



Appeal Decisions

Hearing (Virtual) held on 12 July 2022

Site visit made on 23 September 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2022

Appeal A Ref: APP/L5240/W/22/3296641

39 Heathfield Road, Croydon CR0 1EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr R Kasmani (Winstable Ltd) against the Council of the London Borough of Croydon.
 - The application Ref 21/05067/FUL, is dated 16 September 2021.
 - The development proposed is change of use from Use Class E(e) (previously D1) provision of medical or health services to 7 flats (Use Class C3), alterations, construction/enlargement of basement area including external stairs/fenestration, a dormer extension on both side roof slopes, erection of two/three storey side/rear extension incorporating balconies as rear, alterations including changes to fenestration, designated refuse/recycling at front.
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Appeal B Ref: APP/L5240/W/22/3297517

39 Heathfield Road, Croydon CR0 1EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr R Kasmani (Winstable Ltd) against the Council of the London Borough of Croydon.
 - The application Ref 21/05068/FUL, is dated 16 September 2021.
 - The development proposed is change of use from Use Class E(e) (previously D1) provision of medical or health services to provide a House of Multiple Occupation (HMO) (Use Class Sui Generis) comprising 15 bedrooms with shared kitchen facilities, alterations, construction/enlargement of basement area including external stairs/fenestration, a dormer extension on both side roof slopes, erection of two/three storey side/rear extension incorporating balconies as rear, alterations including changes to fenestration, designated refuse/recycling, cycle stores and parking space.
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Decisions

1. Appeal A is dismissed and planning permission is refused.
2. Appeal B is dismissed and planning permission is refused.

Applications for costs

3. Applications for an award of costs were initially made by Mr R Kasmani (Winstable Ltd) against the Council of the London Borough of Croydon in respect of both appeals. At the hearing, the agent for the appellant withdrew the application made in respect of Appeal A. The remaining costs application in respect of Appeal B is subject to a separate decision.

Preliminary and Procedural Matters

4. I have used the more comprehensive descriptions of development given on the appeal forms for each appeal.
5. The site visit for the appeals was delayed following the hearing due to the property being inaccessible. The visit was conducted on 23 September 2022 once access was again possible.
6. The Council has confirmed that its Suburban Design Guide Supplementary Planning Document (April 2019) (the SDG) was withdrawn on 25 July 2022. Consequently, I have not attributed weight to this document.
7. The appellant has submitted four signed unilateral undertakings, two in respect of each appeal. I address these in my reasoning below.
8. In respect of Appeal A, two sets of plans have been put before me. At the hearing, I heard that the original set¹ submitted to the Council with the application was deemed to be invalid due to a number of inconsistencies. A second set² was submitted which the Council indicates it validated and consulted publicly on. The appellant indicated that this set also contained errors which were not initially picked up, and has requested that the original set be considered, subject to other substitutions to address inconsistencies.
9. The differences between the plans relate primarily to the internal layout, the main consequence of which is that the original set proposes 7x 1-bedroom flats and the second set proposes 2x 1-bed flats and 5x 2-bed flats. As was uncovered at the hearing, both sets contain inconsistencies. Having regard to the *Wheatcroft* principles, the differences, though not extensive, represent a material change to the size and mix of flats proposed. Therefore, I am minded to consider Appeal A on the basis of the set accepted by the Council at the application stage and duly consulted upon, that being the '6790' set. However, for completeness and to reflect discussion at the hearing, I refer where relevant in my reasoning below to the scheme shown on the original '6789' set. I have also taken into account two other plans, one substituting a shower for a bath in Flat 2, and the other showing 45 degree lines from neighbouring windows, neither of which I regard as a material change.

Background and Main Issues

10. The appeal site is a former doctor's surgery, understood to have been vacant for several years and now in a state of some disrepair following incidents of squatting. The building has been subject to recent applications for planning permission for flats and supported housing which were respectively withdrawn and refused. The two applications now the subject of these appeals were made simultaneously in September 2021. Neither application was determined by the Council within the statutory timeframe.
11. The Council has set out nine putative reasons for refusal for Appeal A and eight for Appeal B. Of these, five of the reasons are identical for both appeals, three others address the same issues and are broadly similar, and one reason is unique to Appeal A. In light of this, the main issues below, and my

¹ With drawing numbers starting 6789

² With drawing numbers starting 6790

considerations which follow, relate in the main to both appeals, except where any distinctions are specified.

