



Appeal Decision

Site visit made on 21 January 2025

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 27 January 2025

Appeal Ref: APP/L5240/W/24/3351585

1074 London Road, Thornton Heath, Croydon CR7 7ND

- 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 S S Ahmed against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 24/01937/FUL.
 - The development proposed is change of use from office to restaurant A3/A5 and new flue.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Government published a revised version of the National Planning Policy Framework (the Framework) in December 2024. Whilst this made certain revisions to aspects of national planning policy, the provisions in respect of the main issue in this case are largely unchanged. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework.

Main Issues

3. The main issues are:
 - the effect of the proposed flue on the character and appearance of the host building and the surrounding area; and
 - whether the proposal would ensure adequate arrangements for deliveries and appropriate refuse facilities.

Reasons

Character and appearance

4. The appeal site comprises a red brick three storey end of terrace property with commercial units located along the ground floor of the wider terrace. Whilst the shopfronts have altered the ground floor, the overall form and massing of the terrace is of a simple and traditional character and appearance. Within the wider terrace are a mix of commercial uses at ground floor level including beauty and hair salons, restaurants/takeaways, shops and offices. Flats are located above the commercial units. Adjacent the appeal site to the north is a petrol station and directly opposite is a similar three storey terrace with commercial units along the ground floor. The area is therefore mixed in character. The appeal site is not subject to any heritage designations.

5. I note the proposed position of the flue, on the side elevation towards the rear of the building where the built form steps back from the side boundary. However, this side elevation is clearly visible in views from London Road. The proposed flue would introduce a metal structure, which would appear prominent against the brick side elevation to which it would be attached. Given its height it would also sit above the roof of the building, which would add to its prominence.
6. Whilst extraction flues of the type proposed are clearly visible along the rear elevation of the wider terrace when passing the entrance to the rear alleyway on Warwick Road, they are not a feature that prevails in views along this part of London Road. Due to the proposed position, height and finish, it would result in an uncharacteristic feature that would be harmful to the character and appearance of the host building and the wider area of this part of London Road.
7. There is a petrol station directly adjacent to the appeal site with metal poles supporting the canopy and other associated pipes that are positioned close to the pavement. Nevertheless, the proposed flue would be significantly taller than these features and it would be attached to the host building, which appears as a traditional building rather than a modern commercial building such as the petrol station. I noted the presence of streetlights, CCTV columns and mobile phone masts when I walked along London Road during my site visit. I accept that these tall structures do add features with vertical emphasis to the streetscene. Nevertheless, they appear as typical street furniture and are detached from the buildings.
8. Brick chimneys are present on the host building and within the surrounding area. Nevertheless, these are traditional architectural features that respect the design of the buildings that they serve. The proposed flue would not appear as a brick chimney, nor would it respect the traditional character and appearance of the host building to which it would be attached.
9. The potential for the colour of the flue to be altered has been put to me. However, this would not reduce the overall height or alter the form of the flue. It is suggested that the flue could be boxed in using a brick column. However, without specific details I cannot fully consider the impact of such a proposal on the character and appearance of the host building or the area. I do not consider that this could be dealt with by planning condition as it would effectively re-design the proposal through the appeal process and it would result in a different form of development to that applied for.
10. In conclusion, I find that the proposed flue would result in harm to the character and appearance of the host building and the surrounding area. It would therefore be contrary to Policies D3 and D4 of The London Plan March 2021 (TLP) and Policies SP1.2, SP4.1, SP4.2 and DM10 of the Croydon Local Plan 2018 (CLP). These policies seek, amongst other things, that proposals respond to and enhance local character, contribute positively to the public realm and deliver good design.

Deliveries and refuse facilities

11. The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 amending the Town and Country Planning (Use Classes) Order 1987 (UCO), came into force on 1 September 2020. The amended UCO introduced a new Commercial, Business and Service Use under Class E and revoked the Class A uses stated in the description of development above. Both the

current office use and the restaurant use for which planning permission is sought now fall within Use Class E.

