



Appeal Decision

Site visit made on 25 February 2022

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 8th March 2022

Appeal Ref: APP/L5420/W/21/3277516
210 London Road, Croydon CR0 2TE

- 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 Ms A Anita against the decision of the London Borough of Croydon Council.
 - The application Ref: 20/03408/FUL dated 31 July 2020, was refused by notice dated 12 February 2021.
 - The development proposed is proposed shop conversion to food vendor A5.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In September 2020 the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force, amending the Town and Country Planning (Use Classes) Order 1987. Retail uses formerly under Class A1 become part of a wider Class E, and Class A5 uses (hot food take away) become sui generis. The Council therefore amended the description of development to reflect the new Use Classes Order. However, the relevant Regulations state that where an application was submitted prior to 1 September 2020, the application (and the appeal) should be determined on the basis of the Use Classes Order in place at the time of the application submission. This is the basis upon which I have therefore considered the appeal although whether under the former Use Classes Order or the one now operating, planning permission would be required for the proposed change of use.
3. The Council has not raised as a reason the refusal the change of use itself and from all the information before me as well as my site visit, I have no reason to take a different view.
4. In November 2021, the Appellant and the Council were provided with an opportunity to comment on the relevance of the revised National Planning Policy Framework (Framework) published in July 2021 to the case. No further representations were received. All references to the Framework are to the 2021 version.
5. The Council's decision notice refers to policies both from the London Plan (Consolidated with minor amendments since 2011) and the London Plan 2016. However, in March 2021 a replacement London Plan was adopted, and I am

required to reach my decision on the basis of the development plan in existence at the time of my decision. Policies 7.4 and 7.6 of the London Plan, as referenced on the Council's decision notice have now been replaced with Policies D3 and D4 of the 2021 London Plan. I am satisfied that in so far as relevant to this appeal the replacement policies carry forward similar objectives to those in the earlier Plan, and that it has therefore not been necessary to provide an opportunity for further representations. I shall refer to the current policies in my decision.

Main Issues

6. The main issues in this appeal are:

- a) The effect of the proposed extraction flue on the character and appearance of the existing building and Local Heritage Area, and
- b) The effect of the proposed extraction flue on nearby residential occupiers.

Reasons

Issue a) Character and appearance

7. The appeal property is part of a terrace of three storey buildings, comprising shops and commercial uses on the ground floor, with residential above, on the north-east side of London Road. Although there have been some alterations over time, it is part of an attractive terrace with plaster mouldings, brick arches and black iron railings. I agree with the Council that it makes a positive contribution to the street scene, which I am advised lies within a Local Heritage Area.
8. There is very limited detail provided regarding the proposed extraction flue, except for its proposed siting on the front of the building and rising up part of the first floor. There are a number of extraction flues on the rear of buildings in the vicinity, but I did not see any on the front of a building.
9. Notwithstanding the very limited details provided, I have no doubt that the provision of the proposed extraction flue in this location on the front of a building would add visual clutter and would be incongruous in relation to the scale, form and detailing of the existing building. It would be visually intrusive and materially harm the character and appearance of the existing building and as a result would also harm the street scene and the character and appearance of the Local Heritage area.
10. The Appellant has offered that the flue could be painted black to match the existing railings on the building, but I do not consider that this would overcome the harm I have identified as a result of its siting, mass and form on the front elevation. My attention has been drawn to the various satellite dishes that are present on the front of the number of buildings, but I do not consider that the introduction of a solid extraction flue would be comparable to these satellite dishes.
11. I therefore consider that the introduction of an extraction flue as proposed and on the front of the building would adversely affect the character and appearance of the existing building, the street scene and the character and appearance of the Local Heritage Area. This would conflict with Policies SP4, DM10 and DM18 of the Croydon Local Plan, the Council's Suburban Design

Guide Supplementary Planning Document 2019 and Policies D3 and D4 of the London Plan 2021, as well as Sections 12 and 16 of the National Planning Policy Framework, all of which seek a high quality of design as well as to respect the local context, including non-designated heritage assets.

Issue b) Living Conditions

12. There are residential uses on the upper floors of the appeal building as well as the upper floors of neighbouring buildings. There is again no detailed information provided about the extraction flue and its operation but as shown on the plans it would be directly adjacent opening windows of the first floor residential flat. I cannot therefore be satisfied that the extraction flue would not cause material harm to the living conditions of the residential neighbours with particular regard to odours and noise and disturbance.
13. The Appellant has suggested that such matters could be controlled by condition, but without further details first provided, I cannot be satisfied that the potential harm I have identified would be capable of being mitigated. I do not consider that the lack of objection raised by any of the nearby residents can be regarded as evidence that the proposal would be acceptable.
14. I am therefore not satisfied on the basis of the very limited information provided that the proposal would not materially affect the living conditions of the residential neighbours, with particular regard to odours and noise. This would conflict with Policy SP4.2 of the Croydon Local Plan, Policy D4 of the London Plan and paragraph 130 f) of the National Planning Policy Framework, all of which, amongst other things, require a good standard of amenity for all existing and future occupiers.

Conclusion

15. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

L J Evans

INSPECTOR