12. Having regard to the Council's putative reasons for refusal, I consider the main issues in each appeal to be:

- Whether the proposal would result in the unjustified loss of a community facility;
- Whether the proposal would provide an acceptable housing mix (Appeal A only);
- The effect of the proposal on the character and appearance of the area;
- The effect on neighbours' living conditions, in particular with respect to outlook and privacy;
- Whether the proposals would provide a suitable standard of accommodation;
- Whether the proposals would suitably address parking and highway safety;
- Whether the proposals would adequately manage site drainage and flood risk;
- Whether adequate provision would be made for cycle parking and refuse/recycling facilities.

Reasons

Loss of Community Facility

13. Policy SP5 of the Croydon Local Plan 2018 (the CLP) sets out that the Council will encourage the creation of healthy and liveable neighbourhoods by, among other things, protecting existing community facilities that still serve, or have the ability to serve, the needs of the community.
14. Policy DM19.1 sets out the circumstances where the loss of an existing community facility would be permitted. This includes where it can be demonstrated that there is no need for the existing premises for community use and that it no longer has the ability to serve the needs of the community. The supporting text to the policy sets out further criteria, including conducting a marketing exercise for a minimum period of 18 months where the existing space is offered at a reasonable charge for community groups/voluntary sector organisations reflecting its existing use value unfettered by any hope value.
15. The appellant argues that the appeal building is no longer needed for its lawful use, pointing to a letter from NHS Croydon Clinical Commissioning Group (CCG) dated June 2018 that confirmed the site was no longer required for delivery of primary care services. The appellant has further provided a letter from an estate agent summarising the marketing exercise undertaken between May 2020 and October 2021, in which it is indicated that during that time, only six enquiries were made and no offers received. At the hearing, the appellant indicated that marketing was still ongoing, still with no offers forthcoming.
16. The Council's officer report criticises the marketing exercise due to the building having been advertised as 'offices' rather than a community use at an appropriate price. It added at the hearing that the extent of information

provided by the estate agent was not robust, particularly in terms of the reasons those making enquiries were ultimately not interested.

17. The letter from the CCG makes it quite clear that the building is no longer required for its former use. The aforementioned policies do not specify that the marketing exercise must be limited to the previous use, and while the supporting text refers to offering the premises to community groups/voluntary sector, it does not state that the building must specifically be marketed as a 'community use'. The appellant pointed out at the hearing that, as a Class E use, the categorisation of which does not appear to be disputed by the Council, the building could be put to a variety of different uses within the same use class without the need for planning permission.
18. There was some debate at the hearing as to whether previous planning permissions had restricted future changes of use by condition. It is not within the scope of these appeals for me to determine that, and there is no evidence, such as a lawful development certificate, which confirms matters. However, it is also the case that the historic decisions referred do not explicitly remove specific permitted development (PD) rights by condition.
19. The advertisement submitted sets out the E use class of the building, and while the headline may say 'offices', the body of the advertisement outlines other potential uses under Class E, including educational, training, leisure and religious, most of which fall within the definition of 'Community Facilities' in the glossary to the CLP. I see nothing particularly misleading or inadequate about the marketing material. It may not have explicitly used the term 'community facility' but it can be understood from its content that there would be flexibility in the potential use of the building, including for community uses.
20. Moreover, in marketing as offices, the appellant arguably cast a wider net in terms of potential interest than that required by the Council. Yet, even doing this, interest was very limited, which indicates to me that the building was not seen as suitable for community or office use. The fact that the few enquiries which were received were from community-type uses, including gyms and churches, also suggests that the marketing exercise did reach the kind of operators the Council expected.
21. I accept that beyond reference to the age and existing internal layout of the building, there is little explanation as to why those who did enquire did not pursue their interest. However, it is not unreasonable to consider that the existing layout, which still resembles that of a dwelling, and the increasingly poor condition of the building while vacant, would be potential drawbacks for prospective users, particularly community uses seeking larger meeting spaces whose funds may be limited and for whom extensive renovations may be unaffordable. While there is no firm evidence price was a determining factor, the Council conceded at the hearing that it had no reason to find that advertised price was not appropriate.
22. All in all, I am satisfied that the marketing exercise was not inadequate in terms of reaching prospective community uses. There is limited evidence as to why the building has not attracted a new community use, but the low level of interest, in itself, is a strong indicator that there is no tangible demand for the building as a community use, with the physical limitations of the building appearing to be a contributing factor to this lack of interest. For these reasons, I conclude that the appeal building has been shown to no longer be required for

community use, and its loss through the proposed changes of use in each appeal would not conflict with the aforementioned requirements of Policies SP5 and DM19.1.

