



Appeal Decision

Site visit made on 7 July 2025

by **C Housden BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24th of July 2025

Appeal Ref: APP/L5240/W/25/3361859

70 Bensham Manor Road, Thornton Heath, Croydon CR7 7AB

- 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 Mark Fitzsimons against the decision of the Council of the London Borough of Croydon.
 - The application ref is 24/04135/FUL.
 - The development proposed is the conversion of the single dwelling into 4no x self-contained flats and associated alterations - (1x 3bed, 2x 1bed and 1x studio).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The plans are inconsistent with the labelling of Flats 1 and 2. In the interests of clarity, I consider Flat 1 to be the flat highlighted in red and Flat 2 to be the flat highlighted in pink on the proposed floor plan.
3. An amended layout plan has been received alongside the appeal documents which alters the rear garden arrangements to provide a garden space for Flat 4. This plan was not considered by the Council during the application stage and has not been subject to public consultation.
4. Accepting these plans would therefore involve a fundamental change to the scheme, which would prejudice parties consulted on the application and the position of the Council. Furthermore, the appeal process should not be used to evolve a scheme¹ which accepting these plans would do. Therefore, I have based my decision on the plans which were before the Council when the application was determined.

Main Issues

5. The main issues are:
 - whether the proposal would provide satisfactory living conditions for future occupiers, with particular regard to the provision of and access to private garden space; outlook; daylight; and noise and disturbance.
 - whether the proposal would make satisfactory cycle storage provisions; and,

¹ Procedural Guide: Planning appeals – England paragraph 16.1

- the effect of the appeal proposal on highway safety, with specific regard to parking stress.

Reasons

Living conditions

Garden space

6. The proposal would subdivide the existing garden to provide three private garden spaces and a communal space. Flat 1 would be the only property with direct access to their private garden space, whilst Flats 2 and 3, and the communal garden space would be accessed by a narrow path between the appeal property and neighbour.
7. The future occupiers of Flats 2 and 3 would be required to walk through communal spaces in order to reach their private amenity space, making these gardens inconveniently located and diminishing the benefits and purpose of a private amenity space. Furthermore, the distance a resident would need to walk through the internal space and along the side path would make usual activities associated with an external amenity space such as hanging washing impractical. Therefore, the development would create impractical and poorly accessible private external amenity spaces which would be undesirable and would discourage their use by future occupants.
8. Furthermore, Flat 4 would not provide future occupiers with any private external amenity space. Future occupiers of the flat could not undertake the usual activities associated with a garden, such as sitting in private outside or hanging washing which would be harmful to their living conditions. Whilst Flat 4 would have access to the communal garden area, communal space does not serve the same function as private outdoor amenity space and would be insufficient to make up for the deficit of private outdoor space for Flat 4.

Internal living conditions

9. Flats 1 and 2 would both be situated on the ground floor with bedroom windows facing towards the communal access path to the rear gardens. It is proposed that each of these windows serving these bedrooms would be obscure glazed and non-opening below 1.7m. These bedrooms would only be served by the obscure glazed side facing windows. Given the limited width of the adjacent path there would be insufficient space for any meaningful landscaping to be secured through a condition to provide defensible space for these windows.
10. Bedrooms are habitable rooms which future occupiers may reasonably wish to spend time within during the day and would expect a reasonable level of outlook and daylight to and from these rooms. However, due to the proposed obscure glazing future occupiers of these bedrooms would have no clear outlook and would have a restricted access to daylight which would create an oppressive and claustrophobic environment which would force occupiers to spend time away from these rooms and would therefore be detrimental to the living conditions of future occupiers of Flats 1 and 2.
11. Furthermore, whilst movements along the side path would be limited to other occupiers of the development, there would be no restrictions as to when the occupiers of the other flats would use this path. Given the path would be required

to access the cycle storage, it is reasonable to consider that other occupiers of the proposal could use the path at times of the day when these rooms are in use.

12. Given the very close proximity of the path to the side windows and the uncontrolled times of day it could be used, I find that this would result in a highly intrusive relationship in relation to noise and disturbance which would be detrimental to the living conditions of future occupiers of Flats 1 and 2.
13. Whilst the appellant contends that the proposed arrangement is common within other developments, this broad claim would not overcome or otherwise justify the site-specific harm based on the circumstances before me in relation to this appeal proposal.
14. For the reasons given, I conclude the proposal would fail to provide satisfactory living conditions for its future occupiers. The proposal would therefore conflict with Policy DM10 of the Croydon Local Plan (2018) (CLP) and Policy D6 of the London Plan (2021) (LP). These policies, amongst other matters, seeks to ensure that development provides a comfortable, functional and fit for purpose layout which provides adequate daylight to future occupants and high-quality amenity space.

