



Appeal Decision

Site visit made on 7 June 2021

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2021

Appeal Ref: APP/Q3820/W/21/3267642

28-32 The Broadway, Northgate, Crawley RH10 1HG

- 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 A Berman against the decision of Crawley Borough Council.
 - The application Ref CR/2019/0631/FUL, dated 26 July 2019, was refused by notice dated 18 September 2020.
 - The development proposed is for the change of use and conversion of the first and second floors of 28-32 The Broadway to 6 No C3 residential flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

The Council's Decision Notice included a reason for refusal that related to the capacity of the residential bin store for the proposed development. However, following the Council's determination the Appellant submitted a number of drawings to the Council, all of which relate to an alternative option for refuse bin and cycle stores associated with the proposal. Following the submission of the alternative scheme the Council no longer wishes to contest the above reason for refusal. Therefore, bearing in mind the '*Wheatcroft Principles*' which the Council appear to have found acceptable in this case, I have accepted the revised drawings in consideration of the appeal in respect of a main issue related to the character and appearance of the area.

2. The Council have also withdrawn a reason for refusal given in the Decision Notice related to the viability of the retail unit as a result of the proposal. I have proceeded accordingly.

Main Issues

3. The main issues are the effect of the proposal on:
 - the character and appearance of the area,
 - the living conditions of future occupiers with particular reference to noise, and;
 - whether financial contributions are required to make the proposal acceptable in planning terms.

Reasons

Character and appearance

4. The appeal site is located in Crawley town centre at the junction with 'Queens Square' and 'Broadwalk' and faces directly onto 'The Broadway' which is a main bus and motor vehicle route that intersects the shopping centre which is seen to either side of the highway. New residential development known as 'Broadgate' can be seen on the opposite side of the road to the appeal site as well as a range of shops that front a network of pedestrian walkways leading to public spaces such as 'Queens Square'. The host property has a homeware shop and beauty parlour at ground floor level which is accessed from 'The Broadway', while the vacant first and second floors are accessed via a door/stairway found on a public square associated with 'Broadwalk'.
5. The proposal is for a café/restaurant on the ground floor, and 6 x one-bedroom flats on the first and second floors that would be accessed from 'Broadwalk'. The proposed development would include lockable storage for 8 bicycles in a new store that would use part of the existing shop floor to the left-hand side of the door on 'Broadwalk'. The bicycle store would be adjacent to an external lockable domestic waste bin store. Both stores would be constructed in laser cut perforated metal patterned panels. There would be commercial bins to the rear of the host property that is accessed from a service road on 'Cross Keys'.
6. The Council has brought to my attention a number of Appeals in support of their case¹, including reference to schemes affected by noise. However, I have limited details of those schemes before me which are in a different location altogether. Therefore, as is correct, I have considered the proposal before me on its own planning merits.
7. As such, while the Appellant has given some thought to the appearance of the ventilated cycle and bin stores, including the provision of an alternative version to a smaller timber fronted arrangement, the fact remains, irrespective of the materials used, the position of the stores face directly onto a public square where shoppers are likely to linger. As such, the revised and larger stores proposed would be highly prominent in this well-used location. Indeed, the domestic type appearance of the stores would be at odds with the immediate town-centre location which is typified by vertical and mostly glazed elevations to the front of retail units.
8. I conclude therefore, that the proposal would be incongruous with the character and appearance of the area. As such, the proposal is contrary to Policies CH2 and CH3 of the Crawley Borough Local Plan 2015-2030 (2015) (CBLP), as supported by the Crawley Borough Council Urban Design Supplementary Planning Document (2016), which say amongst other things that development proposals will be required to respond to and reinforce locally distinctive patterns of development and landscape character.
9. For similar reasons, the proposal does not meet the aims of Paragraph 127 (c) of the *National Planning Policy Framework* (the Framework) which requires that developments are sympathetic to local character and history, including the built environment and landscape setting.

¹ APP/Q3820/W/18/3203568, APP/Q3820/W/18/3203570, APP/Q3820/W/18/3202034 and APP/Q3820/W/18/3199581

Living conditions

10. The proposed flats would be located in the town centre. I note the concerns of the Council's Environmental Health Officer and acknowledge that there would be some noise associated with the nearby bus route. Nonetheless the level of noise would not be unexpected in a location of this type. Indeed, I noted at my site visit that within the appeal building at the first and second floor levels that the noise from the street is relatively muted. Moreover, residence here would be a matter of personal choice for the future occupiers. Indeed, the relationship to the Broadway and its range of commercial properties and their use would be similar to the recently completed properties seen at 'Broadgate' which the occupiers have presumably found acceptable.
11. Furthermore, after consideration of the submitted evidence contained in the noise assessment completed by 'Phlorum', and the more recent acoustic notes provided by KP Acoustics and Create Consulting Engineers, whether there would be an increased reflection of noise associated with the design of the appeal building or not, the noise levels surrounding the site, while less than ideal, would not have an unacceptable adverse effect on the future occupiers. My opinion is reinforced by the likely changes to transport systems, including the future uptake of electric buses and cars.
12. Moreover, notwithstanding any fluctuations in the surrounding noise environment related to the 'Covid' pandemic, the Appellant has proposed a 'baffle' type fenestration and a ventilation system that would help to reduce any noise associated with the street below and provide ventilation for future occupants on warmer days and nights of the year.
13. As such, I find that the proposal accords with the Policies ENV11, CH3 (c) and EC4 of the CBLP, which require amongst other things that developments provide or retain a good standard of amenity for all existing and future occupants of land and buildings, and Paragraph 127 (f) of the Framework which seeks to ensure that developments create places which promote health and well-being, with a high standard of amenity for existing and future users.

Financial contributions

14. The main parties agree that a financial contribution of £70,000 related to affordable housing and £4,200 towards tree planting is required in respect of the proposal. Indeed, I note a signed Unilateral Undertaking (UU), dated 1 June 2021 provided by the Appellant that includes the above contributions and provision for a monitoring fee of £500. However, I cannot be certain if the revised UU is acceptable to the Council or not given there is reference in its Planning Appeal Statement to a signed UU that is dated 13 May 2021. Furthermore, I am not obliged to delay my decision to wait for a completed obligation. Nonetheless, given the consensus on the contributions required for affordable housing and trees, the national *Planning Practice Guidance* states that in exceptional circumstances a negatively worded condition requiring a planning obligation can be entered into before certain development can commence may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at serious risk. However, even if the main parties were agreed on the revised UU, given my findings above related to the harm to the character and appearance of the area this has not been necessary in this case.

15. The proposed development is therefore contrary to Policies H4, CH6 and IN1 of the CBLP which set out the requirements for contributions related to affordable housing and trees and Paragraphs 54-56 of the Framework.

Conclusions

16. Whilst I have found in favour of the Appellant on the second main issue, this does not justify the harm identified on the first main issue. Therefore, even if a financial contribution could be secured by condition the proposed development would conflict with the adopted development plan in respect of the first main issue, and there are no material considerations indicating a decision otherwise than in accordance with it.
17. For the reasons given above I conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR