



Appeal Decision

Site visit made on 22 October 2024

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2024

Appeal Ref: APP/L5240/W/24/3342843

90 The Wandle Arms, Managers Accommodation, Waddon New Road, Croydon CR0 4JB

- 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 Mr Oliver O'Flaherty against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 23/03290/FUL.
 - The development proposed is ground floor side and rear extension to form a new studio flat.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposal would:
 - affect the operations and viability of the public house,
 - provide a satisfactory standard of residential accommodation for future occupiers, with regards to outlook, light and privacy, and;
 - be safe from flood risk.

Reasons

Operations and viability

3. The Wandle Arms is a two-storey public house (the pub). It has a yard area to the rear and side of the building which is bound by fencing. It is also next to a public footpath. The surrounding area is predominately residential in character. It is proposed to convert the existing store room and erect a single-storey extension to create a studio flat.
4. Policy HC7 of the London Plan 2021 (the London Plan) seeks to protect public houses. Amongst other things, it states that development proposals for redevelopment of associated accommodation, facilities or development within the curtilage of the public house that would compromise the operation or viability of the public house use should be resisted.
5. The proposal would result in the loss of the store room and it is not proposed to be replaced. The details regarding how the store is used for the operations of the pub are limited. Even if the store is not currently used, it does not

necessarily follow that such provision will not be required by future publicans. If another business operator took over the pub, it is not clear where items related to the general running of the pub would be stored. The loss of the store room could therefore compromise the operations of the pub and its future viability.

6. I am mindful of the challenging trading environment and that the pub is currently only used for serving drinks and for socialising by small groups. Nevertheless, I have not been advised of the pub's opening and closing hours and if there are any planning controls to restrict the activities that can be carried out in the pub or the hours it can operate. The operations of the pub could therefore intensify, generating more noise than it currently does, without any planning control.
7. The proposed studio would directly adjoin the pub and would be next to the kitchen and games room. The 'Agent of Change' principle is set out and required by Policy D13 of the London Plan. It places the responsibility for mitigating impacts from existing noise and other nuisance-generating uses on the proposed new noise-sensitive development. The appellant asserts that the pub staff would occupy the proposed studio. It has not been explained why staff would need to live on the site separately from the pub when there is also residential accommodation on the first floor.
8. Restricting the occupancy of the proposed studio would need to be controlled and enforced by a planning condition. The description of development does not describe the proposal as accommodation for the pub. Suggesting that the studio would be occupied only by the pub staff would change the nature of the application and how it is assessed. This would be beyond the scope of a planning condition.
9. It has not been adequately shown how the proposal would mitigate against the noise impacts from the pub and that the addition of a residential use to the appeal site is compatible with the operations of the pub. Whilst the pub has residential accommodation on the first floor, the proposal would result in the pub being more constrained because of the additional presence of a residential use attached to operational parts of the pub. This could lead to potential noise complaints, placing restrictions on the pub prejudicing its operations which could threaten its continuation and future viability.
10. For these reasons, I conclude that it has not been demonstrated that the proposal would not cause harm to the operations and viability of the pub. The proposal would therefore conflict with Policies HC7 and D13 of the London Plan, the purposes of which have been set out above.

Standard of residential accommodation for future occupiers

11. The windows in the proposed side and rear elevations are intended to be clerestory windows. Due to their high-level nature, these windows would be unlikely to provide a source of outlook from the proposed studio.
12. The glazed door and panels in the proposed front elevation would be directly adjacent to the boundary treatment and gate around the amenity space. There are no details of the height of this boundary. Some form of tall boundary treatment would likely be required to provide privacy in the amenity space. The outlook from the front elevation would therefore be obstructed.

13. The proposal would fail to provide any windows with clear and unrestricted views. The outlook would therefore be unsatisfactory. Whilst I accept residential windows abutting public areas is not uncommon in developments, this is not a sufficient argument to provide a poor outlook. Given the constraints on the proposed windows, I cannot be reasonably certain that there would be acceptable levels of light. Overall, I consider the proposal would create a gloomy internal environment which would be harmful for future occupiers' living conditions.
14. The proposed use of high-level windows would reduce the potential for overlooking from the public footpath. This would ensure an acceptable level of privacy is provided for future occupiers. Notwithstanding this, in addressing privacy matters, the use of these windows presents issues in terms of outlook and light.
15. For these reasons, I conclude that the proposal would fail to provide a satisfactory standard of residential accommodation for future occupiers, with regards to outlook and light. The proposal therefore conflicts with Policy DM10 of the Croydon Local Plan 2018 (the Local Plan) and Policy D3 of the London Plan. These policies amongst other things, require development proposals to provide adequate sunlight and daylight and to deliver appropriate outlook.

Flood risk

16. Policies DM25 and SP6 of the Local Plan require a sequential test to be carried out in accordance with Table 8.1 for sites within Flood Zone 3a. The sequential test requirements are endorsed by the National Planning Policy Framework (the Framework) which advises that the aim of a sequential test is to steer new development to areas with the lowest risk of flooding and that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
17. The appeal site is within Flood Zone 3a which is classed as having a high probability of flooding as defined by the planning practice guidance. It is therefore required to pass the sequential test. The submitted Flood Risk Assessment (FRA) fails to undertake the sequential test and does not demonstrate there are no sequentially preferable sites located in an area with a lower risk of flooding for the proposed studio to be located.
18. The FRA fails to provide any detailed assessment of how the development would be safe for its lifetime, including the ability to safely exit and evacuate the proposed studio, if flooding were to occur. It also does not provide any technical details or calculations of whether the proposal would increase the risk of flooding elsewhere.
19. Given the requirements of the development plan and the Framework, a robust FRA is required regardless of whether there has been any record of adverse flooding at the appeal site.
20. I therefore conclude that it has not been demonstrated that the proposal would be safe from flood risk. This would conflict with Policies SP6 and DM25 of the Croydon Local Plan and Policy SI 12 of the London Plan. These policies amongst other things, require development proposals to reduce flood risk,

minimise the impact of flooding and be safe for the lifetime of the development.

Planning Balance

21. I have found that it has not been demonstrated that the appeal scheme would not cause harm to the operations and viability of the pub, the standard of residential accommodation for future occupiers would be unsatisfactory and would not be safe from flood risk. The proposal therefore conflicts with the development plan.
22. The Council did not raise any objections in regards to the impact on the character and appearance of the area, neighbour amenity or the size of the internal floor area and amenity space. There were also no neighbour objections at the planning application stage. However, these are neutral considerations and would neither weigh in support nor against the proposal.
23. The proposal would provide an additional home in an accessible location near various public transport modes. This would contribute to the overall supply of housing in the area. There would also be benefits arising from the construction phase and future occupiers would bring some trade to nearby shops and services. Nevertheless, these would be limited benefits given the quantum of development under consideration.
24. Taken together, the limited benefits of the development would not outweigh the harm I have identified including the conflict with the development plan.

Conclusion

25. 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 should be dismissed.

L Reid

INSPECTOR