Cycle provision

15. The development would provide cycle storage space to the rear of the property which would be accessed by the side path between the appeal property and neighbour.
16. The appellant has demonstrated that the path would be slightly wider than the width of a larger bicycle such as a cargo bike. However, the width would still be narrow between the appeal property and boundary fence. It would likely be challenging and highly inconvenient for a future occupier to readily walk or cycle a bicycle up the path to the storage area. The cycle storage area would therefore be undesirable to use and impractical to access.
17. It has been suggested by the appellant that an alternative cycle parking arrangement to the front of the site could be secured by a condition. The appellant has included an unscaled extract of an alternative plan to their statement of case. However, the Planning Practice Guidance² sets out that in such a scenario, the best course of action would be for a revised application, and where significant changes are involved the need for a fresh application.
18. Moving the cycle parking to the front of the property would be a significant change to this application and could have further implications, such as on the access to the site, which has not been previously considered. On this basis, it would not be reasonable to impose a condition securing alternative cycle parking.
19. For the reasons given, I conclude, the proposal would make inadequate cycle storage provisions which would conflict with Policies DM29 and DM30 of the CLP and Policy T5 of the LP. These policies, amongst other matters, seek to ensure development promotes measures to increase the use of cycling and provides fit for purpose and well-located cycle parking.

Parking

² Paragraph 012 Reference ID: 21a-012-20140306

20. The appeal proposal would provide one off-street parking space, which the Council considers would fall short of their parking standards by two spaces.
21. The planning application was accompanied by a Parking Survey Report³ which surveyed the on-street parking spaces within a 200m walking distance of the appeal site over three different nighttime periods. It concludes that the average nighttime parking occupancy rate on the roads nearby the appeal site is 84.4%. From the 225 observed spaces within the study area, across the three survey periods between 188 – 191 vehicles were parked on the streets.
22. As such, the evidence shows that there would be sufficient capacity to accommodate the demand from the development within the street and to ensure that there would be sufficient remaining parking so that the development would not cause an unacceptable level of stress on the on-street parking situation that would materially impact the surrounding highway network and result in harm to the safety of other road users and pedestrians.
23. For the reasons given, I conclude, the proposal would not result in harmful parking stress and in this regard would not conflict with Policy DM29 and DM30 of the CLP and Policy T4 of the LP. These policies, amongst other matters, seek to ensure that the movement of pedestrians, cycles, public transport and emergency services would not be impeded, and highway safety would not be compromised by car parking.

Other Matters

24. The fourth refusal reason relates to a lack of a signed legal agreement to secure a sustainable transport contribution and the removal of the proposed properties from being able to apply for parking permits and contracts in car parks run by the Council. Whilst the appellant has stated they would be willing to enter into such an agreement, a signed obligation has not been provided. However, I have found harm in relation to living conditions and cycle provision and as such I do not need to consider this matter further, albeit I acknowledge my findings in respect of parking.
25. The development would make efficient use of land by providing three additional dwellings, which would contribute to the supply of housing within the borough. However, given the small scale of the proposal, this at most attracts moderate weight in favour of the development.
26. The appellant has referred to a planning permission granted by the Council at 14 Beech Road⁴ which they believe has a similar garden arrangement to the appeal proposal. I have only been provided with limited information relating to the particular circumstances of this development which includes an unscaled extract of a site plan and a single paragraph from the associated officer report. I cannot be certain whether the circumstances are directly comparable to the appeal proposal. Even if circumstances were comparable, rather than providing justification for the development in question, its presence points to a need for such proposals to be carefully controlled if the living conditions of future occupiers of the area is to be safeguarded. I therefore do not consider this example attracts positive weight in favour of the proposed development.

³ By Transform Consultants dated 1st December 2024.

⁴ LPA ref 23/00904/FUL.

27. Other examples at 98 Bensham Manor Road and 35 Beatrice Avenue have also been referred to, but no details at all have been provided in relation to these planning permissions. Therefore, I cannot be certain what was approved by these planning permissions and whether the circumstances are comparable to the appeal proposal. I therefore cannot attribute any weight to these examples.
28. I have had regard to a judgment⁵ referenced by the Appellant in support of their submission, but there is nothing contained within it that would alter my findings on the proposal. I have also had regard to the concerns raised by the appellant about the way the Council handled the application, but this does not affect the planning merits of the case. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

Conclusion

29. 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. For the reasons given above, I conclude the appeal should be dismissed.

C Housden

INSPECTOR

⁵ R (Corbett) v Cornwall Council [2020]EWCA Civ 508