Housing Mix

23. Under Policy SP2.7 of the CLP, the Council seeks to ensure that a choice of homes is available in the borough that will address the borough's need for homes of different sizes. The strategic target is for 30% of all new homes up to 2036 to have three or more bedrooms. The Council confirmed at the hearing that it took a flexible approach to the policy up to February 2021, permitting two-bed/four-person units rather than three-bed units, to allow for the market to adapt to the policy requirements, but that the policy has been implemented in full since that time.
24. The proposal under Appeal A would not provide any three bedroom units, in conflict with Policy SP2.7, irrespective of which set of plans is considered. The appellant argued that while there is conflict with a strategic target, the proposal is minor in scale and would nevertheless deliver additional housing in an accessible location. Be that as it may, the policy applies to all new homes, and given the overall size of the building and extent of internal rearrangement being proposed, it is feasible that three bedroom units could have been provided, a fact that the appellant accepted at the hearing. No other substantive reasons have been advanced as to why the policy requirement cannot be met.
25. Therefore, the proposal under Appeal A would fail to provide a suitable mix of housing to meet the needs of the borough, in conflict with CLP Policy SP2.7.

Character and Appearance

26. The appeal building is two storeys plus loft accommodation and cellar space. It is the central building in a row of five of similar design, with front gables, ground floor bay windows to either side of a central entrance, a small loft window at second floor level and a window at ground level lighting the cellar. The building, like others, has a recessed, two storey extension to one side.
27. The wider surroundings are more varied in style, with terraced, detached and semi-detached dwellings ranging from two storeys to three storeys with loft accommodation. A large block of flats, Elmhurst Court, is located a short distance to the south. The area is residential in character, with the nearby exceptions of a school, church, daycare facility and an osteopath's office.
28. The proposed external changes to the building are the same for both appeals. At the front the introduction of two deep lightwells serving the basement level would be unique within the group of five and the wider street, as other properties, such as those from No 42 onwards, have original lower ground floor levels with much shallower and more open lightwells. In contrast, the proposal would introduce railings and steps to the front which would create a cluttered appearance in comparison to the other dwellings in the group. The extension of the bay windows downwards into the lightwells would be a further anomalous feature, altering the overall form and proportion of the front elevation and disrupting the consistency with its immediate neighbours.
29. The existing side elevation would be extended forwards, but with an overhang to the first floor level that would result in an awkward void at the ground floor

level. The first floor element would also have a flat roof and would sit flush with the front elevation, creating an incongruous extrusion to one side of the front elevation that would severely unbalance its existing symmetry.

30. At the roof level, two substantial dormer windows are proposed to each side of the pitched roof. The only dormer windows within the immediate group are two very modest examples to No 37 next door. Indeed, I saw that dormer windows are not a feature of the surroundings generally. At the scale proposed, the dormers would physically and visually dominate the roof, substantially altering the overall scale and shape of the building by effectively creating a full storey at second floor level with the pitched roof subsumed by a substantial and incongruous box shape.
31. At the rear, two extensions of 4.5 metres depth are proposed at ground floor level, separated by a central stair leading between the garden and the basement level. The proposed extension at first floor level would be shallower, at 1.5 metres depth, but would span across the full width of the building and wrap around to join with the existing side extension. Two balconies are proposed beyond the extension on the roofs of the ground floor extensions.
32. I saw that there are limited extensions to neighbouring properties, with those I saw being only at ground floor level and relatively shallow in depth. The proposed extensions, taken together, would add significant additional massing and bulk to the rear of the building, with little of its original form still discernible. The flat roofed, boxy shape of the extensions would bear no relation to the existing pitched roof form of the building. The wraparound nature of the extension, and proposed windows which would fail to align vertically, would further unbalance the overall composition of the building.
33. The proposed alterations to the front and roof would be clearly visible from the street, where they would severely upset the consistent form of the buildings from Nos 35 to 43 and detract from the appearance of the street generally. The extensions to the rear would be seen from the gardens of Nos 37 and 41 to either side and would be wholly at odds with the prevailing scale of extension to the rear of dwellings in this part of Heathfield Road.
34. For these reasons, therefore, I conclude that the proposals under both Appeal A and Appeal B would cause significant harm to the character and appearance of the area. This results in conflict with Policy D3 of the London Plan (2021) and Policies SP4 and DM10 of the CLP, which together require development of high quality which respects and enhances Croydon's varied local character and contributes positively to the public realm, landscape and townscape to create sustainable communities, through respecting development pattern, layout, siting, scale, height and massing.

