



Appeal Decision

Site visit made on 18 December 2024

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2025

Appeal Ref: APP/L5240/W/24/3342288

127A & 129 Marlpit Lane, Coulsdon CR5 2HH

- 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 Ben Waterer against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 23/03304/FUL.
 - The development proposed is alterations and change of use of the ground floor from a sui generis window cleaning business to two flats (Class C3 1 x 2 bed and 1 x 1 bed), alterations to existing first floor flat including new first floor terrace and alterations to windows. Demolition of an outbuilding and single storey front extension, construction of rear and side extensions, provision of car parking, refuse and cycle stores and private amenity space. Alterations and erection of terrace to first floor flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Various street numbers for the appeal site have been provided. I have used the numbering given on the Council's Decision Notice as I consider that this accurately represents the location of the site and has also been referred to in documents submitted with the appeal.
3. The Government has published its Housing Delivery Test results alongside the publication of a revised National Planning Policy Framework (The Framework) in December 2024. Both main parties were given the opportunity to comment on any relevant implications for the appeal. I have had regard to the comments made in reaching my decision.
4. The appeal site is set to the rear of an MOT garage, with access provided from the public highway across a parking and circulation area. The Council has expressed concern that the 'red line' boundary of the appeal site does not include the access route, and has referred to the Planning Practice Guidance which advises that this boundary should include land required for access to the site from a public highway. Nevertheless, the Council validated and determined the application. On that basis, I have sufficient evidence to determine this appeal.

Main Issues

5. The main issues are the effect of the proposal on:
 - Employment uses;
 - Highway safety;

- The provision of family sized homes;
- The living conditions of future residents with regard to external amenity space;
- The character and appearance of the host property and the area, with due regard to the Bradmore Green Conservation Area; and
- Cycle, refuse and recycling storage.

Reasons

Employment Uses

6. Policy SP3.2 of the Croydon Local Plan 2018 sets out a 4-Tier approach to land and premises in industrial locations based on Table 5.1, although rather than solely industrial locations the Policy addresses wider employment activity. The appeal site consists of a Tier 4 'scattered employment' site, where planning permission for limited residential development will be granted if it can be demonstrated that there is no demand for the existing premises or for a scheme comprised solely of the permitted uses. As well as sui-generis uses, the 'permitted uses' referred to in Table 5.1 include Class B uses of the Use Classes Order; although I am mindful of the effect of changes to that Order since the adoption of the Local Plan, including the introduction of Class E and the effect on former Class B1.
7. The appellant contends that Tier 4 protection is given only to industrial and warehousing activities, not sui generis uses. The description of the development refers to the ground floor of the site as being in use as a sui generis window cleaning business, and the appellant considers that the use of the site is more akin to an office use. However, although the 'Approach' to Tier 4 given in Table 5.1 refers to industrial and warehousing activities, this Tier as a whole is phrased as relating to employment sites and includes reference to employment generating sui-generis uses.
8. That said, Footnote 31 of the Local Plan specifies that sui-generis uses in Tier 4 should be comparable in terms of activities and job numbers to industrial/warehousing sites. The Council has provided evidence which shows that a previous planning permission included a workshop as well as an office, and this was also expected to include storage. The extant permission on the appeal site therefore has similar elements to industrial/warehousing uses. In terms of employment activity, although much of this may take place off site, the appeal site is a base for employment and the job numbers involved in the business reflect the provisions of Footnote 31.
9. As a matter of fact and degree, I conclude that the permitted use of the ground floor of the extant site is as an employment generating sui-generis use that is within the permitted uses of Table 5.1, and therefore falls under the protection afforded to Tier 4 uses.
10. The appellant also submits that it is unrealistic to expect the appeal site to be used for industry or warehousing due to the constraints of the site, and that there is no demonstrable need for a window cleaning business on the site. Furthermore, they state that the site cannot be marketed for a Class E or Class B8 storage and distribution use as it does not have planning permission for those uses. However,

given the planning policy support for employment generating uses, this would enable a degree of certainty to allow some form of marketing to be undertaken to ascertain the interest in the site for the permitted uses of Table 5.1.

