



Appeal Decision

Site visit made on 4 October 2023

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2023

Appeal Ref: APP/L5240/W/23/3317559

Interchange House, 27 Stafford Road, Croydon CR0 4NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the Order').
 - The appeal is made by Anna Gurzhii of Ubiqa Ltd against the decision of the Council of the London Borough of Croydon.
 - The application Ref 22/03904/GPDO, dated 21 September 2022, was refused by notice dated 8 November 2022.
 - The development proposed is change of use of ground floor from (Use Class E) Commercial, Business and Service, to provide two x 1 no. bed residential units (Use Class C3).
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Decision

1. The appeal is dismissed.

Application for costs

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

Preliminary Matters

3. The description of development given above is taken from the appeal form rather than the planning application form, as this gives a more precise description of the development.
4. In summary, Class MA of the Order permits a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) to a use falling within Class C3 (dwellinghouses), subject to certain requirements. Such a right is subject to an application to the local planning authority for a determination as to whether prior approval is required as to the conditions set out in the Order.
5. The Council's sole reason for refusal is with regard to condition (a) of the Order, which refers to "*transport impacts of the proposed development, particularly to ensure safe access*". I shall refer to this condition as 'condition (a)' in my decision.
6. Development under Class MA is not permitted unless certain requirements are met. At the time of determination, the Council considered that the proposed development satisfied the requirement for a building to be vacant for a continuous period of at least three months immediately prior to the date of the application for prior approval (the vacancy requirement). From the evidence

before me, the property was last used as a travel agent and was vacant for six months prior to the application. However, at my visit, the property was occupied by a care provider. Shortly after my visit, the appellant submitted further information to the appeal regarding a tenancy agreement dated December 2023 and I accepted this late evidence as it represents a material change in circumstances since the appeal was lodged.

7. The vacancy requirement is assessed at the time of an application for prior approval, and I have therefore considered the application for prior approval as submitted.
8. In considering this appeal, I am required to have regard to the National Planning Policy Framework (the Framework) so far as relevant to the subject matter of the prior approval, as if the application were a planning application. The policies of the development plan are relevant only insofar as they relate to the prior approval matters before me.

Main Issue

9. The main issue is the transport impacts of the proposed development, particularly to ensure safe access.

Reasons

10. The appeal property is a three-storey terraced form within a parade of commercial premises along a section of the A232 Stafford Road which has on-street restrictions (Mon-Sat, 7am-7pm). There is a rear service road behind the parade accessed from the A232 at Stafford Road and at Duppas Hill Road, and thus it is trafficked by vehicles travelling from both directions. During my visit I saw that the service road was well-parked with vehicles, including those attending commercial premises with frontages to the service road.
11. The proposed car-free development would result in two flats to the ground floor commercial unit. The existing door within the centre of the unit's frontage would be blocked from the inside. Flat 1 would be a studio flat with access to the street via an existing door adjacent to the unit's frontage. This door leads to a small hallway with stairs to the upper floors of the appeal building, which includes residential use. Flat 2 would be accessed via an existing door at the rear of the unit.
12. The proposal includes the provision of three long-stay cycle spaces, in the form of specially designed cycle lockers. Due to their proposed materials, they would be weatherproof and would prevent corrosion from wet bicycles. The internal dimensions of each locker would be about 640mm high, 380mm wide and 630mm deep; and they would each accommodate a folding bicycle, helmet, lock and a small bag. The design of the lockers is such that it would limit the choice of bicycle to a folding type only. In this regard, it would not accommodate a larger cycle or an adapted cycle for a disabled person, as required by the London Cycling Design Standards 2014 (LCDS).
13. One locker would be sited within the shared hallway to the appeal building, which is about 1.4m wide. Such a siting would significantly reduce the available width within which future and existing occupiers could move and/or transport bulky items, and thus it would form an obstruction to the hallway area and form a safety hazard.

