



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: 18 JUNE 2021

Appeal Ref: APP/Q3820/20/3265573

37 Queens Square, Northgate, Crawley RH10 1HA

- 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 J Hussain against the decision of Crawley Borough Council.
 - The application Ref CR/2020/0002/FUL, dated 24 October 2019, was refused by notice dated 25 June 2020.
 - The development proposed is for a first, second floor rear extension and change of use for first floor and second floor to create 4 x 1 bed flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In the interests of fairness the Appellant was granted an extended period of time until 7 June 2021 to submit a certified copy of the executed planning obligation required by the Council. I have proceeded accordingly.

Main Issues

3. The main issues are the effect of the proposal on:
 - the living conditions of future and neighbouring occupiers with particular reference to layout, outlook, daylight and sunlight, privacy and noise.
 - the viability of the existing retail unit, and;
 - whether financial contributions are required to make the proposal acceptable in planning terms.

Reasons

Living conditions of future occupiers

4. The appeal site is located in Crawley town centre on a pedestrian walkway that leads to Queens Square. The appeal property is a terraced three-storey building that has an active cosmetics/hair business retail unit at ground floor level. The retail units in this section of Queens Square are covered by a canopy over-hang which projects in front of the windows to the storage, office and kitchen areas above. A service road from 'The Broadway' to the rear of the host property at No 37 Queens Square provides access via a gate and open metal stairways to the upper floors of the host building, the neighbouring dwellings of Nos 35, 36, 38 and 40 Queens Square, the six storey flats known as 'Broadgate', and the service areas associated with the surrounding retail units. The service area is also used as a car-park and to accommodate refuse and recycling bins for the surrounding properties.

5. The proposal is for a change of use to the first and second floor of the host dwelling from storage related to the retail property below to 4 x one-bedroom flats. The dwellings would be accessed to the rear of the host property via open metal stairways. The retail unit facing Queens Square would be retained and the staff kitchen and toilets would be relocated to the ground floor.
6. At my site visit I noticed that the property appeared to be in use as both a storage space and residential type accommodation. The main parties agree that the proposal would be in an area where the effective and efficient use of upper floors for appropriate town centre uses, including residential use is encouraged. As such, the submitted drawings show that the proposed flats are possible in the space available, and are likely to have a similar relationship and/or access to Queens Square, the rear service yard and car-park as the surrounding residential dwellings and shops.
7. However, whether alternative layouts are possible or not, the proposed flats, which include a bathroom rather than a shower room and limited opportunities for storage, do not meet nationally described space standards. Moreover, the layout of the proposed development is such that flats 1 and 4 would not have the benefit of an outlook to either the side or rear of the dwellings, and while side windows are proposed to flats 2 and 3 they would look onto the elevations or extensions of the neighbouring properties to the left and right, and in part onto the internal communal hallways of the proposed development.
8. Indeed, notwithstanding the Appellants' external daylight and sunlight study, which assesses the effect of the proposal on the habitable windows of Nos 35 and 36 rather than the proposed flats, this semi-enclosed layout arrangement would limit the daylight and sunlight available to the occupiers of the proposed development, and hence make for gloomy living spaces. I note that flats 2 and 3 would have a window to the rear. However, the unappealing outlook from these windows would be onto the rear of Nos 35,36,38 and 40, the rear of 'Broadgate', metal stairways and the refuse and recycling bins in the yard and service area below.
9. In addition, when visitors or the occupiers of the proposed development made their way past the internal windows in the communal hallways, for example; en-route to flats one and four, the privacy levels and living conditions of the occupiers of flats 2 and 3 would be eroded by the opportunity for people to look directly into the living spaces beyond.
10. Furthermore, I noted at my site visit that there are a number of air-conditioning units to the left-hand side of the flat roof of the host dwelling when viewed from the service road. However, while these units are likely to be of little noise inconvenience to the existing retail unit and its storage space, in the absence of any convincing evidence to the contrary, I cannot be certain if these will be relocated to ensure the noise comfort levels of future residential occupiers during the course of the day and night.
11. Given my findings above, I conclude that the development as a result of its layout would harm the living conditions of the future occupiers, including outlook, daylight and sunlight, privacy, and noise.