11. The appellant refers to pre-application advice from the Council regarding the redevelopment of the adjacent MOT garage for residential use, which accepts that that site is an anomaly in this area. However, the pre-application advice also applied the Tier 4 tests, including that it be demonstrated that there is no demand for the existing premises or for a scheme comprised solely of the permitted uses. Although the redevelopment of the MOT garage may present an opportunity for residential development of the appeal site, there is no permitted scheme before me. The pre-application advice in relation to the MOT garage does not lead me to a different conclusion on the development plan policies as they apply to the appeal site.
12. In conclusion on this matter, even given the limitations of the site, it is reasonable to expect the appellant to demonstrate that there is no demand for the existing premises or for the permitted uses within the terms of Policy SP3.2 of the Local Plan. They have failed to do so and the proposal therefore conflicts with Policy SP3 of the Local Plan with regard to the protection of employment generating uses.
13. The Council's reason for refusal also refers to Policy E2 of the London Plan 2021, which sets out the protection given to 'B Use Class business space' and the needs of micro, small and medium-sized enterprises. Although the existing sui-generis use on the appeal site does not fall within the 'B Use Class', it may meet the needs of the enterprises of the size referred to in Policy E2, which also states that Boroughs should include policies within their Development Plan that support the protection of various sizes of enterprises. Within that context, the proposal does not meet the aims of Policy E2 of the London Plan with regards to meeting the needs of micro, small and medium-sized enterprises.

Highway Safety

14. Pedestrian and vehicle access to the appeal site is provided via a parking and circulation area serving the MOT garage. There is no demarcated footway, so pedestrians and vehicles share the same area.
15. This access arrangement serves the existing business and flat on the appeal site as well as a neighbouring dwelling, and there is no evidence of a history of conflict between pedestrians and vehicles. There will also be pedestrian and vehicle movements associated with the existing business that would be removed as a result of the proposal.
16. However, the proposal would intensify residential activity on the appeal site, with a resultant change in the nature of pedestrian movements to the site. Pedestrians accessing residential properties, including children, may not be as aware of the volume and nature of vehicle movements associated with a commercial premises. Given that the pedestrian access route is via a parking and vehicle access area where there are a high number of vehicle movements and manoeuvres associated with parking and access to the MOT station, it would not be sensible to increase residential pedestrian movements across an area where there is significant potential for collisions between pedestrians and cars.

17. Although the access route may be of a sufficient width to enable pedestrians and vehicles to pass each other, this does not mitigate for the lack of a demarcated footway which would separate highway users, or the fact that vehicle manoeuvres may extend over the full width of the access.
18. The proposal would include 2 vehicle parking spaces within the site, which would represent a reduction in the amount of parking compared to the existing business. The appellant has provided a swept path analysis which shows that an estate car using these spaces can manoeuvre on site and exit in forward gear. However, the Council refers to the need for a manoeuvring vehicle to use full steering lock and the limited visibility in this area. Due to these constraints, the proposal would be likely to result in convoluted vehicle manoeuvres in an area shared with pedestrians, with an increase in the potential for collisions between vehicles and pedestrians to the detriment of highway safety.
19. I conclude that, due to the increase in the number of residential pedestrian movements and the nature of the shared access, the proposal would lead to significant harm to highway safety. The proposal would therefore be contrary to Policy DM29 of the Local Plan due to its detrimental impact on highway safety.

