



Appeal Decisions

Site visit made on 23 June 2023

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 August 2023

Appeal A Ref: APP/L5240/W/22/3309302

77A George Street, Croydon, CR0 1LD

- 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 Tahir Kaleem Mirza against the decision of London Borough of Croydon.
 - The application Ref 22/01546/FUL, dated 19 April 2022, was refused by notice dated 29 July 2022.
 - The development proposed is described as the change of use from B1a (E) to C3, conversion of offices to 3No. 1 bed 2 person flats with associated cycle and refuse store.
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Appeal B Ref: APP/L5240/W/23/3316353

77A George Street, Croydon, CR0 1LD

- 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 Tahir Kaleem Mirza against the decision of London Borough of Croydon.
 - The application Ref 22/04660/FUL, dated 7 November 2022, was refused by notice dated 20 January 2023.
 - The development proposed is described as the change of use from B1a (E) to C3, conversion of offices to 3No. 1 bed 2 person flats with associated cycle and refuse store.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. As set out above there are two appeals on this site. The proposed developments differ in relation to the provision of external balconies in Appeal B that are not included in Appeal A. I have considered each proposal on its own individual planning merits, however, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

Main Issues

4. The main issues in both appeals are 1) whether or not, having regard to development plan policy, the proposed development would result in a harmful loss of employment space, 2) whether or not the proposed development would provide acceptable living conditions for future occupants, 3) whether the proposed development would deliver a sustainable form of development having regard to the requirement to deliver 'car-free' developments, and (in Appeal B only) 4) the effect of the proposed balconies on the character and appearance

of the locally listed building and the surrounding area, and 5) the effect of the proposed balconies on the living conditions of occupants of surrounding residential properties with regard to privacy.

Reasons

Employment space

5. The appeal site comprises the upper three floors of a terrace building located on George Street. The property is located in the Croydon Metropolitan Centre which is identified in the Croydon Local Plan (2018) as the principal location in the borough for, amongst other uses, office use. The property is a short distance from East Croydon Station.
6. In both appeals the proposed development, involving the change of use from offices to residential, would result in the loss of office floorspace.
7. The property is located within the identified Office Retention Area where the supporting text of the Local Plan outlines that the loss of office floor space needs to be justified by the submission of a viability appraisal to show that there is no demand for office floor space, proportionate office floor space or refurbished offices.
8. Policy SP3.13 of the Croydon Local Plan (2018) outlines that one of the ways the Council will promote and support the development of new and refurbished office floor space in the Croydon Metropolitan Centre, particularly around East Croydon Station, will be by retaining higher quality office floor space (Grade A), or lower quality floor space for which there remains a demand, within the Office Retention Area of the Croydon Metropolitan Centre.
9. The appellant has submitted a copy of a letter from a commercial property agent¹ that sets out that the existing office space is considered to be Category C (poor quality) and in need of significant investment to make the property marketable to office occupiers and improve the space to Grade B. The letter outlines that there is a lot of similar stock currently available on the market and vacancy rates have been on the rise since the start of the Covid-19 Pandemic in 2020. No evidence is, however, submitted to support such vacancy levels, nor is there any evidence of similar stock which is currently available been submitted.
10. In terms of the potential for residential use, the letter outlines that there is good demand for such a use, and it would likely provide a better return on the appellant's investment than keeping the space as offices.
11. The letter, whilst providing a considered and brief insight into the current situation of the commercial property market in relation to the appeal site, lacks the in-depth analysis to show that the office space at the appeal site is not viable either presently or in the near future. There is also no evidence of marketing of the property being undertaken to assist in demonstrating a lack of demand. I do not dispute that a level of investment would be required, however the same would be the case for any residential use. The fact that one would have a greater return does not lead me to conclude that the other is not viable.