Living Conditions

35. The proposed extensions to the rear would add substantially to the massing of the building beyond the building line of neighbouring dwellings, with the Council's concerns being visual intrusion, overbearing and enclosing effects on the neighbouring dwellings to either side, along with overlooking. The considerations on this issue are common to both appeals.
36. The appellant has provided a plan showing a 45 degree line drawn from the nearest first floor windows to either side of the site. However, the Council's

reference to a 45 degree test comes from its now withdrawn SDG, and so is no longer directly applicable. However, the 45 degree test is a well-established planning tool and I have had regard to the appellant's plan in reaching a view.

37. The rear gardens of the appeal site and neighbouring dwellings are heavily enclosed by mature trees, with views only of the parts of neighbouring properties most immediate to the dwellings. The neighbour at No 37 has a ground floor extension with a solid roof. The massing of the proposed ground floor extensions would extend beyond this addition, but not to a significant degree and the overall scale of the extensions would not be seen from within the neighbour's ground floor rooms.
38. At first floor level, the appellant points out that the 45 degree line from the nearest window would cut through the proposed glazed privacy screens, rather than solid brickwork. The detail of these screens has not been provided, but the evidence suggests their intent is to prevent overlooking back towards the neighbouring windows. To achieve this, the screen would have to have a certain level of opacity that would result in a more solid appearance than that of clear glass. However, the screens would be lower in height than a full extension at this level, and there would remain sufficient rearward views and access to sunlight and daylight for the first floor windows of No 37.
39. To the other side, No 41 does not have any extensions. The proposed wraparound extension on this side would form an immediate and dominant presence on the boundary, extending substantially beyond the rear wall of No 41 and imposing into views from the ground floor windows. Moreover, the extensions would stand next to the nearest parts of the gardens to the dwellings at Nos 37 and 41, which occupants are most likely to use and where the substantial scale and massing of the extensions would overbear and enclose these spaces.
40. The proposed privacy screens to the sides of the balconies, subject to their detailed design, would be capable of preventing those sitting on the balcony from viewing into the windows of Nos 37 and 41. However, the plans show lower balustrades to the rear of the balconies, which would enable downward views towards the gardens of the neighbouring dwellings and it would also be possible for someone to look around the privacy screen to see the nearest parts of the garden directly below. There would, as a result, be the potential for overlooking of neighbours due to the high level position of the balconies.
41. For these reasons, therefore, I conclude that the proposals under both Appeal A and Appeal B would result in loss of outlook, increased sense of enclosure and overlooking that would significantly harm the living conditions of neighbouring occupants. This would conflict with Policy D3 of the London Plan and Policies SP4 and DM10 of the CLP, which together require development to protect the amenity of occupiers of adjoining buildings, including ensuring that development does not result in direct overlooking at close range of habitable rooms in main rear elevations or private outdoor space.

Standard of Accommodation

Appeal A – Flats

42. The layout considered by the Council proposes 5x two-bed flats and 2x one-bed flats. As already noted, the plans before me contain several errors, including in

the stated floor areas of the flats, their intended number of bedrooms and/or occupants, and in windows not aligning between the elevation and plan drawings. The appellant acknowledged these errors at the hearing.

