



Appeal Decision

Site visit made on 5 March 2024

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd April 2024

Appeal Ref: APP/L5240/W/23/3330835

Tara, Chisholm Road, Croydon CR0 6UP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Ms E Laxman against the decision of the Council of the London Borough of Croydon.
- The application Ref is 23/00386/FUL.
- The development proposed is change of use from Use Class C4 (6 person House of Multiple Occupation) to Sui Generis (7 person HMO).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development is taken from the Council's decision notice. It is also the description used by the appellant on the appeal form. I consider this to be a more precise description of the appeal proposal, and I have therefore used this description in my banner heading above.

Main Issues

3. The main issues are:
 - Whether or not the layout and arrangement of the bin storage area would be acceptable with particular reference to the living conditions of the exiting occupier of bedroom 1;
 - whether the proposal would provide acceptable arrangements for the storage and collection of waste and recycling;
 - whether the proposal would provide adequate and effective car parking arrangements; and
 - whether the proposal would provide acceptable cycle parking facilities.

Reasons

4. The appeal site benefits from a lawful development certificate for use as a House in Multiple Occupation (HMO) for 6 people, granted 21 July 2021 on appeal¹. Although that appeal is a material consideration in the appeal before me, it was concerned with the question of lawfulness, and as such, the planning merits of that use were not a relevant matter in that appeal.
5. The proposal would result in an additional occupant by changing the use of the existing dining room on the ground floor to a bedroom, shown as bedroom 2 on the proposed plans.

¹ Appeal Ref: APP/L5240/X/21/3268559

Living conditions

6. Bins for waste and recycling are commonly stored within the frontage of properties along Chisholm Road. The arrangements for the existing HMO are such that bins are stored on one side of its shallow frontage which tapers towards Addiscombe Road. The proposal would continue this arrangement.
7. The existing bedroom 1 is located on the front elevation and its only window is a bay window facing the narrowing part of frontage which presently serves as the bin storage area to the property. In this regard, the present situation is not ideal, whereby there would be some noise and disturbance to the occupier of bedroom 1 as bins are accessed or manoeuvred.
8. The appellant's statement submitted to the appeal states that the proposal would result in one additional bin. Conversely, the appellant's final comments state that the number of bins will remain unchanged. During my visit, I saw 4 domestic sized bins within the tapered part of the frontage. The proposed plans clearly detail 5 proposed bins and a further food caddy. I am therefore satisfied that the proposal would result in an additional domestic sized bin within the frontage.
9. By itself, the opening and closing of an additional bin would not result in a significantly greater level of disturbance than that presently experienced by the existing occupier of bedroom 1.
10. Due to the limited space within the tapered frontage, and in light of my own observations, the bins would be tightly sited and occupy almost the full width of this part of the tapered frontage. The bins at the shallowest part of the tapered frontage would not be easily accessible, as they would be very close to the window of bedroom 1.
11. These factors would result in an increase in the frequency of movement of both bins and occupiers as attempts are made to access and manoeuvre the bins near to the narrowest part of the tapered frontage to deposit waste and recycling and in placing and returning bins for kerbside collection. Consequently, the proposal would result in an unacceptable increase in the level and frequency of noise and disturbance to the occupier of bedroom 1.
12. While the appellant suggests that the arrangement is similar to other properties along the street, the degree of tapering to the frontage at the appeal site is more acute compared to other properties along the street.
13. I therefore conclude that the proposed development would harm the living conditions of the existing occupier of bedroom 1, with particular regard to noise and disturbance. It conflicts with Policies D3 and D6 of the London Plan 2021 (LP), and Policies SP2.8 and DM13 of the Croydon Local Plan 2018 (CLP). Taken together, these policies seek to ensure that development is of high-quality design, delivers appropriate amenity, prevents or mitigates the impacts of noise, and sensitively integrates refuse and recycling facilities.