¹ Huggins Stuart Edwards – 7 October 2022

12. I therefore find that this aspect of the evidence is less than robust. It does not have the strength and certainty as required by the policy outlined above and as detailed in the supporting text to justify the loss of office space.
13. The evidence does not provide me with the assurance that the appeal property has no viable future use as office space. It also does not provide a robust demonstration that the benefits of a residential use outweigh the benefits of office use.
14. Therefore, based on the evidence before me, I do not consider that there would be adequate justification to depart from the requirement of the development plan in this regard.
15. The appellant considers that permitted development rights that could be used to change the use of the premises from offices to residential represents a fallback. The use of such permitted development rights is however subject to a prior approval process. No such prior approval has been granted and therefore the fallback is of limited weight.
16. The appellant suggests that the Council's policy is out of date as the office use class no longer exists. I acknowledge that the premises could change to another use within class E without the need for planning permission and would result in loss of office space. Other uses within class E are, however, also employment generating and, in this sense, different to the proposed development. I also have no substantive evidence to indicate that there is a significant probability that such a change would be implemented should the appeals be dismissed. These factors limit the weight that I can attach to it as a fallback position.
17. The appellant suggests that the upper floors may have originally been intended to be residential properties and were not originally built as offices. There is limited evidence and no indications of timescales. I have determined the appeal having regard to the existing use.
18. The appellant refers to the conversion of the upper floors of the neighbouring units to residential use. As the Council have highlighted however, this predates the current plan and is therefore of limited weight.
19. The appellant suggests that retention of the appeal property in commercial use has the potential to cause noise and disturbance for surrounding residents. There is no substantive evidence that this would occur, and I do not consider that this alone would justify the loss of the office floor space, based on the evidence before me.
20. The appellant has included an extract from the Croydon Monitoring Report (February 2022). This identifies that in 2019 28% of office floor space in the Croydon Metropolitan Centre was vacant, a slight increase from 2017/2018. The extract also sets out that there is a target to achieve a vacancy level no greater than 12% by 2021 and no greater than 8% by 2031. Although I have not been provided with the full document, the report using 2019 data, is somewhat out-of-date and this limits the weight it can be given in considering an appeal some four years later. Vacancy rates may have increased, or decreased, however this has not been set out.
21. The appellant has also referred to the fact that the Council have been marketing their own offices for rent. As these are outside the Office Retention

Area it is not a directly comparable site. I therefore give it limited weight in the appeal.

22. In both appeals, the proposed developments would therefore conflict with the aims of Policy SP3.13 of the Croydon Local Plan (2018) as set out above.

Living conditions – future occupants

23. Policy DM10.4 of the Croydon Local Plan (2018) requires that all proposals for new residential development will need to provide private amenity space that, amongst other things, provides a minimum amount of 5m² per 1-2 person unit. This requirement is also replicated in Policy D6 of the London Plan (2021) which outlines that a minimum of 5 sqm of private outdoor space should be provided for 1-2 person dwellings and this does not count towards the minimum Gross Internal Area space standards required. The supporting text to Policy D6 also outlines that all dwellings should have level access to one or more of the following forms of private outside spaces: a garden, terrace, roof garden, courtyard garden or balcony.
24. In Appeal A, no private amenity space is proposed for the proposed residential units and I am not referred to any alternative provision that is or could be available for future occupants. The appellant suggests that the site constraints are such that it is not possible to provide private outdoor amenity space, and in regard to the supporting text of the Local Plan, the floor area exceeds the minimum amount and thus represents an acceptable exemption.
25. The supporting text to Policy DM10 identifies that indoor private amenity space may help to meet policy requirements. It continues that the area provided should be equivalent to the private outdoor amenity space requirement. In the proposed layout, it may exceed the minimum floor area, however there is no identified indoor amenity space as such. Additionally, the Council dispute that the proposed units exceed the minimum 50sqm required for a two-person unit. The plans also appear to suggest that the floor area includes the communal staircase, which, although suggested to be generous by the appellant, is not applicable in the calculation of minimum residential floor area or amenity space.
26. The appellant refers to examples of developments the Council have permitted without private amenity space. I do not have full details of any specific examples to give them significant weight in the appeal.
27. On the matter of play space, this would equate to a requirement of 0.9m² for the whole of the proposed development. The appellant suggests the one-bedroom units as proposed are unlikely to have children residing in them, and that the provision of 0.9m² would be of no meaningful benefit. I agree with the appellant on both points, particularly the latter. Therefore, whilst the proposed scheme would not comply with this requirement, I do not find harm in this regard.
28. The Council also refused planning permission due to the route that occupants of the proposed second and third floors would have to travel to access the proposed refuse and cycle storage which is proposed to be located at the rear of the property, the point being that they would need to exit the front of the property and walk round to the rear.

29. The Council consider that subject to an appropriate refuse management plan, which could be secured by condition, this would satisfy this element of the reason for refusal. I have no reason to form a different view, and were I to have allowed the appeal(s), such a condition would have been imposed.
30. In terms of cycle parking, being located to the rear requires occupants of the upper two flats to walk round to and from the rear of the property. Although the situation is not ideal, it is not wholly unreasonable and would not be so significantly greater than arrangements that are in place in purpose-built developments with communal cycle parking. I therefore do not consider this aspect of the development to be unacceptable.
31. In Appeal B, it is proposed that external amenity space is provided through the addition of balconies to the rear of the building. The Council set out that these measure 4.3sqm and would fall short of the minimum amount required and thus be contrary to the applicable policies. Whilst the shortfall may appear as a minor amount, as a percentage, it would be almost 15% less than the minimum amount that is required.
32. I therefore find that the failure to provide any private outdoor amenity space in Appeal A, and a substandard amount in Appeal B, would provide unacceptable living conditions for future occupants. Both proposed developments would therefore be contrary to the requirements of Policy DM10 of the Croydon Local Plan (2018) and Policy D6 of the London Plan (2021) as outlined above.