43. The Council points to several of the flats having bedrooms which would meet the size for a double bedroom under London Plan Policy D6, and thus should be considered as such. However, the flats in question, Nos 1, 2 and 6 are indicated by the appellant to be one person units, in which case they would meet with the required 37sqm floorspace.
44. Questions of floorspace aside, Flats 1 and 2 would be located at basement level, with windows facing either into the front lightwells or the side passage. The outlook from these windows would be severely limited, due to the depth of the front lightwell below the ground level, and the fact that the side windows to Flat 1 and the bedroom window to Flat 2 would be at high level within the rooms, offering no meaningful outlook. The narrow width of the side passage, and the proposed placement of a bin store in front of the Flat 2 bedroom window mean these windows would also suffer from poor levels of natural daylight. The result would be gloomy, enclosed flats that would fail to provide a suitable standard of accommodation.
45. The flats to the ground and first floor (Nos 3 to 6) generally would accord with the relevant space standards and would provide adequate outlook, all being dual aspect to front and rear, and with access either to the garden or the proposed balconies. Flat 7 within the roof space would have side facing windows, but these would provide a suitable level of outlook and light given their high level position. The Council's concern that these windows may be partially obscured could be addressed by condition.
46. The Council criticises the lack of storage space shown in the units, apart from Flat 7. Given the concerns already identified in respect of Flats 1 and 2, the fact that some floorspace would be further taken up by storage adds to my concerns with these units. The other units are laid out with relatively large kitchen/living areas which could accommodate storage space without severely compromising the overall functionality of the unit.
47. The Council also refers to the lack of direct access to the communal amenity space proposed in the rear garden. Flats 1 and 2 would have access via rear hallways and the proposed external steps. Flats 3 and 4 would have direct access via rear patio doors, while Flats 5 and 6 would benefit from private space on the balconies. Flat 7 would be required to access the garden via the side passage, but this would not be particularly onerous, and would still provide occupants with external space to relax. Therefore, I am satisfied that the proposal would be adequate in this respect.
48. Overall, I conclude that Flats 1 and 2 would fail to provide a suitable standard of accommodation, due to poor outlook, storage and light. This would conflict with Policy DM10 of the CLP and Policy D6 of the London Plan, which require housing to be of high quality design, meeting gross internal floor area and built-in storage requirements, providing adequately sized rooms with comfortable and functional layouts, providing adequate sunlight and daylight to future occupants and avoiding the provision of single aspect dwellings.

Appeal B – HMO

49. The proposal seeks to provide 15 en-suite bedrooms with shared kitchen facilities. As with the other appeal, there are inconsistencies with the plans, such as Flat 8 being given as 25sqm, but appearing to be smaller than Flat 7 at 19sqm. The appellant has provided a substitute drawing which alters Flat 10 to a one-person unit.
50. The appellant sets out that 12 of the 15 bedrooms would be single occupancy and three (Nos 8, 9 and 11 on the first floor) would be double occupancy, for a total of 18 occupants. The Council takes a different view, pointing to its (previously 2015, now 2022) which require a minimum of 10sqm for single occupancy and 15sqm for double occupancy, which would mean only Flat 10 would be single occupancy, 11 of the units would be capable of double occupancy, and Flats 13, 14 and 15 would fall short of the minimum for single occupancy, each being 9sqm.
51. The appellant argues that these standards are not statutory, and refers to case law³, legislation⁴ and government guidance⁵ in support of their position that the rooms would exceed the statutory minimum sizes of 6.51sqm for 1 person over 10 years of age and 10.22sqm for two persons over 10 years of age. I have had regard to the appellant's submissions, albeit noting that the case law in question relates to the Housing Act rather than the planning acts.
52. What is pertinent from the appellant's evidence is that while there are now statutory minimum room sizes, the 2018 government guidance makes it clear that local housing authorities will continue to have discretion to require higher standards within licence conditions, but they must not set lower standards. Given this, I see no reason why I cannot have regard to the Council's HMO standards as a material consideration. In doing so, I recognise that the HMO licensing regime is separate to the planning system, and the HMO standards are only one consideration of several in determining the suitability of the accommodation in planning terms.
53. Taking the appellant's stated levels of occupancy, nine of the 12 one-person rooms would comfortably exceed the 10sqm requirement, whilst the other three would each fall 1sqm short. The two-person rooms would also appear to exceed the 15sqm requirement. I recognise the Council's concern that several of the one-person rooms could be occupied by two people. That may be so, but if the room is large enough for two people, then this would not, in itself, result in an unacceptable standard of accommodation.
54. Where there may be an adverse effect is if additional residents mean there are insufficient communal facilities. However, it would be possible to impose a planning condition to limit the number of occupants within the property, and if necessary in specific rooms, to ensure overcrowding would not occur. In terms of the facilities proposed, each room would have its own en-suite and therefore there would be no issues of undersupply in this respect.

