



Appeal Decision

Site visit made on 30 May 2023

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2023

Appeal Ref: APP/L5240/W/22/3311336

15a Churchill Road, South Croydon CR2 6HE

- 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 TGTM against the decision of the London Borough of Croydon.
 - The application Ref 21/04166/FUL, dated 4 August 2021, was refused by notice dated 6 October 2022.
 - The development proposed is part retrospective planning application for retention of balcony and other external alterations to the building.
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Decision

1. The appeal is dismissed.

Preliminary Matters & Background

2. The description of the proposed development in my banner heading above is taken from the planning application form. In order to explain my findings in relation to this matter, it is necessary for me to set out some background.
3. The appeal site is occupied by a road sign manufacturing business. Following a previous planning permission¹, a workshop building (the building) has been subdivided to form two flats to the rear. The first floor flat is accessed by an external staircase, with a small landing area. The appeal scheme would result in the extension of the landing area to form a balcony to serve the front part of the building.
4. The appellant agreed to a change to the description of development from that originally stated on the planning application form. However, it is clear that the external staircase and landing benefit from a previous planning permission² and thus do not form part of the planning application.
5. The Council refused permission on the basis of the effect of the proposed balcony on the living conditions of neighbouring occupiers. I have therefore determined the appeal on this basis.
6. At my visit, the proposed development appeared to be substantially complete, but not in accordance with the submitted plans. For example, the window to the front elevation was wider than that shown on the floor plan "as proposed"; there was a door to the flank elevation below the proposed balcony; and the timber screening included narrow gaps, to the extent that it did not form a solid screen. For the avoidance of doubt, I have considered the proposal on the basis of the submitted plans.

¹ 18/00853/GDPO

² 18/02711/FUL

Main Issue

7. The main issue is the effect of the proposal upon the living conditions of neighbouring occupiers, with particular regard to noise and disturbance, and outlook.

Reasons

8. The immediate neighbours to the appeal proposal are the occupiers of the two (one bedroomed) flats to the rear of the building at 330E and 330F Brighton Road. These flats have openings on the same flank wall as the proposed balcony. A gate is proposed between the existing landing and the balcony, where a proposed door would provide access to/from the business premises.
9. The proposed door and balcony to serve the business premises would be immediately adjacent to the landing area and entrance door to the first floor flat, and very close to its opening bedroom window. The opening window to the bedroom of the ground floor flat is directly under the external staircase, with its front door immediately adjacent to the underside of the proposed balcony.
10. Due to its size of some 12sq.m, the proposed balcony would be capable of accommodating a significant number of persons, and thus the level of noise and disturbance to the neighbouring occupiers of the flats from its use would be significant. Conditions restricting the use of the balcony to members of staff and to operating hours only would not protect neighbouring occupiers from the additional noise and disturbance that would and could arise from the proposal. The minimum period of respite for the existing occupiers of the flats would be very limited. Moreover, such a condition would not be enforceable. It would not be immediately possible nor indeed easy to identify any person using the balcony, nor whether they were a visitor.
11. Access from the manufacturing business to the existing staircase and proposed balcony would be via a metal fence with gate, sited perpendicular to the flank at ground floor level, near the existing staircase. At my visit, I saw that the existing external staircase and landing, together with the balcony floor were finished in anti-slip metal plate. Consequently, the noise from the opening and closing of gates; and from persons traversing a metal floorscape and using the balcony would result in considerable levels of noise and disturbance to the neighbouring occupiers of the flats.
12. The external staircase and the limited landing area was ostensibly installed purely for the purpose of accessing the first floor flat, and thus it does not result in significant levels of noise and disturbance by itself. However, the level of noise and disturbance arising from the proposal would be considerably more than that experienced without it.
13. The proposed balcony would be close to the nearest rear facing windows of properties along Brighton Road, and very close to the side boundary of the rear private amenity space of 326 Brighton Road. Consequently, due to the depth and width of the proposed balcony, in combination with screening to a height of some 1.8m, the proposal would result in a visually dominant structure to these neighbouring occupiers, providing an unacceptable sense of enclosure.
14. While the proposed screening would prevent overlooking into neighbouring properties, there is no evidence to suggest use of this tall and unduly intrusive structure is the only way this could be achieved.

15. I therefore conclude that the proposed development would unacceptably harm the living conditions of neighbouring occupiers with particular regard to noise and disturbance, and outlook. It therefore conflicts with Policies D3 and D14 of the London Plan 2021 (LP) and Policy DM10.6 of the Croydon Local Plan 2018. Taken together, these policies seek (among other things) to ensure that development proposals protect the amenity and outlook of neighbouring occupiers; and help prevent, avoid or mitigate the impacts of noise upon health and quality of life.

Other Matters

16. While the proposal would support the effective use of land and thus be supported by the National Planning Policy Framework (the Framework) and Policy D3 of the LP, such benefits would not overcome the unacceptable harm I have found. Furthermore, the Framework requires me to ensure that developments provide a high standard of amenity for existing users.

17. I acknowledge that the proposed screening would prevent overlooking from the proposed balcony towards the rear of properties at 27 and 29 Churchill Road, and that the proposed design of the balcony would not harm the character and appearance of the area. However, the absence of harm in these matters is a neutral factor and does not form a benefit in favour of the proposal.

18. The main parties are in dispute as to the scope of the proposal, including the extent of external alterations, although they agree that the scope of the proposal does not include the office/staff room. However, as I am dismissing the appeal on other substantive grounds, I do not need to address these matters further.

Conclusion

19. I conclude that the development conflicts with the development plan, read as a whole. No material considerations have been shown to carry sufficient weight to warrant a decision otherwise than in accordance with the development plan, and the appeal is dismissed.

J Moore

INSPECTOR