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# Appeal Decision

Site visit made on 6 April 2023

**by R Bartlett PGDip URP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19 May 2023**

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**Appeal Ref: APP/L5240/W/22/3302745**  
**580-582 Wickham Road, Croydon CR0 8DN**

- 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 Mrs Yasemin Array of Helvadere Ltd against the decision of the Council of the London Borough of Croydon.
  - The application Ref 21/05551/FUL, dated 4 November 2021, was refused by notice dated 6 April 2022.
  - The development proposed is described as replacement of the existing external seating area to the front with a new pergola with retractable roof.
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## Decision

1. The appeal is allowed and planning permission is granted for the erection of a pergola with retractable roof, at 580-582 Wickham Road, Croydon CR0 8DN, in accordance with the terms of the application Ref. 21/05551/FUL, dated 4 November 2021, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan and Drawing Number P-01.

## Application for Costs

2. An application for costs was made by the Council of the London Borough of Croydon against the appellant. This application is the subject of a separate decision.

## Preliminary Matters

3. The application form describes the proposal as replacement of the existing external seating area to the front with a new pergola with retractable roof. As the external seating area is not being replaced, and the existing structure covering it does not benefit from planning permission, I have amended the description of development in my decision to the erection of a pergola with retractable roof.
4. I have been advised that the Suburban Design Guide Supplementary Planning Document was revoked in July 2022. Consequently, I have had no regard to this in reaching my decision.

## **Main Issue**

5. The main issue is the effect of the development on the character and appearance of the host building and the wider street scene.

## **Reasons**

6. The host building forms part of a terrace of six properties (Nos. 572-582 Wickham Road), all of which comprise commercial units at ground floor level with residential use above. Although the front of the terraced block is uniform in appearance at first floor and roof level, the ground floor premises vary significantly in appearance, having all been altered and extended to the front in recent years. The terrace is set back from the wide footpath by a hard surfaced forecourt. This is used by the restaurants at either end (including the appeal site) to provide external seating for customers. I note that the Italian restaurant at No.572 has an external eating area enclosed by timber and glazed walls above brick pillars and planters. This area extends up to the edge of the pavement and although it has no roof, I am advised that large umbrellas are erected when it is in use. Other businesses use the forecourt area for car parking.
7. The terrace is designated as a Shopping Parade in the Croydon Local Plan 2018 (the Local Plan). The wider street scene is varied and comprises a mix of residential and commercial uses. The opposite side of the road is largely undeveloped. The area is sub-urban in character and is not subject to any special protection or heritage designations.
8. The proposal relates only to the frontage of Nos. 580-582, and not the frontage of No.578, which forms part of the same restaurant. The proposed pergola would be an open sided free-standing structure, as opposed to a building or extension. It would consist of grey powder coated metal posts and rafters, with fabric awnings that can be opened and closed to provide shelter as required using motors fixed to the back of the structure. Low level boundary planters would define the edges of the seating area.
9. Due to its limited scale and height and its position set back from the edge of the pavement, the pergola would not appear overly dominant. Its scale and massing would be smaller, and its appearance less bulky, than the unauthorised extension that currently exists, and than the images that I have seen of previously refused schemes for front extensions on the site.
10. I therefore conclude that the proposal would not harmfully detract from the character and appearance of the host building, the designated shopping parade or the wider suburban street scene. Consequently, it would accord with Policies SP4 and DM10 of the Local Plan, which require development to be of high-quality, which respects the appearance and built features of the surrounding area. It would also accord with Policies D3 and D4 of The London Plan 2021, which seek amongst other things to optimise site capacity, make best use of land, to provide active frontages and to achieve indoor and outdoor environments that are comfortable and inviting for people to use.
11. As the proposal relates to a new free-standing structure, I do not consider the Supplementary Planning Guidance No.1 Shopfronts and Signs (1996) to be relevant. This relates to the front of buildings rather than what is placed on the land before them. In any event that document supports retractable canopies to

provide shelter and protection for goods and customers from sunlight and bad weather.

### **Other Matters**

12. My attention has been drawn to three previous appeals<sup>1</sup> on this site. The first relates to a ground floor extension to the front of Nos. 580-582 that was allowed in 2012 and has been constructed. A further front extension to Nos. 580-582 was dismissed in 2019 and an extension across the full frontage of Nos. 578-582 was subject to an Enforcement Notice that was upheld at appeal in 2021.
13. Whilst I have not been provided with full details of the previously dismissed front extensions, it is evident from the information before me, including images in the Design and Access Statement and extracts from the various appeal decisions, that those extensions were different in scale, siting, appearance and materials to the proposal currently before me for a pergola. The terrace as a whole has also changed recently, with further front extensions and enclosed forecourt eating areas being added. Therefore, whilst previous appeal decisions on the appeal site are material considerations, as these related to materially different schemes that were determined prior to adjacent frontage alterations taking place elsewhere within the terrace, they do not alter my view that the different proposal before me is satisfactory.

### **Conditions**

14. I have imposed the standard conditions setting out the time limit for implementing the planning permission and listing the approved drawings for the avoidance of doubt.
15. As the proposal relates to the erection of a metal pergola as shown on the approved drawings, I see no need to condition materials. It is inevitable that the fabric awning will have a limited lifespan and may well need replacing over time. Painting the metal pergola frame would not be development nor would painting or replacing the boundary planters.
16. The restaurant and outdoor seating area have been in use for several years and I have seen no evidence of any noise and disturbance. Whilst the pergola may facilitate the use of the outdoor seating area in different weather conditions, this area would continue to exist and be used with or without the proposal. I note that no objections have been raised by local residents or environmental health. Accordingly, I do not consider that conditions to restrict the hours of use or to prevent music from being played are reasonable, necessary or relevant to the development being approved, in this case the erection of a pergola.

### **Conclusion**

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

*R Bartlett*

### **INSPECTOR**

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<sup>1</sup> APP/L5240/A/11/2160160, APP/L5240/W/18/3216758 and APP/L5240/C/20/3263136