³ Dhugal Clark v Manchester City Council [2015] UKUT 129 LC; Nottingham City Council v Dominic Parr Trevor Parr Associates Limited [2016] UKUT 0071 LC

⁴ The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018

⁵ Houses in Multiple Occupation and residential property licensing reform - Guidance for Local Housing Authorities (MHCLG, 2018)

55. There would be three kitchens/living spaces, one each at basement, ground and first floor level. The Council's HMO guidance indicates that one kitchen should be shared by no more than 5 persons, by which measure there would be insufficient kitchen facilities for the 18 occupants proposed by the appellant. Moreover, the kitchen at basement level would be accessible internally only by the two single person basement rooms. As a result, the other 16 occupants would have to share the other two kitchens at a ratio of 8 per kitchen. This would far exceed the Council's guidance, and would result in excessive demand on the facilities and a sense of overcrowding and inconvenience for occupants.
56. In addition, for the same reasons as set out in respect of Appeal A, the two basement rooms would suffer from poor levels of light and outlook, which would result in oppressive living conditions for future occupants.
57. For these reasons, I find that the proposed HMO would fail to provide a suitable standard of accommodation, contrary to the aforementioned requirements of Policy DM10 of the CLP and Policy D6 of the London Plan.

Parking and Highway Safety

58. The Council's concerns, for both appeals, was the absence of a legal agreement to prevent increased car use and parking demand in the Controlled Parking Zone in which the appeal site is located. Under Policy SP8.15 of the CLP, the Council will encourage car free development where there are high PTAL levels. The site has a high PTAL rating of 5 and I saw it is within walking distance of the many facilities and transport connections in Croydon town centre. As such, the evidence before me does not indicate that the requirement for the development to be car-free should be set aside in this instance.
59. Additional development would add to parking stress and congestion in the vicinity of the appeal site, given there is no capacity to accommodate on-site parking. Therefore, parking restrictions are necessary to make the proposal acceptable and to accord with development plan policy, and I am satisfied that this requirement meets the relevant tests for planning obligations set out in the National Planning Policy Framework (the Framework).
60. In advance of the hearing, the appellant provided two unilateral undertakings (UUs), one for each appeal, which would restrict the owner and/or occupants of the flats or HMO from obtaining resident's parking permits, except in the case of those holding a disabled person's badge. The Council confirmed at the hearing that the UU in each case is satisfactory to address its concerns.
61. Therefore, I conclude that the proposals under both appeals would not lead to an unacceptable increase in parking pressure or consequent risk to highway safety, and no conflict would arise with Policy SP8, or with Policies DM29 and DM30 of the CLP or Policies T4 and T6 of the London Plan, which together require mitigation of transport impacts, appropriate levels of parking provision with car-free as the starting point, and the promotion of measures to increase public transport, cycling and walking.
62. The appellant separately submitted two further UUs to secure financial contributions towards the cost of providing disabled parking bays and electric vehicle charging points. The Council confirmed at the hearing that it was not requiring the provision of the charging points, and therefore I have not considered this element further.

63. In respect of disabled parking bays, the Council indicated that the proposal under Appeal A falls below the threshold for providing a disabled parking space, as set out in Table 10.1 of the CLP. It was also indicated that the internal layout proposed would not be conducive to disabled occupants.
64. Under Appeal B, plans show a single parallel parking space in the front courtyard, which the Council indicated would be difficult to access and leave from due to poor sightlines. In any event, the Council stated at the hearing that a space was not required. Given these considerations, the submitted UUs in these respects are not necessary to make either proposal acceptable in planning terms.

Drainage and Flood Risk

65. The appeal site is located in Flood Zone 1, which has the lowest probability of flooding. However, the Council indicates the site is located in a critical drainage area with the potential for surface water flooding to occur. The proposals include the provision of residential accommodation below ground level, and increased use of water throughout the building.
66. Policy DM25 of the CLP seeks to minimise the impact of flooding by taking account of all sources of flooding, and applying a sequential approach to site layout by locating the most vulnerable uses in parts of the site of the lowest risk of flooding. It adds that in areas at risk of flooding, development should be made safe for the life of the development and incorporate flood resilience and resistance measures into the design.
67. The appellant argued that no concerns were raised by consultees during the course of the applications. The Council in response indicated that the Lead Local Flood Authority is not routinely consulted on developments of the scale proposed. However, Annex 3 of the Framework sets out that basement level dwellings are considered to be 'highly vulnerable' in terms of flood risk. Consequently, and having regard to the requirements of Policy DM25, it is not unreasonable of the Council to require the risk from surface water and any other source of flooding to be established and measures proposed to ensure that the proposed flats/HMO rooms would be made safe for their lifetime. The appellant has not provided any details in these respects for either appeal.
68. Separately, Policy DM25 requires the provision of sustainable drainage systems as part of the development to prevent an increase in flood risk. No details of any system have been provided for either appeal, but the Council indicated at the hearing that such details can be provided by condition on minor schemes.
69. However, in the absence of details as to the extent of surface water flood risk and any flood resilience and resistance measures which may be required, I cannot be certain that the proposed basement level accommodation in each appeal would be safe from flooding for the life of the development. Therefore, the proposal would conflict with Policy DM25 of the CLP.

