD (section 2.34) allows for extra emphasis to be placed on the provision of high quality shared outdoor amenity space where private amenity space is not possible, or where it would negatively impact the external appearance of a proposal. In this case, the proposal involves the change of use of an existing building within an existing urban context which requires limited alterations to the building fabric. It is not a new development to which the Policy standards could be more readily applied.
9. Whilst the Council indicates that the provision of balconies on at least the new apartments could achieve the desired private amenity spaces, the obvious location for these would be on either Fairview Road elevations, overhanging the public footways within busy public settings. The quality of such amenity spaces would therefore be questionable and, in my opinion, suggests that such provision is not possible within the scheme in any case. Therefore, in my view, also taking into account the SPD guidance, there are material considerations of such weight that indicate that a decision should be taken other than in strict accordance with LP Policies DM10.4, SP2.8 and eLP Policy D4.
10. In terms of the quantity, the amount of shared space proposed would be adequate to offset the shortfall in private amenity spaces for the proposed units (deficit total of 41 sqm), with the additional space to meet the requirements for a communal shared space, including play space, as also detailed in LP Policy DM10.4. Whilst in reality the space would not be divided in such a manner, the total amount of space would be adequate and would enable it to be multifunctional.
11. In terms of accessibility, most units would have to access the space via a short walk around the exterior of the building. The lack of direct access for all apartments is a drawback, but it would be capable of being accessed with little difficulty. In broader accessibility terms, the space currently is, and would likely remain flat to enable wheelchair access, if required.

² Suburban Design Guide Supplementary Planning Document (2019)

12. In terms of its attractiveness and 'quality' as adjudged against LP Policy DM10.5, there is limited evidence about how the space could be improved to meet the requirements of a quality shared space. An image included within the appellant's Statement provides an example of a high quality shared space in an urban context. Whilst this falls short of a coherent landscaping strategy, it is conceivable that such an example could positively influence the landscaping strategy for the proposed space.
13. Having sought clarification prior to my determination of the matter, it was confirmed that the space is not used for the servicing of retail units on London Road which back onto the site. Access for the statutory undertaker to maintain the adjacent electricity substation is permitted, but would not result in regular or prolonged access through the amenity space without prior arrangement. Lastly, in order to further protect the space, potential encroachment by disabled car parking and manoeuvring should be prevented through the provision of adequate boundary definition as part of the landscaping.
14. Drawing together this issue, given that the building currently exists within its constrained urban context and that there are limited realistic alternatives that allow the site to be maximised as such, I am of the view that a solution could be achieved to provide an attractive and welcoming space for future occupiers, designed to accord with the more detailed advice in the SPD. Such a landscaping strategy and its future management would form the requirement of a planning condition.
15. In view of this main issue, and subject to appropriate conditions, the proposal would provide a satisfactory quality of living environment for future occupiers and would therefore comply with, in particular, Policy 3.5 of the London Plan and Policy DM10.5 of the LP. These Policies collectively seek to ensure that new housing is of the highest quality internally, externally and in relation to their context and incorporate high quality communal outdoor amenity space that is designed to be flexible, multifunctional, accessible and inclusive. For similar reasons, the proposal would also comply with the Council's SPD.

Other Matters

16. Although listed in the Council's reason for refusal, as the proposal provides at least the requisite 30% of 3 bed units, it does not conflict with LP Policy SP2.7.
17. On 1 September 2020 and since the submission of the appeal, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (Regulations) came into force, amending the Town and Country Planning (Use Classes) Order 1987 (Use Classes Order) to form the new 'Class E - Commercial, Business and Service' use. This new use class includes retail, indoor sport, recreation and fitness uses. As no objections were raised concerning the loss of the retail unit, this has little bearing on the appeal.
18. I note the absence of harm in relation to the principle of development, effects on the area's character and appearance, living conditions of neighbouring occupiers, highways and S106 matters. These are neutral factors in the overall planning balance.

