



Appeal Decision

Site visit made on 21 September 2022

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20/10/2022

Appeal Ref: APP/G5180/W/22/3293374

The Coney, 35 Croydon Road, West Wickham BR4 9HZ

- 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 Ali Bilal against the decision of London Borough of Bromley Council.
 - The application Ref DC/21/02765/FULL1, dated 28 May 2021, was refused by notice dated 10 December 2021.
 - The development described on the planning application form is 'new conservatory on existing seating area'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development used by the Council in its decision notice, and the appellant on the appeal form, more accurately describes the development as new conservatory and extension of outdoor seating area. The extension to the outdoor seating area has already been carried out, and I have considered the appeal on that basis.

Main Issues

3. The main issues are the effects of the development on: (i) the character and appearance of the area; and (ii) the living conditions of neighbouring occupiers, with regard to noise.

Reasons

Character and appearance

4. The appeal site is a restaurant and public house in a prominent location on the A232 Croydon Road/Glebe Way, being opposite the junctions with Kingsway and Croydon Road. It has a wide, open frontage with the street, and a car park to the rear. At the time of my visit, the extended seating area encompassed the entire forecourt, bounded by low railings. The premises had also been renamed "Smoque".
5. The building is an attractive detached brick building with a hipped tiled roof and tall chimneys. It is set back from the street, in general alignment with others to the north-west. It is also set back from buildings either side, affording it a degree of prominence and spaciousness. That sense of spaciousness is also found on the opposite side of the road, in the wide footways and planted borders at the junctions of Kingsway and Croydon Road, and the open frontage

car park of a DIY store. Shop units east of the appeal site form terraced shopping parades with very short forecourts on both sides of the road. The area is otherwise a residential one with houses and flats to the rear and sides of the appeal site.

6. The proposed metal frame and 2.5m high glazing structures of the proposed conservatory would run along the entire frontage adjoining the footway. The depth of the forecourt, and its prominence at this intersection of roads, means the canopy roof would also be a notable feature, and the north-western side elevation would stand out beyond the established building line. In this context, the substantial scale of the proposed structure would be out of keeping with the existing building, overly dominant in this location, and would reduce the sense of spaciousness which contributes to the character of the area. The lightweight materials and ability to open the fabric roof and fold open the glazed panels would not significantly reduce these effects, as the steel frame would remain.
7. In conclusion, although the extension of the seating area itself is not visually harmful, the proposed conservatory would harm the character and appearance of the area and would be contrary to London Borough of Bromley Local Plan 2019 (LP) Policy 37, which relates to the general design of development.

Living conditions

8. For the purposes of this appeal, the existing forecourt, as shown on the existing plans and submitted photographs, contained an outdoor seating area behind low steel railings and a parking area for 3-4 cars. The proposed extension of the seating area with decking over the former parking area, and its use for outdoor seating, has already been carried out. A proposed conservatory with a steel frame, glass retractable side walls, and a retractable fabric canopy roof, would be added over the entire extended seating area.
9. Either side of the appeal site are residential flats. The flat above the adjacent shop on the shopping parade to the east stands at the eastern end of the existing outdoor seating area. Despite its gable end being windowless, there are upper floor windows at the rear and on its side elevation that are visible from the seating area and the street. On the other side, there are front and side windows of flats close to the extended seating area. The rear windows of flats either side of the appeal site, and semi-detached dwellings, also overlook the car park.
10. The A232 Croydon Road/Glebe Way is a dual carriageway road in an urban area, and there will inevitably be some traffic noise. However, I have not seen evidence of the background noise levels throughout the day, or the extent to which they reduce in the evenings. The significant enlargement and extension of the outdoor seating area is likely to increase noise from outdoor customers, particularly for occupiers of residential flats to the north-west. The enclosure of the outdoor seating area may also extend the times and durations of its use.
11. There may be some acoustic mitigation from the proposed glass screens, when they are closed, but no assessment of the noise-reducing properties of the proposed glazed screens and fabric canopy roof have been provided. The fabric canopy roof, in particular, may have a limited effect in reducing noise spillage towards the upper floors of nearby residential flats.

12. In relation to the rear car park, the effects of noise as a result of the additional capacity may be self-limiting at peak times when the car park is full, but could increase at other times given the significant size of the extended seating area.
13. Overall, in the absence of a suitable noise assessment, I consider the development is likely to result in additional noise and activity that will result in harm to the living conditions of neighbouring residential occupiers. In considering whether planning conditions could overcome these concerns, with the information currently before me, even if I required submission of an acoustic survey, I cannot be certain that noise levels could be made acceptable. Moreover, in the absence of existing noise levels at this stage, I am also unable to consider whether targeted controls over the use of certain areas or at certain times would effectively overcome potential noise impacts.
14. In conclusion, with the information before me, I am satisfied that the development would be likely to harm the living conditions of neighbouring occupiers, with regard to noise. I have not been provided with any material evidence to demonstrate that this harm would not arise or could be adequately mitigated. The development is therefore contrary to LP Policy 119, which requires a noise assessment for developments likely to generate noise in order to minimise adverse impacts on noise sensitive receptors, such as residential occupiers.

Other Matters

15. The National Planning Policy Framework (the Framework), expects planning decisions to help create the conditions in which businesses can invest, expand and adapt. It acknowledges the need to support economic growth and productivity, taking into account local business needs. With the vaccination of much of the population, the most severe restrictions brought on by the COVID-19 pandemic are likely to have passed. I have not been provided with viability information relating to business needs, but increasing the external seating area, and covering it for use in poorer weather conditions, would provide economic benefits to the business, and could potentially increase local employment. At the same time, the appeal site protrudes marginally forward of the shopfront adjacent to the east, and the enclosed area would reduce visibility of the shopfront for drivers travelling east, and from areas south of the road; there may therefore also be negative economic effects of the development in relation to that business. Overall, I therefore afford limited weight to the economic benefits in favour of the development.

Conclusion

16. I found in relation to the main issues that the development would harm the character and appearance of the area and would be likely to harm the living conditions of neighbouring occupiers, with regard to noise. As a consequence, the development conflicts with policies of the development plan. Together these carry significant weight against the development, which outweigh the limited economic benefits.
17. For the reasons above, I conclude the development would conflict with the development plan as a whole and the approach in the Framework. There are no other material considerations that would suggest a decision other than in accordance with the development plan would be appropriate, and the appeal should therefore be dismissed.

Peter White

INSPECTOR