Cycle Storage

70. Under Policy T4 of the London Plan, cycle storage is required to be provided at a ratio of one space per studio or one-person, one-bedroom dwelling, and 1.5 spaces for each two-person, one-bedroom dwelling. Based on the appellant's estimates of the size of flats/bedrooms and number of occupants, this would

equate to 9.5 spaces for the scheme under Appeal A, and 16.5 spaces for the scheme under Appeal B.

71. The plans considered by the Council under Appeal A do not show the location of cycle storage, though the other 'original' set of plans, and those submitted for Appeal B, both show cycle storage in the rear garden. Notwithstanding whether the plans show cycle parking at the required levels, there is clearly sufficient space in the rear garden to accommodate it.
72. The Council's concern relates to the access for those with bicycles via the side passage. Measurements taken on site show that the passage ranges in width from 0.86 metres to 1.13 metres. Policy T5 of the London Plan states that cycle parking should be designed and laid out in accordance with the guidance contained in the London Cycling Design Standards (LCDS), which I was told at the hearing seeks access of at least 1.2 metres wide. Reference was also made to guidance from Cambridge, but as this is not specific to Croydon, I afford it very limited weight.
73. The thrust of Policy T5 and the LCDS is that access should be sufficiently wide to enable cyclists to push a bicycle beside them. If not, it becomes more likely that residents will be dissuaded from using bicycles due to the inconvenience of getting them to and from the storage area. In this case, there are certain pinch points along the passage where the chimney breasts protrude. However, there would still be a straight, external access which could be navigated without significant difficulty. Given the alternatives would be a cycle store in the front courtyard, where questions of space and visual impact would arise, or storage of cycles internally where occupants would have to navigate stairs and doorways, the proposed location in the rear garden is preferable, even taking into account the narrow access.
74. On the evidence before me, therefore, I am satisfied that despite the shortcomings of the side passage relative to the LCDS guidance, the proposals under both appeals would be capable of providing secure cycle parking to meet the requirements of Policy T5 of the London Plan, which could be confirmed by condition. Its provision would further accord with the aims of Policy T4, and those of Policies SP8, DM29 and DM30 of the CLP to encourage cycling.

Refuse Storage

75. Policy DM13 of the CLP requires that refuse and recycling facilities are sensitively integrated into the development behind the building line where they will not be visually intrusive or compromise the provision of shared amenity space. In both appeals, a refuse store is shown to one side of the front courtyard, with space for three bins.
76. The Council refers to its Waste and Recycling in Planning Policy Document (August 2015, edited 2018) which requires a two metre clearance in front of the bin store for access and a 10sqm area for storage of bulky waste, which it indicated would not be achievable given the proposed position of the front lightwells to the building. It also points to the bins being directly in front of the only window lighting the bedroom of one of the basement level units.
77. I was informed that the bins required would be larger than normal domestic wheelie bins and more akin to those used by commercial premises. Consequently, a considerable amount of space would be required for the

storage structure, and I am doubtful that the space on site would be sufficient to provide a two metre clearance in front once the lightwell has been created.

78. The alternative posited by the appellant was to dispose of waste privately, in which case the Council indicated its concerns would be addressed. This could be dealt with by way of a management plan secured by condition. Similarly, were the appeals to succeed, a condition could be imposed to secure detailed design of the refuse store showing how access to it would be achieved and obstruction of the basement window avoided. The required bulky waste area would be for occasional use pending collection, and the front courtyard could be used temporarily for this purpose.
79. Therefore, on the evidence I have seen, heard and read, I conclude that the proposals under each appeal would be capable of providing satisfactory refuse and recycling facilities as required by Policy DM13.