Planning balance and conclusion

19. For the reasons set out above, the appeal is allowed.

Conditions

20. In addition to the statutory time limit, a condition is necessary to specify the approved plans in the interests of certainty.
21. In the interests of accessibility and highway safety, it is necessary to ensure the provision of the disabled parking bays and manoeuvring space. For similar reasons, it is necessary to seek details of deliveries and servicing arrangements for the proposed commercial unit by way of condition.
22. In the interests of promoting sustainable travel, a condition is necessary to ensure that the cycle parking provision is adequate for the requisite number of cycles for future residents/users.
23. In order to ensure satisfactory refuse and recycling storage facilities are put in place, a condition is necessary to seek relevant details and provision thereafter.
24. In the interests of the living conditions of future occupiers, a condition is necessary to ensure that noise mitigation measures for the adjacent gym use are agreed by the Council and implemented prior to occupation of any of the approved units.
25. For the avoidance of doubt and to avoid any unneighbourly uses being introduced into the area, a condition is necessary to ensure that the use of the commercial premises is used for purpose falling within Use Class E.
26. For the reasons detailed above, a condition relating to the provision of a landscaping strategy and its subsequent management is necessary.

Hollie Nicholls

INSPECTOR

SCHEDULE OF 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, Ref 6301 (P) 010 B, dated 28.11.2018
 - Proposed Site Plan, Ref 14,307 10 L, dated 21.02.2020
 - Proposed Ground Floor Plan, Ref 14,307 11 H, dated 21.02.2020
 - Proposed First Floor Plan, Ref 14,307 12 F, dated 21.02.2020
 - Proposed Second Floor Plan, Ref 14,307 13 F, dated 21.02.2020
 - Proposed Elevations, Ref 14,307 15 G, dated 21.02.2020
 - Proposed Roof Plan, Ref 14,307 14 A, dated 21.02.2020
- 3) The car parking spaces, vehicular access and manoeuvring areas as shown on the approved plans shall be provided with a dust free surface, adequately drained before the development to which it relates is occupied

and thereafter it shall be kept free from obstruction at all times for use by the occupiers of the development and shall not thereafter be used for any purposes other than the parking of vehicles for the occupiers of the development and visitors thereto.

- 4) A Delivery and Service Management Plan for the revised delivery arrangements for the commercial use shall be submitted to and approved in writing by the local planning authority prior to the occupation of the approved development. The development shall thereafter be carried out and operated in accordance with the approved details.
- 5) Prior to the occupation of any of the development hereby permitted, details of secure and covered cycle parking facilities for at least 12 bicycles shall be submitted to, and approved in writing by the Local Planning Authority. These approved cycle facilities shall be implemented prior to the occupation of the approved development and shall thereafter be retained for the lifetime of the approved development/use.
- 6) Prior to the occupation of any of the development hereby permitted, details of the refuse/recycling store/facilities, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be operated in accordance with the approved details and the approved store/facilities shall be implemented prior to the occupation of the development.
- 7) Prior to the occupation of any of the development hereby permitted, a detailed scheme of noise insulation measures shall be submitted to and approved in writing by the Local Planning Authority. The scheme of noise insulation measures shall be prepared by a suitably qualified consultant/engineer and shall take into account the provisions of 'BS 8233: 2014 - Guidance on sound insulation and noise reduction for buildings'. The approved scheme shall be implemented prior to the commencement of the use and shall be permanently retained thereafter.
- 8) The commercial unit shall only be used for purposes falling within Schedule 2, Class E of Use Classes Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 9) Notwithstanding the details shown in the approved plans, prior to first occupation of any of the units hereby approved, details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - boundary treatment[s];
 - hard surfacing materials;
 - planting plans;
 - minor structures, furniture and play equipment;
 - lighting, floodlighting and CCTV; and
 - an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any residence is first occupied. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management.