



Appeal Decision

Site visit made on 4 December 2024

by M J Francis BA (Hons) MA MSc MCifA

an Inspector appointed by the Secretary of State

Decision date: 17 January 2025

Appeal Ref: APP/L5240/W/24/3344352

116 Orchard Way, Croydon CR0 7NN

- 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 M Z Ahmed of FPP One Limited against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 23/04385/FUL.
 - The development proposed is removal of external staircase, utilising the existing internal staircase for the first floor flat and conversion of public house on ground floor of building to facilitate 1 x 2-bedroom flat and 1 x 3-bedroom flat with integral cycle and waste storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Whilst only certificate A had been signed on the application form, on the appeal form, certificate B had been signed with an incomplete address. Confirmation of the full address has since been provided by the appellant.
3. The red line shown on the block plan used to determine the application was incorrect, as it did not include the external staircase. A revised drawing¹, was submitted with the appeal. The Council has had the opportunity to comment on this plan and does not object to it being assessed as part of the appeal.
4. I have considered this additional drawing, and applied the principles established by 'Holborn'². As the staircase, and its proposed removal is included in the original description, third parties are aware of this part of the proposed development and have had the opportunity to comment. Therefore, I do not consider that interested parties and consultees have been prejudiced. Consequently, I have proceeded to determine the appeal on the basis of the revised red line.
5. A revised version of the National Planning Policy Framework (the Framework) was published in December 2024. However, the principles relevant to this decision remain the same, and it has not been necessary to request observations from the main parties upon any implications of the revised Framework's publication.

¹ No: 01 Rev A

² Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

Main Issues

6. The main issues are the effect of the proposal on:
- the living conditions of the occupiers of the flats at No 128 with regards to access; and
 - the living conditions of future occupiers with regards to outlook and provision of natural light.

Reasons

Living conditions of occupiers of No 128

7. The appeal site is a former public house, 'The Orchard', on the corner of Radnor Walk with Orchard Way. It is on the ground floor of a modern, flat roofed block, with a flat above. The rest of the building is three-storey in height with a shopping parade on the front, and twelve flats above over two floors. These are accessed by two external stairwells, partly in enclosed roofed structures, on the south-east corner and on the northern elevation of the building.
8. The proposed development seeks to convert the former public house into two flats on the ground floor. An existing internal staircase would connect and provide access to the existing flat located above the public house. Whilst access to this was previously the external staircase at the rear, this would be blocked up and landscaped, with the existing roof terrace for the 1st floor flat being extended over the adjoining walkway. The main parties agree that this would not harm the living conditions of the occupiers of the 1st floor flat.
9. From what I observed on site, the external staircase and that found on the opposite side of the building were part of the original design. The staircase is open, with metal railings to the 1st floor, and a metal gate at the top, which was open at the time of my visit. There are six flats and a wide external walkway on this floor, as well as the 1st floor appeal flat. From this level, the stairs lead, within the enclosed stairwells, to the 2nd floor and a further six flats.
10. The second stairwell is located on the northern elevation, at the end of the parade of shops. There are metal gates to access this from both the front and from the rear. However, from my observations, the front gate was not used, as there were plants growing over it, and on the ground in front. The rear access to this stairwell is located at the north-eastern corner of the building, next to high fencing separating it from the adjoining property. It is reached from the dead-end road behind the building, adjacent to a line of garages. This requires walking behind rubbish bins and metal cages sited behind the shops, as well as the parked cars that I saw. Third parties refer to delivery vehicles for the supermarket and refuse collection vehicles using the area.
11. This access is not highly visible, and third parties have referred to it being difficult to find if emergency staff and vehicles needed to reach the flats. Although I only visited during daylight hours, and saw one lamp post close by, it does not appear to be well-lit. Therefore, it is unlikely that residents would choose to use this stairwell when it is dark.