12. Within the context of an appeal under section 78 of the Act it is not for me to formally determine the lawful use of the site. However, I shall consider the evidence as to whether permission is required so far as it is material to this appeal. I note that the Council accepts that the building can operate as a restaurant under permitted development rights given it would remain within Use Class E of the UCO.
13. The Council's concerns relate to the management of deliveries and the collection and storage of bins. It is stated that the proposed restaurant use is likely to result in more waste for disposal than the office use. No parking for deliveries or servicing arrangements are identified on the proposed drawings.
14. The appeal site has frontage onto London Road where there are limited opportunities for on street parking with approximately three vehicle spaces available in proximity. Along Warwick Road, to the south of the wider terrace, there are some limited opportunities for parking for loading between 10am and 4pm. Whilst parking opportunities for deliveries are limited, the other commercial premises within the wider terrace, which are subject to the same parking constraints, are still able to operate. Given the small scale of the proposed use, if issues were to arise, the appellant could control deliveries through a servicing plan.
15. Running directly behind the appeal site heading south towards Warwick Road is a rear alleyway that serves the wider terrace. Commercial bins are currently stored in yard areas between garages to the rear of properties that front onto London Road. There appeared to be sufficient external space to the rear of the appeal site for the storage of similar commercial bins. Whilst a snapshot in time, during my site visit I noted that cars were parked along the rear alleyway, however I also witnessed that sufficient space was retained, to enable bins to be moved along the rear alleyway without obstruction.
16. The footpath to the front of the appeal building is wide enough to temporarily locate bins without causing a hazardous environment for pedestrians. I acknowledge that whilst it appears that moving the bins from the rear alleyway to the front of the appeal site would be possible, and it is a practice that is carried out currently by occupiers of other commercial premises within the terrace, I do not find that it would be particularly convenient or ideal, given the distance that the bins would have to be moved.
17. I find that the appeal proposal would provide adequate arrangements for deliveries and that the presentation of bins on the footpath to the front of the appeal site on collection days would not be harmful to pedestrian safety. The proposal would therefore comply with the requirements of Policies T4 and T7 of TLP and Policy SP8 of the CLP. These policies seek, amongst other things, that proposals do not increase road danger, that servicing, storage and deliveries should be made off-street, with on-street bays only used where this is not possible and that safe and convenient walking routes are provided.
18. Nonetheless, whilst I find that space for the storage of bins would be adequate to the rear of the appeal site, I do not find that they would be conveniently located due to the distance they would have to be moved in order for them to be emptied.

I therefore find that the proposal would be contrary to Policy DM13 of the CLP. This policy requires, amongst other things, that refuse facilities are conveniently located and easily accessible by occupants, operatives and their vehicles.

19. However, it is accepted by the parties that a change of use from office to restaurant would not require planning permission under the UCO. There would be no requirement for delivery arrangements or refuse facilities to be considered, given that the change of use could be carried out under permitted development rights. This is a material consideration of significant weight which in this case would outweigh the conflict with Policy DM13 of the CLP, in respect of this main issue.
20. Policy DM30 of the CLP is referred to by the Council in its second reason for refusal. However, this policy refers to the provision of car and cycle parking in new development. The Council has not raised this as part of the reason for refusal, I therefore do not find this policy directly relevant to the main issue before me.

Other Matters

21. I recognise the local and national policy support for economic development and that the changes to the UCO were intended to provide more flexibility for businesses to adapt and diversify in order to meet changing demands. The proposal would bring an existing commercial unit that is currently vacant back into an efficient use, with the provision of a food based business that would serve the local community. In doing so the proposal would create employment opportunities and contribute to the vitality of the area. Whilst there would be benefits in economic and social terms, given the scale of the proposal, these would be limited, and they would not outweigh the harm that I have identified above.
22. I note that the submitted Noise Impact Assessment states that the proposed flue would not result in an unacceptable increase in noise that would harm the living conditions of existing occupiers with regard to noise. Even if I were to agree, a lack of harm in this respect is a neutral consideration that does not weigh for or against the proposal.

Conclusion

23. Whilst I have found that material considerations outweigh the conflict with Policy DM13 of the CLP, in respect of the convenience and accessibility of refuse facilities, I have found that the proposed flue would be harmful to the character and appearance of the building and the surrounding area. As a result, I find that the proposal conflicts with the development plan as a whole. The appeal is therefore dismissed.

G Dring
INSPECTOR