14. Two lockers would be sited to the outer wall of the rear projection of the building, near to the access to Flat 2. From the evidence before me and my own observations, the rear amenity space is used for the parking of several vehicles behind a padlocked chain, including the space immediately adjacent to the rear projection where the lockers would be sited. Consequently, the proximity of vehicles to the lockers would undermine the ability of users to conveniently access them.
15. Having regard to the above factors, the proposed development would meet the required standard for the number of cycle parking spaces, but the proposed lockers, due to their size and siting would not be safely or conveniently accessible, as required by the LCDS. Accordingly, the proposal would not maximise the opportunity to encourage future occupiers to use cycling as a sustainable mode of transport.
16. There is a dispute regarding the provision of facilities for refuse/recycling storage, including whether there is a requirement within Class MA to assess arrangements required for the storage and management of domestic waste or assess adequate waste/refuse provision. In this regard, my attention has been drawn to an appeal decision (reference APP/L5240/W/22/3307735) for a change of use under Class MA to form four dwellings. That Inspector found that condition (a) does not preclude the consideration of other direct transport impacts of development beyond that of safe site access.
17. Having regard to the appeal decision and the wording of condition (a) in the Order, I find no reason to consider otherwise, at least as a matter of principle. Furthermore, when assessing specific applications for development, paragraph 110 of the Framework requires that appropriate opportunities to promote sustainable transport modes can be taken up, given the type of development and its location; and that safe and suitable access to the site can be achieved for all users.
18. The appellant does not contest the Council's position that a general waste bin, recycling bin and external food caddy would be required for each flat, as specified in the Council's Waste and Recycling in Planning Policy Document 2018. The submitted plan clearly fails to meet this requirement, as just two small circles are shown, one to the street frontage, and another adjacent to the rear projection of the appeal building.
19. There is little substantive evidence before me on the size, capacity and location of any existing arrangements for waste, refuse and recycling, nor to demonstrate how collection operatives and their vehicles presently service the appeal site. Without direct access from Flat 1 to the rear, bins would likely be stored at the frontage of the commercial parade, and this could cause an obstruction on the footway, even though it is fairly wide. If all bins were located at the rear of the appeal property, future occupiers of Flat 1 would be required to navigate the route to the rear of the property to deposit waste and recycling, which would not be a convenient or easily accessible arrangement for future occupiers.
20. From my own observations, the rear private amenity spaces of properties within the parade include bins of both a commercial and domestic scale. I saw one domestic scale bin within the rear private amenity space of the appeal property, but at some distance from the rear of the building. I also saw two domestic scale bins at the frontage of the commercial parade, with one directly

outside the doorway that would serve as access to Flat 1. Such bin placement clearly causes some degree of obstruction to the footway.

21. While I note that there is sufficient space within the rear hardstanding of the property to accommodate further bin storage, it is unclear as to whether any existing parking spaces at the rear would be displaced by such provision. Any such displacement would give rise to pressure for further parking on the rear service road and/or increase risks of conflicts between users as drivers search for or access a space.
22. I therefore conclude that the proposal would result in unacceptable transport impacts, particularly to ensure safe access. The proposal therefore fails to satisfy condition (a) of Class MA of the Order. It conflicts with Policy T5 of the London Plan 2021 and Policies DM13 and DM30 of the Croydon Local Plan 2018. When taken together, these policies seek to promote sustainable modes of travel by removing barriers to cycling; to provide cycle parking in accordance with relevant standards that is fit for purpose, secure and well-located; and to ensure that the layout, siting, function and design of refuse/recycling facilities are considered as part of the development process and provide layouts that are safe, conveniently located and easily accessible by occupants, operatives and their vehicles.

Other Matters

23. The appeal scheme as submitted does not detail any changes to the ground floor front elevation. However, from my own observations, the front elevation as seen at my site visit does not match with the existing and proposed plans as submitted. As I am dismissing the appeal on the main issue, and consideration of this matter would not alter my decision, it is not necessary for me to address this matter further.

Conclusion

24. For the reasons given above I conclude that the appeal should be dismissed.

J Moore

INSPECTOR