Storage and collection of waste and recycling

14. As set out above, I have found that the bins at the narrowest point of the tapered frontage would be very close to the bay window to the front elevation and would therefore not be easily accessible, particularly when carrying waste/recycling items. Due to the tight siting of the proposed bins, there would be insufficient space to accommodate all of the proposed bins and facilitate their reasonable manoeuvring.
15. The capacity of the proposed provision of bins would meet the Council's requirements. While the Council suggests that alternative provision could be made in the form of fewer and larger bins and thus minimise movements for occupiers and waste operatives, such bins would not be easily manoeuvrable within the narrow, tapered frontage.
16. The proposed plans do not indicate an area for the storage of bulky waste. The appellant states that bulky waste could be stored within the rear garden and brought to the road on collection days. The placement of bulky goods on the footway or highway could also cause an obstruction, even for a short time.
17. I note that a large cycle store is also proposed to be sited in the rear amenity space. It is not clear whether there would be sufficient space to accommodate bulky waste without compromising the available space for the enjoyment of outdoor activities or access to the proposed cycle store. Consequently, I am not satisfied that this matter could be controlled by a condition.
18. I therefore conclude that the proposal would not provide acceptable arrangements for the storage and collection of waste and recycling. It conflicts with Policies DM13 of the Croydon Local Plan 2018 (CLP), which seeks to ensure that development provides appropriately sized, well-located and easily accessible facilities for the storage and collection of waste and recycling.

Car parking arrangements

19. The appeal site is within an area which has a Public Transport Accessibility Level of 6b, meaning that it has a very high level of accessibility to public transport. In such circumstances the development should be car free, in accordance with Policy T6 of the LP. The proposal does not detail any car parking provision, and the appeal site is within a controlled parking zone which includes parking by residential permit with some limited public parking spaces with payment required via on street parking pay and display machines.
20. During my visit, I saw that the appeal site is close to a tram stop at Addiscombe Road, and that this road is a shared route for trams and vehicles, with frequent pedestrian movements to access public transport. Therefore, the appeal site is close to a location where concentration is required whilst driving.
21. Although the proposal would result in one additional occupant within an existing HMO, the occupant could own a vehicle. This could result in an additional vehicle competing for car parking spaces within the CPZ, and thus reduce the capacity for resident permit parking. In such circumstances, residents could be placed in a position where they would drive around the area to find a space and perform unnecessary manoeuvres to do so, resulting in an increased risk to highway safety.

22. The appellant accepts the Council's position on this matter whereby a legal agreement is sought to restrict access to residential parking permits, and is willing to enter into a legal agreement, but there is no agreement before me.
23. The appellant advises that the Council invited such an agreement prior to the appeal decision. I appreciate that the appellant seeks greater certainty regarding the outcome of the appeal before incurring costs in the preparation of an agreement.
24. However, for this type of appeal, procedural guidance² requires the appellant to submit an executed and certified copy of any planning obligations no later than 7 weeks from the start date of the appeal. The guidance is clear that an Inspector will not delay the issue of a decision to wait for an obligation to be executed unless there are very exceptional circumstances. I am not aware of any very exceptional circumstances in this case.
25. The appellant suggests that this matter could be secured by a condition. However, Planning Practice Guidance³ advises that a positively worded condition which requires an applicant to enter into a planning obligation is unlikely to be enforceable, and that entering into an obligation prior to a grant of permission is the best way to ensure certainty and transparency.
26. I therefore conclude that the proposal would not provide adequate and effective car parking arrangements. It conflicts with Policy T6 of the LP and Policies DM29 and DM30 of the CLP. Taken together, these policies seek to reduce the impact of new development on car parking and ensure that new development does not have a detrimental impact on highway safety.
27. The proposal would also conflict with the objective of Policy SP6 of the CLP, which seeks to reduce greenhouse gas emissions, by among other things, requiring development to positively contribute to improving air quality by minimising pollution, even though this policy does not refer specifically to parking.

Cycle parking

28. Taken together, Policy T5 of the LP and Policies DM29 and DM30 of the CLP seek to promote measures to increase the use of cycling and remove barriers to cycling and set out quantitative standards for cycle parking.
29. Policy T5 states that cycle parking should be designed and laid out in accordance with the guidance contained in the London Cycling Design Standards (LCDS). I have been provided with section 8 of the LCDS, which provides guidance on residential cycle parking and seeks to ensure that cycle parking is secure, well-located, covered and fully accessible for all types of cycle.
30. The proposal indicates a cycle store within the rear amenity space of the HMO to provide 7 spaces and therefore it would provide a cycle parking space for all 7 occupiers of the HMO, in accordance with Policy T5. Although the appellant suggests that the proposed cycle store is currently located in the back garden, it was not in place at my visit.