Other Material Considerations

Fall-back

80. The appellant raised as a potential fall-back position the ability to convert the building to residential use under the provisions of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), which permits the change of use of the building and any land within its curtilage from a use falling within Class E (commercial business and service) to a use falling within Class C (dwellinghouses). This would only relate to Appeal A as the proposed HMO under Appeal B is a *sui generis* use.
81. Setting aside questions of whether past permissions have restricted PD rights, even if I assume that permitted development rights under Class MA exist, they relate only to the change of use of the building and any building operations reasonably necessary to convert the building to use falling within Class C3. The scale of extensions proposed in this case, to my mind, would go beyond that considered reasonably necessary to convert the building.
82. Additionally, the Council questions whether a proposal would meet with the relevant conditions of Class MA in terms of the length of vacancy required before the PD right can be exercised. Moreover, rights under Class MA are subject to an application to the local planning authority for prior approval in respect of a number of matters, including flood risk, the design or external appearance of the building and the provision of adequate natural light in all habitable rooms. I have no evidence that any such application has been made, and given my findings of harm in respect of a number of these matters, there is no certainty that an application for prior approval would succeed on the basis of the present proposal.
83. Consequently, I find that these factors significantly reduce the likelihood of a permitted development scheme being pursued in the alternative to the proposal under Appeal A, and therefore I afford the fall-back position no more than limited weight.

Other issues

84. The Council did not raise concern in respect of other issues, including trees, protected species and fire safety, in some cases subject to the imposition of

conditions were permission to be forthcoming. On the evidence before me, I have no firm reasons to differ from the Council's position in these matters, but these are neutral considerations weighing neither for nor against the proposal.

Planning Balance

85. In respect of both appeals, I have found harm in terms of the design of the building and its effect on the character and appearance of the area; the effect on neighbours' living conditions; the standard of accommodation to be provided and flood risk. In respect of Appeal A, there is also harm in terms of the proposed housing mix. As a result, there would be significant conflict with the development plan, taken as a whole, in respect of both appeals. I afford these conflicts very significant weight.
86. Set against this, both appeals would make productive use of a large and increasingly derelict building which presently detracts from the character and appearance of the area and has been the subject of anti-social behaviour; and I recognise the considerable stress this has caused the appellant. The appellant has demonstrated through a marketing exercise that demand for the building as a community use has not arisen, and its loss would not be contrary to the development plan in these circumstances.
87. The proposals would provide either seven self-contained flats or a large HMO of 15 rooms, both of which would deliver benefits in terms of adding to the housing stock and providing choice at the lower end of the housing market, and in an accessible location. This would accord with the Framework aim of boosting the supply of housing nationally, though given the shortcomings of some units, the positive weight I attribute to these benefits is tempered to moderate at best.
88. I also recognise that there would be economic benefits arising for local construction firms in the renovation and redevelopment of the building, albeit these would be temporary in nature. Subsequently, there would be a boost from residents engaging in the local economy, but given the scale of the development, such benefits would be limited in scale.
89. Taken together, I consider that the cumulative benefits arising both in Appeal A and Appeal B would be insufficient to outweigh the several significant conflicts identified with the development plan in each case. Therefore, in both appeals, material considerations do not indicate that planning permission should be forthcoming in spite of the conflicts with the development plan.

Conclusion

90. Therefore, for the reasons set out, I conclude that both appeals should be dismissed and planning permission refused in each case.

K. Savage

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Janine Banks	Agent
Brett Littlewood	Sanderson Associates
Karen Smith	Sanderson Associates

FOR THE LOCAL PLANNING AUTHORITY:

Hayley Crabb MA (Planning, Policy & Practice)	Senior Planner (DM)
Laura Field BSc MA MRTPI	Deputy Team Leader (Development Management)
Julia Dawe BA Hons MRTPI	Team Leader (Plan Making- Spatial Planning)
Lakshmi Sasikumar	Project Officer (Plan Making- Spatial Planning)
Mary Toffi MIHT MTPS	Principal Transport Planner (Strategic Transport)
Matthew Harris	Strategic Transport

Documents submitted during/after the hearing

1. Extract from Glossary of Croydon Local Plan 2018 (received 12 July 2022)
2. Copy of Council's Houses in Multiple Occupation Standards 2022 (Received 13 July 2022)
3. Copy of Council's Waste and Recycling in Planning Policy Document (Received 13 July 2022)
4. Copies of agreed lists of planning conditions for each appeal (Received 14 July 2022)
5. Copies of the documents listed at Footnotes 3 and 5 above (Received 14 July 2022)
6. Copy of Council letter to PINS confirming revocation of it Suburban Design Guide SPD (Received 26 August 2022)