12. Consequently, the proposal is contrary to Policies CH3, CH5 and ENV11 of the Crawley Borough Local Plan 2015-2030 (2015) (CBLP), as supported by guidance contained within the Crawley Borough Urban Design Supplementary Planning Document (SPD) (2016), which say amongst other things that development should provide or retain a good standard of amenity for all existing and future occupants of land and buildings. For similar reasons the proposal does not meet the aims of Paragraph 127 (f) of the *National Planning Policy Framework* (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.

Living conditions of neighbouring occupiers

13. The scale of the host property and the outlook from the neighbouring dwellings at Nos 36 and 38 is likely to remain relatively unchanged as a result of the development. Nonetheless, the proposed development would have overlooking windows adjacent to the doorways and windows of No 36, and views from the windows of flat 3 towards the property at No 38. Moreover, there would likely be an increase in the noise and day to day activities associated with the use of the raised and open metal stairways by the occupiers of the permanent residential dwellings. For example, but not limited to, the transportation of shopping or the comings and goings of residents in pursuit of leisure activities or work at varied times of the day and night. As such, I conclude that the position of the proposed windows and the proximity of the stairway in combination with the activity associated with the proposed residential units, in comparison to the more infrequent and likely day-time delivery of stock associated with the existing retail unit, would harm the privacy of the neighbouring occupiers. As such the proposal would be contrary to Policy CH3 of the CBLP as supported by the SPD which require that developments should not cause unreasonable harm to the amenity of the surrounding area, and aims included in Paragraph 127 of the Framework.

Viability of retail unit

14. The existing retail unit appears to be well stocked, and from the evidence before me the storage area is also well used. However, the Appellant contends that the existing level of stock on the upper floors of the host building is a result of restrictions created by the 'Covid' pandemic. Nonetheless, even if the need for stock storage directly above the existing business were to be eliminated when conditions allow, the ownership of the unit is likely to change over time. Indeed, from the evidence before me I cannot be certain whether the storage or the consulting room type space would be required by a future owner to make a success of their particular retail business or not. Therefore, I conclude that the loss of the storage space, or a given alternative, is likely to reduce the attractiveness of the ground floor retail unit, which in turn would affect its viability and the employment and economic opportunities associated with a retail unit.
15. As such, the proposal is contrary to Policy EC5 of the CBLP which requires that proposals for town centre uses in the primary shopping area will be permitted, provided it can be demonstrated that the proposed use would support the vitality and viability of the town centre, and Paragraph 121 of the Framework which says that proposals will be supported provided they would not undermine key economic sectors or sites or the vitality and viability of town centres.

Financial contributions

16. The main parties agree that a financial contribution of £29,307 related to affordable housing and £2,800 towards tree planting is required in respect of the proposal, and I see no reason to disagree. As such, the provision of contributions towards affordable housing and tree planting would carry some moderate weight in favour of the development.
17. Annex N of the Procedural Guide – Planning Appeals – England indicates at what stage in the appeal process planning obligations should be provided. However, a signed obligation had yet to be executed at the time of my site visit on 7 June 2021. Indeed, given the evidence before me, I have no certainty as to when it will be forthcoming. In these circumstances I am not obliged to delay my decision to wait for a completed obligation. Moreover, even if I were to impose a negatively worded condition requiring such an obligation, it would not outweigh the harm to the living conditions of future and neighbouring occupiers and the viability of the retail unit I have found above.
18. Accordingly, the proposed development is 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.

Other Matters

19. I acknowledge that the proposed development would provide permanent accommodation in comparison to the existing residential type use, and that the dwellings would have the potential to contribute to the vitality of the town centre. However, this does not outweigh the harm I have found above.

Conclusions

20. For the reasons given above I conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR