



Appeal Decision

Site visit made on 17 May 2023

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: 10 July 2023

Appeal Ref: APP/L5240/W/22/3307616

770A London Road, London, Thornton Heath, CR7 6JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr A Azam against the decision of London Borough of Croydon.
- The application Ref 21/05322/CONR, dated 20 October 2021, was refused by notice dated 8 July 2022.
- The application sought planning permission for change of Use from D1 to C3; construction of additional floor to provide 2 one bedroom maisonettes without complying with a condition attached to planning permission Ref 19/04841/CONR, dated 18 March 2020.
- The condition in dispute is No3 which states that: The development shall be carried out entirely in accordance with the following documents and drawings: LP/PR - GA - 01 Rev 00 dated 07 Oct 2019 and Site plan 7028(PL)01.
- The reason given for the condition is: To ensure an acceptable standard of development.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the amended description of the development proposed given in the appeal form, neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the application form, as indicated in the banner heading.
3. A fire statement which considers fire safety has been submitted by the appellant. In response to this submission the Council has advised that the fire safety statement is considered to be acceptable, and this matter has now been resolved to its satisfaction. I find no reason to disagree with the Council's decision. Accordingly, it is not necessary for me to address this matter further.

Main Issues

4. The main issues are therefore:
 - The effect of the proposed development upon the living conditions of future occupiers, having particular regard to floor space and external amenity space; and

- Whether or not satisfactory arrangements for the storage and collection of waste have been demonstrated.

Reasons

Living Conditions

5. The appeal site contains two maisonettes which are built up to the site boundary and are directly accessible from the pavement fronting Raymead Avenue. The surrounding area is a mix of commercial and residential properties, mainly two storey terraces with retail uses at ground floor and offices or residential units above.
6. The appellant's proposal is to amend the approved internal layout. In effect, this would result in a reconfiguration of the layout of each maisonette, creating a new room on the upper floor which has been labelled as a study on the plans. The reconfiguration would also result in a redesigned bin store area on the ground floor. At the time of my site visit, it appeared that flat 1 had already been subdivided and occupied in accordance with the layout set out in the proposed plan.
7. It is a point of disagreement between the appellant and the Council as to the use of the new room on the upper floor. The Council is concerned that the new room would be large enough to function as an additional single bedroom, which would therefore result in the maisonette becoming a 2 bedroom, 3 person dwelling. The appellant's proposal is that they are only adding a closet and a study to each maisonette and have not otherwise indicated that any additional occupiers will live at each dwelling.
8. Having considered all representations, the evidence before me and what I saw on my visit, I consider that there is a strong likelihood that the additional room in each maisonette would be used as a bedroom rather than a study. The additional room is habitable, as it would have access to a window and there is sufficient space for a single bed. I note that one of the maisonettes was being occupied by a family with a small child, therefore it was already in occupation by three persons.
9. I have considered the use of a planning condition to secure the use of the maisonettes as 2 person dwellings. However, I am not persuaded that such a condition would be enforceable and thus such a condition would not make the development acceptable in planning terms. I have considered that the proposed variation has already been built out and occupied, which highlights the issues regarding enforcement.
10. The parties disagree about the internal floor space measurement for the maisonettes, however, even if the Appellant's preferred measurements are used as set out in the plan, the maisonettes would still fall significantly below the minimum internal space standards set out in Policy D6 of the London Plan (2021) for 2 bedroom, 3 person dwellings. The maisonettes would also fail to provide sufficient storage space for future occupiers, given the shortfall in internal floor space. As such, the maisonettes would be cramped and confined, with insufficient space available for domestic activities. Therefore, they would not provide satisfactory living conditions for future occupiers or result in good quality homes.

11. In reaching this view, I have considered the fact that no changes are proposed to the footprint and floor space. I have also considered that decision 18/01219/FUL deemed the floorspace to be acceptable. However, as the maisonettes would be altered to create two bedrooms, it would result in a larger number of occupiers than that indicated in previous decisions. Consequently, more space would be required to accommodate a greater amount of commonly required furniture and the space needed for different activities and moving around.
12. The proposed development does not offer any provision for private external amenity space for occupiers. The previously approved scheme deemed this lack of amenity space to be acceptable, due to the fact that the maisonettes only contained a single bedroom. However, as the maisonettes would have more bedrooms and are more likely to be used as family dwellings, it is important that some form of private amenity space is available. This lack of amenity space would result in poor living conditions, as there would be limited opportunity for future occupiers to participate in outdoor recreation.
13. In conclusion, the appeal scheme would not provide appropriate living conditions for future occupiers, with regard to internal space and private external amenity space. Accordingly, it would not comply with the requirement for development to meet the needs of residents and achieve minimum design and space standards, contrary to Policies SP2.8 and DM10 of the Croydon Local Plan (2018), Policy D6 of the London Plan (2021), the Housing Supplementary Planning Guidance to the London Plan (March 2016) and the Technical Housing Standards (2015).

Refuse Provision

14. The area designated for bins and recycling for both maisonettes is located towards the front of the building. I have considered that previous applications have deemed the refuse storage provision to be acceptable. However, as two bedroom properties rather than one bedroom properties, from the evidence before me the maisonettes would require more bin storage space. No such provision has been indicated, specifically in relation to any increase in capacity or space. Accordingly, the bin and recycling storage arrangements would not provide adequate refuse provision and would increase the risk that rubbish is left on the footway.
15. In conclusion, the appeal scheme would not provide satisfactory arrangements for the storage and collection of waste. Accordingly, it would not provide adequate space for the temporary storage of waste, contrary to Policy DM13 of the Croydon Local Plan (2018).

Conclusion

16. I have found that the appeal scheme conflicts with development plan policy. No material considerations have been demonstrated which would outweigh the development plan conflict. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

S Lo

INSPECTOR