



Appeal Decision

Site visit made on 12 June 2025

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2025

Appeal Ref: APP/L5240/W/25/3360648

57 Limpsfield Road, South Croydon, CR2 9LB

- 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 J Jeyaganesh against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 24/02618/FUL.
 - The development proposed is Change of use of existing premises from retail (Class E) to a hot food takeaway (Sui Generis) and the installation of a ventilation extract.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has indicated that the inclusion of Policy DM4 of the Croydon Local Plan 2018 (the Local Plan) in the first reason for refusal was an error. I have therefore determined the appeal accordingly on this basis.
3. A revised National Planning Policy Framework (the Framework) was published in December 2024. I have had regard to the latest version of the Framework in reaching my decision.

Main Issues

4. The main issues are:
 - whether the appeal site is in a suitable location for the development proposed;
 - the effect of the proposal on the living conditions of nearby residents with particular regards to noise and activity; and
 - whether the proposal would achieve the highest standards of fire safety.

Reasons

Suitable location

5. The appeal site is within a parade of commercial units. It is currently a convenience store. There are residential properties above. Although the appeal site is a Primary Shopping Area in a Local Centre, it is not within any of the borough's town centres. The site is also located close to a primary school, and recreation area.

6. Policy E9 of the London Plan, the Spatial Development Strategy for Greater London, March 2021 (the London Plan) states at criterion D) that proposals containing A5 hot food takeaway uses should not be permitted where these are within 400 metres walking distance from the entrances and exits of an existing or proposed primary or secondary school. The Policy advises that obesity is one of the greatest health challenges facing the capital. In London 38 per cent of Year 6 pupils (10 to 11 year-olds) are overweight or obese, higher than any other region in England. It advises that a wide range of health experts recommend restricting the proliferation of hot food takeaways, particularly around schools, in order to help create a healthier food environment.
7. Paragraph 96 of the National Planning Policy Framework (the Framework) refers to planning decisions that should enable and support healthy lives through both promoting good health and preventing ill-health. Furthermore, it says at paragraph 97, that applications for hot food takeaways and fast-food outlets within walking distance of schools and other places where children and young people congregate, unless the location is within a designated town centre, should be refused.
8. The appeal site is, according to the Council, and not disputed by the appellants, within 140m walking distance from the entrance/exit of Gresham Primary School. I was able to easily walk to the school from the appeal site and cross the busy road using the pedestrian crossing. Although most children at school would not be accessing a takeaway premises on their own, primary school children up to the age of eleven would be attending who may be walking to and from school independently.
9. The site is also opposite the Sanderstead Recreation Ground, where a children's equipped play area is visible from the appeal site. The road can be crossed via a pedestrian island. Children would congregate here, and in particular older primary school children and secondary school children may visit this area unaccompanied. Furthermore, I noted a Scout Hut at the rear of the site accessed from Cranleigh Close, children attending here would range from younger children to teenagers.
10. Unhealthy food can be purchased from supermarkets and other outlets, including the internet. However having a further takeaway so close to the school premises, Sanderstead Recreation Ground and the Scout Hut would undermine the policy to minimise the detrimental impacts of hot food takeaways and sustain healthier food environments.
11. I conclude the appeal site is not in a suitable location for the development proposed. It therefore does not comply with London Plan Policy E9, which seeks to address the health challenge of childhood obesity. The proposal would also not accord with paragraph 97 of the Framework, which seeks to refuse hot food takeaways within walking distance of schools and places where children and young people congregate.

Living conditions

12. The site is close to residential areas, with residential use on the 1st floors of the shops within the parade, including the appeal site. I observed there were extraction systems serving existing businesses, including a fish and chip shop. The submitted plans show extraction equipment proposed which would discharge

above existing windows potentially removing odour away from residential properties.

13. The Council's Environmental Health officer has commented that the extraction system is largely satisfactory. It has therefore not been clearly demonstrated why a suitably worded condition, to provide further details of the extraction system, including a schematic drawing, and vibration mounts would not be reasonable or achieve the aims of protecting living conditions of existing occupiers. Setting aside any uncertainty over whether the appellant would be able to attach the proposed extract system, this aspect could be addressed through the imposition of conditions.
14. The Council also asserts harm would arise from the unsociable opening hours. The amended latest closing time of 23:00 has been put forward. However, the appellant has not demonstrated that these hours are consistent with the existing opening hours associated with the existing use and other units on the commercial parade. The appellant has also not provided any specific evidence which would objectively establish the background noise levels of the area, or noise associated with the proposed development, nor details of the operational requirements of the proposed use.
15. Therefore, although management plans could be conditioned and despite the commercial environment, it is possible that some residents could observe and hear associated activity which is likely to include customers arriving and leaving, ordering and waiting for food, food preparation, cooking, deliveries, waste disposal and cleaning. These activities could occur at a quieter time in the evening when people are generally home from work and children trying to sleep. At quieter times, such activities would be more audible and noticeable. Therefore I am of the view that disturbance when people are more likely to require a quieter environment would occur.
16. For the above reasons, and in the absence of sufficient information to demonstrate to the contrary, I conclude the development would harm the living conditions of the occupiers of nearby residential properties with particular regard to noise and activity. The development is therefore contrary to Policies SP4, SP6, DM10 and DM23 of the Local Plan. The proposal would also be contrary to the London Plan Policies D3, D14 and T7. Together, and insofar as they are relevant to this matter, these policies seek, amongst other things, to ensure development enhances social cohesion and well-being, minimises environmental impact and pollution, including noise and ensures the amenity of occupiers of adjoining building are protected including through suitable servicing arrangements.

Fire safety

17. Part A of Policy D12 of the London Plan sets out that all development proposals must achieve the highest standards of fire safety, taking into account factors which include fire risk reduction, fire escape and evacuation and provision for firefighting. I have no evidence of any of the identified measures have been proposed.
18. In any event Policy D12 of the London Plan is clear that addressing the issue of fire safety may have spatial implications on the layout and design of a development. It could have implications for the extract system proposed or for adjoining residents. I cannot be certain that these matters could be incorporated in the design and layout of the proposed development. Consequently, the potential

for the scheme to present unacceptable fire risk cannot be ruled out and nor can I have confidence that they are matters that could be adequately addressed if they were to be controlled by way of a planning condition, given the safety risk.

19. For the above reasons, I conclude that the development would not achieve the highest standards of fire safety. The proposal is therefore contrary to London Plan Policy D12.

Conclusion

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

K Williams

INSPECTOR