Sustainable development

33. In both cases the Council refused planning permission for, amongst other things, the absence of a legal agreement to prevent future occupants from applying for parking permits. This is due to the requirements of Policies DM29 and DM30 of the Croydon Local Plan (2018) and Policy T6 of the London Plan (2021) that residential developments are car-free when they are well connected to public transport and in the interests of sustainable travel.
34. The appellant has submitted a Unilateral Undertaking (UU) for each appeal which would prevent future occupants from obtaining residential parking permits.
35. It is necessary that I consider these obligations against the three tests set out in the National Planning Policy Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. I am satisfied that they would be necessary to make the developments acceptable in planning terms. Furthermore, they would be directly related, and fairly and reasonably related in scale and kind, to the developments proposed. The obligations therefore meet the relevant tests. I have therefore attached weight to them in reaching my decisions.
36. Based on the evidence before me, including the UUs, and having regard to the proximity to public transport and the provision of cycle parking within the developments, both proposed developments would comply with the sustainable transport requirements of Policies DM29 and DM30 of the Croydon Local Plan (2018) and Policies T4 and T6 of the London Plan (2021).

Character and appearance (Appeal B only)

37. In Appeal B, the proposed development includes the provision of external balconies. The appeal building is a locally listed building and is therefore a non-designated heritage asset. Policy DM18.5 outlines that substantial weight will be given to preserving and enhancing Locally Listed Buildings and that all alterations should enhance the building's character, setting and features and must not adversely affect the significance of the building.
38. The proposed balconies would be located on the rear elevation of the building. The appellant considers that they are not visible from the public domain. On my site visit I observed that the rear of the appeal property, and the terrace as a whole, is highly visible from the car park to the rear and also from a wide footpath/area of public space that connects George Street with the car park and office complex behind.
39. From this vantage point, I was able to clearly observe that the rear elevation of the terrace is largely unaltered and there is a pleasant symmetry and consistency displayed in the fenestration. Whilst it is without doubt that the frontage is the more architecturally significant, the rear elevation is not without merit, and this is made particularly more important given the visibility of the rear elevation that I have outlined.
40. The proposed balconies would be spread across the rear elevation of the building. Given the absence of any significant alterations to the rear elevation of the terrace as a whole, the proposed balconies would harmfully disrupt the unadorned and consistent appearance. They would appear as an incongruous and alien addition to the building and the terrace.
41. The proposed balconies would therefore cause significant harm to the character and appearance of the locally listed building and the area. They would not enhance the building's character, setting and features and would adversely affect the significance of the building. The proposed development in Appeal B would therefore be contrary to Policies SP4, DM10 and DM18 of the Croydon Local Plan (2018) and Policies D4, D6 and HC1 of the London Plan (2021). Collectively, these policies seek to ensure that development is of good design which does not harm the significance of heritage assets.

Living conditions – existing occupants (Appeal B only)

42. The evidence outlines that the upper floors of the adjoining units are in residential use. The Council considered that the proposed balconies would have an unacceptable impact on the living conditions of occupants of adjoining units with regard to privacy.
43. The appellant considers that such privacy concerns could be addressed through the addition of privacy screens which could be secured by an appropriately worded planning condition.
44. Notwithstanding the implications in terms of character and appearance, for which I have found the proposed balconies to be unacceptable, the inclusion of privacy screens, which could be secured by condition, would nevertheless adequately mitigate any privacy impacts.
45. Therefore, in this regard, the proposed development would not have an unreasonable impact on the living conditions of the occupants of the adjoining

properties in terms of privacy. The proposed development in Appeal B would therefore comply with Policy DM10 of the Croydon Local Plan (2018) in terms of ensuring development does not cause harm from overlooking.

Planning Balance and Conclusion

46. The Government's objective as set out in the National Planning Policy Framework (2021) (the Framework) is to support housing growth. Both proposed developments would result in a slight increase in the Council's overall housing number and would be in a highly accessible location. They would also bring a small number of additional residents to the area who would contribute to the local economy. They would also develop a 'small site' which is actively encouraged in Policy H2 of the London Plan (2021). Collectively, I give these matters moderate weight in favour of both appeals.
47. However, in both appeals there is insufficient justification for the loss of office floorspace, and the development would not provide acceptable living conditions for future occupants. In Appeal B there would be additional harm caused to the character and appearance of the locally listed building and the area. Cumulatively, these matters attract significant weight that outweighs the benefits associated with the proposed developments.
48. Both proposed developments would therefore conflict with the development plan and there are no identified other considerations that outweigh this conflict.
49. For the reasons set out above, and having had regard to all other matters raised, I conclude that both appeals should be dismissed.

A M Nilsson

INSPECTOR