Planning Inspectorate

Appeal Decision

Site visit made on 14 April 2025

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th of June 2025

Appeal Ref: APP/L5240/W/24/3354552
37 Brigstock Road, Thornton Heath, Croydon CR7 7JH

- 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 K Mozumder against the decision of the Council of the London Borough of Croydon.
- The application Ref is 24/02284/FUL.
- The development proposed is the change of use of ground floor from café (Use Class E(b)) to restaurant and take away (Use Class Sui Generis), and associated alterations.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 12 December 2024, the Government published a revised National Planning Policy Framework. Having reviewed the changes, I am satisfied that they do not affect the substantive matters of the appeal and that proceeding without further consultation with the main parties would not be prejudicial to their respective cases.

3. The description of the development on the application form is unclear. I have therefore used the description from the decision notice which is identical to that used in the appeal form, in the banner heading above.

4. The application form states the change of use started on the 1/05/2019. I have therefore considered the appeal on the basis that the development has already taken place.

Background and Main Issues

5. Reference is made to a historic use of the appeal site as a café (Brigstock Café), but there is no supporting evidence of this use. Nor is there evidence of how it operated i.e. the number of covers, opening hours or menu to compare it to the use sought. Despite this, it is accepted that a café would have similarities to a restaurant and takeaway. However, the change of use, through the addition of a takeaway service is likely to increase the need for cycle storage and generate additional waste. This is because it would be likely to increase the amount of food prepared and the number of customers and delivery services that access the site by bike.

6. The main issues are therefore whether the development provides:

    - suitable access and storage for bicycles; and;

- suitable access and arrangements for storing, collecting and managing waste.

Reasons

Bicycle access and storage

7. The appeal site is located on Brigstock Road within a terrace of buildings with commercial units at ground floor. The shopfront provides the only means of accessing the building from the public highway. The rear boundary of the site adjoins a MOT centre at 2A Boswell Road.

8. Policy DM30 of the Croydon Local Plan 2018 (CLP) and Policy T5 of the London Plan 2021 require the provision of appropriate levels of cycle parking which should be fit for purpose, secure and well located. To comply with these standards, the proposal is required to provide two short stay and two long stay cycle spaces as a minimum.

9. Whilst the proposal would provide secure cycle storage in the rear yard, to access it, staff or customers would be required to enter and cross the MOT centre. The appellant refers to access to the rear being provided from Boswell Road, but this must be across the MOT centre, which is clearly marked as private forecourt on site, and it has not been demonstrated that there is a right of way across this land. Even if there is, it would involve crossing the access to the workshop or the forecourt where vehicles could be being worked on or entering and exiting. As a result, the proposed cycle store and access to it would neither be safe, fit for purpose nor well located.

10. Despite the site having good links with public transport and the constraints of the site, this would not negate the need to provide appropriate and acceptable levels of cycle parking, for a change of use that would generate this need.

11. For the above reasons, the development does not provide suitable access and storage for bicycles. It would therefore fail to comply with policies T1, T2, T4 and T5 of the London Plan and policies DM10, DM16, DM29, DM30 and SP8 of the CLP. Amongst other things, these policies require cycle parking and seek to increase cycling and promote active travel.

Access and arrangements for storing, collecting and managing waste

12. The site plan details that the waste storage is located in the rear yard and specifies the route to be taken from the kitchen. The submitted waste strategy details that Eurobins and wheelie bins in the rear yard will be wheeled onto the side road accessed via Boswell Road.

13. Similarly, to accessing the cycle store, this arrangement relies on access over third party land and it has not been demonstrated that there is a right of access over this land. The waste strategy neither demonstrates a right of way or any form of agreement with the landowner. Given that the forecourt of the MOT business could reasonably be used in connection with the business, this route could be blocked, and the business may be unable to dispose of waste or have to carry it through the restaurant. Both options would fail to provide suitable access and arrangements for storing, collecting and managing waste.

14. For the above reasons, the development does not provide suitable access and arrangements for storing, collecting and managing waste. It therefore fails to comply with policy SI 7 of the London Plan and policy DM13 of the CLP. These policies require adequate refuse and recycling facilities that are safe, conveniently located and easily accessible by occupants, operatives and their vehicles.

15. Reference is made to Policy D6 of the London Plan; this refers to housing quality and standards and is therefore not relevant to this appeal. Additionally, policies DM30 and SP8 of the CLP are referred to. Policy DM30 is relevant to cycle parking rather than waste and is therefore referred to in the main issue above. The relevance of SP8 (Transport and Communication) is unclear but as I have found conflict with the policies set out above, I do not need to address this further.

Other Matters

16. The appellant suggests that conditions could be used to address the issues identified above. However, given that it has not been demonstrated if there is a right of way or any form of agreement with the landowner to cross the private land of 2A Boswell Road, it would not be reasonable to impose conditions to address these matters.

17. The support for the restaurant is noted including its role as an employer to local residents. However, this outcome of this appeal would not prevent the use of the site as a restaurant.

18. Reference is made to the Council failing to communicate or request further information from the applicant prior to issuing the decision. Given that the appeal process is limited to consideration of the appeal process, this would not be relevant to this decision.

Conclusion

19. The proposal conflicts with the development plan and material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

V Goldberg

INSPECTOR