



Appeal Decision

Site visit made on 11 March 2025

by **N Kempton BAHons PGDip MA IHBC MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 April 2025

Appeal Ref: APP/W5780/W/24/3349838

5 Chigwell Road, South Woodford, Redbridge, London E18 1LR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr M Croll against the decision of the Council of the London Borough of Redbridge.
- The application Ref is 1473/24.
- The application sought planning permission for creation of roof terrace at first floor level, installation of privacy screen, detached rear outbuilding, paved patio area, cycle store, without complying with conditions 2, 5 and 6 attached to planning permission Ref 0716/24, dated 10th May 2024.
- The conditions in dispute are Nos 2, 5 and 6. These state as follows:

2) The development hereby permitted shall be carried out in accordance with the following approved plans: 460-01, 02, 03, 04, 05, 06, 07, 08, 09, Location Plan and Design and Access Statement (received 9.5.2024).

5) The use of the outbuilding for storage purposes hereby permitted shall remain ancillary and subservient to the primary use of the ground floor commercial premises, and shall not become a separate or dominant use at any time.

6) Before development hereby permitted commences at the site, a scheme shall be approved in writing by the local planning authority describing the means by which construction activity at the site shall be controlled. The scheme shall include measures for: 1) construction traffic routes; 2) construction traffic washing; 3) public highway cleaning; 4) dust suppression; 5) noise suppression; 6) hours of work; 7) construction waste disposal' The development hereby permitted shall only be carried out and completed in accordance with the approved scheme.

- The reasons given for these conditions are:

2) In order to facilitate the use of section 73 of the Town and Country Planning Act 1990 to make minor material amendments to this planning permission.

5) In order to prevent a separate use operating from the site, which may lead to an inappropriate and over intensive use of the site.

6) In order to comply with Policy LP22 of the Council's Local Plan and to ensure that the construction of the development at this site is undertaken in a manner which minimises its effect on the local environment. The objectives and purposes of this condition are such that it is required to be complied with before commencement. As such, these objectives and purposes would not be met if expressed other than as a pre-commencement condition.

Decision

1. The appeal is allowed, and planning permission is granted for creation of roof terrace at first floor level. Installation of privacy screen. Detached rear outbuilding. Paved patio area. Cycle store at 5 Chigwell Road, South Woodford, London E18

1LR in accordance with the application Ref 1473/24, without compliance with condition number 6 (requiring submission of a Construction Management Plan) as previously imposed on planning permission Ref 0716/24 dated 10th May 2024 and subject to the schedule of conditions at the end of this decision.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated in December 2024, during the consideration of this appeal. Insofar as is directly relevant to the appeal, there are no substantive changes. Neither main party were asked for their views and no parties have been prejudiced as a result.
3. The original planning permission was granted in May 2024. The principle of an outbuilding on the site has previously been established and is therefore not for consideration as part of this appeal.

Background and Main Issues

4. In May 2024, an application (1473/24) for the variation of conditions attached to the original permission (0716/24) was submitted to alter the stated function of the building from 'store' to 'commercial unit'; separate use of the approved building within and limited to specified uses within commercial use class E; convert condition 6 into a compliance condition via submission of a Construction Management Plan (CMP). The Council refused the application on the 29th July 2024 on the grounds that use of the outbuilding as a separate commercial unit would be an intrusive development that would fail to respect the prevailing pattern of development in the locality and the additional commercial activity would adversely affect the living conditions of neighbouring occupiers by reason of increased noise and disturbance. This application is the subject of this appeal.
5. The applicant submitted a CMP at application stage and the Council has confirmed that the level of detail provided within the CMP is acceptable. The Council considered that condition 6 could be varied to a compliance condition. On the basis of the information before me, I concur. As such the remainder of this decision will consider disputed conditions 2 and 5.
6. It is the appellant's case that the disputed conditions limit the possible potential uses of the approved outbuilding and that the proposed increase in the flexibility of use of the approved building would lead to an improvement in the vitality and viability of the commercial area. As such, the appellant proposes variation of the disputed conditions and suggests alternative wording to allow separate use of the approved building and enable expansion of the possible potential uses within limited to specified uses within commercial Use Class E (c)(i)(ii)(iii) and (g)(i) only. The specified uses in class E include financial and professional services and other appropriate services in a commercial, business or service locality; uses which can be carried out in a residential area without detriment to its amenity; and offices to carry out any operational or administrative functions.
7. The main issue is whether the disputed conditions are necessary and reasonable having regard to the effect of the proposed development on the character and appearance of the area and on the living conditions of neighbouring residents with particular regard to noise and disturbance.