Family Sized Homes

20. Policy SP2.7 of the Local Plan sets a strategic target of 30% of all new homes up to 2036 to have 3 or more bedrooms.
21. The appellant submits that Policy SP2.7 does not apply to the appeal proposal, as they consider Policy DM1.1 sets out that the requirement for dwellings with 3 or more bedrooms only applies to developments with 10 or more dwellings. However, Policy DM1.1 (supported by Table 4.1) sets out a minimum percentage of 3 bedroom or larger units that is significantly greater than the 30% strategic target based on the accessibility rating of the site. Policy DM1 therefore supplements the 30% target for family dwellings based on site characteristics, rather than restricting the requirement for family housing to only developments with 10 dwellings or more.
22. The appellant also refers to a 2019 Strategic Housing Market Assessment prepared since the adoption of Policy SP2.7, and which identified demand for 1 and 2 bed properties. However, it has not been demonstrated that that demand is not being met. Furthermore, the Council has referred to a more recent Annual Monitoring Report which identifies a significant under-supply of dwellings with 3 or more bedrooms. Based on the evidence before me, there remains an acute need for family housing, which supports the need for the 30% strategic target of Policy SP2.7. Given my conclusions in respect of Policy DM1.1, this strategic target applies to all residential developments. Even allowing for the constraints of the site, a 3-bedroom dwelling could be provided as part of the development.
23. The Mayor of London's Housing Supplementary Planning Guidance 2016 (SPG) refers to the benefits which can arise from the provision of smaller units in relation to the existing stock of family sized homes, including the extent to which the provision of smaller accessible and adaptable units may encourage downsizing. However, the guidance of this SPG should not outweigh the clear requirements of adopted development plan policy based on the identified needs of a particular Borough. Even if smaller units are provided on the site, there is no reasonable

degree of certainty that they would be used for downsizing households, particularly given the provision of small units elsewhere.

24. I therefore conclude that the proposal would not make suitable provision for family sized homes and would conflict with Policy SP2.7 of the Local Plan.

Living Conditions

25. The proposal would provide external amenity areas for each of the flats which would exceed the minimum required standard, with an external garden area for Flat 2 which would significantly exceed this.
26. However, the external space for Flat 1 would consist of a patio area surrounded by a 1.8m high fence. Although the fence would provide a degree of privacy for residents, this would lead to an overly enclosed and oppressive character for this amenity area. This would also lead to an unacceptable degree of overshadowing of the patio, even allowing for the south facing arrangement and taking a flexible approach to relevant standards.
27. The appellant proposes to reduce the height of the fence to 1.25m in order to increase the amount of light reaching the patio and the adjoining room. But this would not provide a suitable degree of privacy for residents due to the relationship with the adjacent access and circulation area.
28. The Council also refers to a lack of children's space based on the requirements of Policy DM10.4 of the Local Plan. This requirement applies to all flatted development (such as the appeal proposal) and requires that the development should provide a minimum of 10m² per child. However, this play space provision is calculated proportionally, based on Table 6.2 of the Local Plan. Even if the more generous space requirements are applied to the appeal proposal, the required amount of play space would be very limited, and the Council has not demonstrated how this would provide functional play space. I am also mindful that Flat 2 would provide a relatively large outdoor amenity area for residents, which would provide suitable space for outdoor play for that dwelling.
29. Therefore, although the proposal would not comply with Policy 10.4 with regards to children's play space, there are material considerations which indicate that the proposal should be determined other than in accordance with development plan policy, in particular the likely dysfunctional nature of a policy compliant scheme.
30. Notwithstanding my conclusions in respect of children's play space, I conclude that the external amenity area for Flat 1 would not be of a suitable quality in respect of outlook or light, with significant harm to the living conditions of residents. The proposal would therefore be contrary to the amenity and outdoor environment requirements of Policies D3 and D6 of the London Plan; and Policies SP2 and DM10 of the Local Plan.

Character and Appearance

31. Although the area around the appeal site is residential in character, the site is located to the rear of a commercial property and is viewed within that context from the public highway. That said, the existing building on the site is of a suburban residential scale and appearance, albeit with some commercial detailing on an extension to the ground floor.