12. Moreover, I saw that the route to the stairwell is narrow, as it is located between a brick wall and a fence. It would not provide easy access for pushchairs, bicycles, carrying shopping, or for deliveries, particularly large items, such as furniture. Whilst there may not be a policy requirement to provide multiple entrances, the building was designed with these on both sides, enabling more than one escape route in case of fire.
13. Despite the introduction of greenery and landscaping, the staircase proposed to be removed provides the most direct and accessible route to the flats on the 1st and 2nd floor levels. Moreover, it is well lit, and close to other properties. Therefore, its removal would have a detrimental effect on the residents of the twelve flats.
14. I therefore conclude that the proposed development would significantly harm the living conditions of the occupiers of the flats at No 128 with regards to access. For this reason, it would not accord with CLP Policy DM10.6 which only supports proposals where the amenity of the occupiers of adjoining buildings are protected.

Living conditions of future occupiers

15. The site is within a residential area of modern and traditional two storey housing, with a three-storey block of flats opposite the site. Next to the building on Radnor Walk are ten parking places. A Daylight report³ (the report) was submitted showing illumination levels of habitable rooms. Whilst this states that adequate daylight would reach all rooms, there is limited substantive evidence within the report, and no evidence of sunlight levels.
16. Both proposed flats would have 7m² of enclosed amenity space on the southern side, set behind a wall with planting above. This would be adjacent to the pavement and overlook the parking area. The report states that there would be adequate daylight, particularly as the floor levels within the building are 0.3 metres higher than the pavement level. However, the windows serving rooms adjoining the amenity space are set back, and with the roof enclosing the space, light levels would be reduced. Moreover, flat 116B's two bedrooms would have windows facing the parking area, including the double bedroom having a partially obscure glazed window, with no defensible space between it and the adjoining pavement. Despite all rooms with an obscure glazed window also having a clear glazed one, there would be a lack of outlook for the double bedroom which would not provide good living conditions.
17. Whilst the single bedroom in flat 116A would have two windows, these overlook an area of amenity space on the west side of the building. The overhang and limited size of this space would result in limited light levels and a poor outlook from this room.
18. Although the flats would be double aspect, the pavement runs around the building. A supermarket is located within the shopping parade and there are a significant number of properties located along Radnor Walk and beyond. Therefore, numbers of people would likely pass the building on foot, or cars parked next to it. Whilst planting has been proposed on the areas of amenity space and on some of the windows, although not above windowsill level to not

³ Planning for Sustainability, November 2023

affect light levels, many of the rooms would have a poor outlook with no defensible space.

19. I therefore conclude that whilst the proposed development would provide an adequate level of daylight, there is no substantiated evidence of the levels of sunlight. Moreover, because of the position and size of windows overlooking public space, it would result in a poor outlook for the occupiers.
20. It would not accord with CLP Policy DM10.6 and London Plan Policy D6 which together requires high quality design and development that provides sufficient daylight and sunlight for potential future occupants.

Other Matters

21. The evidence includes a title register and plan of the site. The appellant contends that this shows that he has sole ownership of the staircase that he proposes to remove. However, residents of the flats in No 128 Orchard Way refer to another title, and that joint access to the staircase is part of their freehold. Based on the limited substantive evidence before me, the ownership and right of access to the staircase is unclear and in dispute. However, as I am dismissing the appeal, I do not need to consider this further.
22. An acceptable fire safety strategy in accordance with LP Policy D12 was submitted with the evidence. However, this only relates to the appeal site. Removing the most accessible staircase to the 1st and 2nd floors takes away one of the routes that the occupiers of the flats at No 128 would use to evacuate the building because of fire. This adds to my concerns with regards to the harm that the proposal would cause to these residents.
23. The evidence includes an updated marketing report and a parking stress survey. The loss of the public house and the provision of parking are not matters of dispute, which I have no reason to disagree with. Furthermore, there is no dispute between the main parties regarding overlooking, a loss of light or outlook to neighbouring properties, or light pollution resulting from the proposal. Whilst it would deliver two new housing units, one with three bedrooms providing family sized accommodation, this would not, however, outweigh the harm that I have identified above.

Conclusion

24. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, including the Framework, that outweigh the identified harm and warrant a decision other than in accordance with the development plan.
25. For the reasons given above, I conclude that the appeal is dismissed.

M J Francis

INSPECTOR