Reasons

8. Conditions 2 and 5 were imposed to secure the intended use of the outbuilding as a store ancillary to the existing ground floor commercial unit and to prevent the outbuilding being used as a separate commercial unit. This was deemed necessary in the interests of protecting the amenities of residential properties on the upper floors of the parade and neighbouring properties.
9. The approved outbuilding would occupy the rear garden of the appeal property, which is currently partially occupied by a metal storage container. The remaining garden space provides beneficial use as a parking area, access to the 3 flats, via an external stair, and refuse storage. The outbuilding would be sited alongside a pair of garages which are to the rear of the adjoining properties in the parade. The end terrace property is in commercial use and appeared to be operating as a timber yard, it is effectively a stop end to the commercial units in the retail parade. The adjacent gardens typify the layout with respect to the private rear gardens associated with dwellings.
10. The junction of South View Drive and Chigwell Road, which is identifiable by the siting of Holy Trinity Church, effectively delineates different character areas. This section of Chigwell Road, which has a parade of commercial and retail outlets, is busy. Turning into South View Drive the character changes, being distinctly residential. The road is less busy, street trees are peppered along the pavement, dwellings are set back behind private driveways and front gardens. As such, the introduction of a separate commercial unit at the rear of the appeal property would fail to respect the existing pattern of development, rather it would intrude into the residential area, thereby diluting the identity and eroding the character of the area. The proposed use would be likely to generate additional activity, exceeding that which would be expected of a residential dwelling. This would be to the detriment of the living conditions of neighbouring residents, with particular regard to noise and disturbance.
11. The proposed variation of conditions would serve to extend commercial activities to the rear of the property into an area which is generally quieter, close to residential gardens and outlooks and positioned away from active frontage. On that basis, the space provides some respite from the busy commercial uses and road. By ensuring the storage building is ancillary in nature, conditions 2 and 5 serve to maintain a reasonable balance between the commercial use at ground floor level and the proximity of residential occupants. Extending the use wider than storage, and allowing it to be used separately from the main unit, even for restricted class E uses, would be likely to unreasonably increase activity and thereby noise and disturbance. This would undermine the ability of nearby residents to enjoy their property and outdoor space.
12. The proposal's contribution to the vitality and viability of the commercial area and retail parade, would be minimal, by reason of its location at the rear of, and separate from, the parade. Hence, this would not outweigh the harm identified.
13. The proposal would be contrary to Policy LP26 of the Redbridge Local Plan 2015-2030 (2018) (LP), which promotes high quality design. This policy requires development to, amongst other things, respect the local character of the area, be well integrated, respect the existing patterns of development and not result in an adverse impact upon the amenity of neighbouring occupiers.

14. The proposal would also be contrary to Policy LP10 which relates to managing town centres and retail uses. This policy states, amongst other things that the Council will maintain key retail parades and resist development that results in the adverse impacts on the amenities of nearby occupiers.
15. For these reasons, I consider that disputed conditions 2 and 5 are necessary and reasonable, in the interests of residential amenity, having regard to the effect of the proposed development on the character and appearance of the area and on the living conditions of neighbouring residents with particular regard to noise and disturbance.

Other Matters

16. The appellant claims the Council has been unduly inflexible and inconsistent in their decision making and has failed to have due regard to the specific circumstances of the case and site. However, the Council considered the submitted evidence against the policies of the development plan. The proposal was found to conflict with the development plan when read as a whole. No other considerations were identified, including the provisions of the Framework, which outweighed this finding. The evidence before me does not demonstrate inconsistencies in decision-making with any directly comparable cases. In any event, each proposal falls to be assessed primarily on its own merits.

Conditions

17. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

18. For the reasons given above I conclude that the appeal should succeed with regard to varying condition 6. I will grant a new planning permission with revised wording for this disputed condition, to convert it to a compliance condition. I conclude that the appeal should be dismissed with regard to disputed conditions 2 and 5, which will be restated together with the undisputed conditions that are still subsisting and capable of taking effect.

N Kempton

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun no later than 10/05/27.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: 460-01,02,03,04,05,06,07,08,09, Location Plan and Design and Access Statement (received 9.5.2024).
3. The external materials to be used in the construction of the development hereby permitted shall accord with the specification stated in the planning application form submitted with the application (reference 0716/24) unless otherwise agreed in writing by the Local Planning Authority.
4. Notwithstanding the details shown on the submitted drawings hereby approved, the terrace shall only be used for existing first floor flat.
5. The use of the outbuilding for storage purposes hereby permitted shall remain ancillary and subservient to the primary use of the ground floor commercial premises and shall not become a separate or dominant use at any time.
6. The development hereby permitted shall be carried out and completed in accordance with the Construction Management Plan and accompanying routing plan submitted on the 28th May 2024 by AllPlanning, unless otherwise agreed in writing by the local planning authority.

END OF SCHEDULE OF CONDITIONS Appeal Ref: APP/W5780/W/24/3349838