² Procedural Guide: Planning appeals - England

³ Paragraph: 010 Reference ID: 21a-010-20190723, Revision date: 23 07 2019

31. External access to the proposed cycle store would be via a side gate adjacent to the flank elevation on the wider part of the frontage, and then along an existing narrow passageway, about 0.8-0.9m wide. This route would not be of a sufficient width to accommodate larger, wider and/or adaptive cycles.
32. However, the frontage before the gate is of sufficient size to manoeuvre a cycle in position to navigate the side access, which leads directly to the rear amenity space and proposed cycle store without any corners. While the side access is of some length, in my judgement, it is not impossible to navigate with a standard cycle. It is also the existing arrangement. Alternatively, cycles could be taken through the property, increasing the risk of obstruction, which would not comply with the LCDS.
33. Although the LCDS does not explicitly refer to existing or proposed HMOs, it addresses existing houses, existing flats and housing estates. It sets out that for existing houses, space for cycle parking can be found by using private gardens. It also acknowledges constraints on private and shared space for existing flats where residents have to resort to parking informally in places that may not be suitable or storing cycles within their home.
34. Consequently, it seems to me that the LCDS recognises difficulties in retrofitting cycle storage to existing properties. In such circumstances, the provision of secure cycle storage would be an improvement to the existing situation, despite the nature of the existing side access. The cycle store would encourage the uptake of cycling as a sustainable form of transport and deter the storage of cycles within the property.
35. The proposed cycle store is of a 'street shelter' style, typically designed for use in a residential street where space for cycle storage is in short supply. However, there is nothing before me in section 8 of the LCDS which suggests that this style of shelter is not appropriate within other contexts including the rear amenity spaces of any property.
36. It is not clear that the store could accommodate other forms of cycle such as larger/adaptive cycles. Due to the narrow width of the side passageway, it could be necessary to take such cycles through the property. The proposal does not indicate the provision of an electric charging point to the cycle store. However, these matters could be controlled by suitable conditions.
37. Having regard to all of the above, I accept that the proposal would not meet all of the standards within the LCDS. However, when considered against the existing situation, the provision of a secure cycle store would be an improvement for future occupiers.
38. I therefore conclude that the proposal would provide acceptable cycle parking facilities. Although the proposal conflicts with the LCDS, material considerations including the existing use and nature of the property indicate that that the proposal would support sustainable transport objectives to increase the uptake of cycling and remove barriers to cycling. For these reasons, it would not conflict with Policy T5 of the LP, and Policies DM29 and DM30 of the CLP, whose objectives I have set out above.

Other Matters

39. The proposal would provide an additional unit of accommodation which would assist in boosting the supply of homes and in meeting the needs of groups who

require smaller units of accommodation. Due to the small scale of the development, these matters would attract limited weight in favour of the proposal.

40. The fact that the proposal meets the Council's standards⁴ for HMOs is a neutral consideration, offering no weight for or against the proposal.
41. The Council's officer report which considered the application indicates concerns regarding the proximity of a neighbouring outbuilding to the additional bedroom (bedroom 2) and the effect upon levels of daylight and sunlight. However, this is not identified as a reason for refusal on the Council's decision notice and the appellant has not considered it as part of the grounds of appeal. As I am dismissing the appeal for other reasons, I have not considered this matter further.

Conclusion

42. I have found that the proposal would fail to provide acceptable arrangements for the storage and collection of waste and recycling; and it would fail to provide adequate and effective car parking arrangements. It would also harm the living conditions of the existing occupier of bedroom 1. While the proposal would deliver the benefit of a cycle store, and other limited benefits, these benefits would not outweigh the unacceptable and other harms that I have found.
43. I therefore conclude that the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

J Moore

INSPECTOR

⁴ Croydon Houses in Multiple Occupation Standards 2015