32. The ground floor commercial frontage would be removed and replaced with a domestic scale window, with the gable wall covered in render. The existing plans indicate that the upper part of this elevation was previously rendered, although at the time of my visit this consisted of rough-surfaced treatment that appeared to be unfinished.
33. The Council expresses concern about the use of render for part of the building which would jar with the predominant use of brick. However, a rendered finish on that element of the proposal would not be unduly incongruous given the extant materials on that part of the building and the removal of the commercial facade. The arrangement and design of the ground floor window as well as the extent of render would give this façade a relatively bland appearance, but this would be softened by an extent of planting. Given the commercial context and backland position of the site, I do not consider that the limited use of render represents a reason to withhold planning permission.
34. The boundary treatment of the patio to the front and the creation of a first floor terrace are not characteristic of dwellings in this area. However, these features would not be readily visible from the public realm due to screening by existing buildings. The Council also refers to the proposed design and arrangement of windows, but due to the variation in fenestration the existing building has no particular harmony of window design.
35. The appeal site is adjacent to the Bradmore Green Conservation Area (CA). The CA Statement emphasises key features which contribute to the importance of the CA as a designated heritage asset, particularly areas around St John's Church; the mock tudor shopping parade, public house, and surroundings; the rural character of Bradmore Farm and its surroundings; and open space including the Territorial Army Parade Ground.
36. However, despite its proximity to the CA, the appeal site is separated from the key features by relatively recent suburban housing and commercial buildings. Viewed objectively and in context, the proposal would not harm the significance of the CA and would preserve its setting.
37. I therefore conclude that the proposal would not harm the character and appearance of the host building and the area, and would preserve the setting of the CA. The proposal would therefore not conflict with the design and character requirements of Policies SP4 and DM10 of the Local Plan; or Policy D3 of the London Plan.

Cycle, Refuse and Recycling Storage

38. Refuse and recycling bins would be stored adjacent to a pedestrian access to one of the flats and a parking bay. However, even given the tight-knit layout of the site and the relationship with the parking bay, the bin storage area would appear to provide suitable space for the storage and transfer of bins.
39. The location of the bin storage would involve a significant drag distance to place the bins ready for collection. However, this would reflect that associated with the existing dwellings within the appeal site and an adjoining property. Although the proposal would increase the number of dwellings, given that no practical issues have been identified with regard to the existing arrangement I do not consider that

the limited increase in the number of bins would generate further unacceptable harm with regards to the movement of bins on collection day.

40. The Council has also referred to a need for a 10sqm storage area for bulky waste, and that the area proposed for this would not be readily accessible due to car parking. However, even though the proposal is for a multi-unit scheme, it relates to the provision of only 2 extra flats. The Council refers to the Building Regulations, but it has not indicated why a dedicated area for the storage of bulky waste is required for a development of this scale. Based on the evidence before me, there is no requirement for a storage area for bulky waste, and although the proposed area would have awkward access this element of the scheme could be omitted.
41. With regards to cycle storage, the appellant has confirmed that this has been designed so that 2 full sized adult bicycles can be securely stored in association with each flat, as depicted on the submitted plans. Although the Council refers to the length of a typical adult bike, the dimensions on the submitted plans indicate that the storage is of an appropriate size. Two of the flats would include internal bike storage, but this would not be an undue hindrance for the movement of cycles.
42. I therefore conclude that the proposal would make suitable provision for cycle, refuse and recycling storage. The proposal would therefore not conflict with Policy T5 of the London Plan, and Policies DM13 and DM29 with regards to cycling and the provision of refuse and recycling storage.

Other Matters

43. I am mindful of the benefits of the proposal. The development of this windfall site would contribute to the supply and mix of housing in the area, albeit to a limited degree. It would be located in an area with good access to services and facilities. The Framework emphasises that small sites can make an important contribution to meeting housing requirements, and gives great weight to the benefits of using suitable sites. However, I do not consider that the proposal is on a suitable site due to the harm to employment use and highway safety. However, even having regard to the Framework, given the small scale of the proposal, the benefits arising from the proposal carry no more than limited weight in favour of the appeal.
44. The appellant wishes to move premises to enable them to expand their business. However, it has not been demonstrated that the relocation of the business is reliant on the introduction of further residential uses on the appeal site.
45. Reference has been made to the emerging Croydon Local Plan Review, which the Council indicates will be submitted for adoption around December 2025. However, I have not been informed of the extent to which there are unresolved objections to relevant policies, and given the stage of preparation of this emerging plan it may be subject to further change. Given the early stage of preparation of this document I attach no more than limited weight to it and it does not lead me to a different conclusion in respect of the conflict with the adopted development plan.

Conclusion

46. Notwithstanding my conclusions in respect of character and appearance as well as cycle, refuse and recycling storage; I conclude that the proposal would be contrary

to the development plan when read as a whole in respect of harm to employment uses, highway safety, living conditions, and the provision of family sized homes.

47. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given, I therefore conclude that the appeal should be dismissed.

David Cross

INSPECTOR