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## Appeal Decision

Site visit made on 4 August 2025

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

an Inspector appointed by the Secretary of State

**Decision date: 18 August 2025**

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**Appeal Ref: APP/L5240/W/25/3366551**

**35 Ye Olde Clocktower Public House, Whitehorse Road, Croydon CR0 2JG**

- 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 H Nadir of Xyma 1 Ltd against the decision of the Council of the London Borough of Croydon.
  - The application ref is 24/02796/FUL.
  - The development proposed is erection of a part 3, part 4 storey building with a replacement public house on the ground floor and 17 HMO rooms with kitchens and en-suites. Proposed 3 bedroom flat with cycle and bin store.
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### Decision

1. The appeal is dismissed.

### Applications for costs

2. An application for costs was made by Mr H Nadir of Xyma 1 Ltd against the Council of the London Borough of Croydon. This application is the subject of a separate decision.

### Procedural Matters

3. I have taken the description of development from the application form, however I have removed superfluous text relating to the proposed external elevations being the same as a previous application at the site as this does not amount to an act of development.
4. Whilst it has not been included as a reason for refusal in the Council's decision notice, the Council have referred to inadequate refuse storage facilities in both the officer report and statement of case. As part of the appeal process the appellant was given the opportunity to provide comments on the Council's statement of case, however, no comments were provided. As the appellant was given the opportunity to comment on the Council's statement of case, I am therefore satisfied that no parties would be prejudiced by including the adequacy of the proposed refuse storage as a main issue of the appeal. However, for the reasons that follow, given the harm I have found associated with the other main issues, this matter has not been determinative.
5. The third refusal reason listed on the decision notice 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. Whilst the evidence shows a willingness of the appellant to enter into such an agreement, a

signed obligation has not been provided. However, as I am dismissing the appeal for other reasons, I do not need to consider this matter any further.

## **Main Issues**

6. The main issues are:

- whether the proposal would provide adequate living conditions for the future occupiers of the proposed flat, with specific regard to private amenity space;
- whether the proposal would ensure adequate living conditions for the future occupiers of the residential component of the development, with specific regard to privacy;
- whether the proposal would provide adequate cycle storage facilities; and
- whether the proposal would provide adequate refuse storage facilities.

## **Reasons**

### *Living conditions – private amenity space*

7. It is common ground between the parties that the proposed flat should provide 6m<sup>2</sup> of private amenity space. The evidence shows the Council considers the private terrace to measure 4.8m<sup>2</sup>, whereas the appellant considers it to be 5.4m<sup>2</sup>. In either case, the terrace serving the proposed flat would fall short of the minimum requirement.
8. Future occupiers of the flat would have access to the communal amenity space at roof level, including a children's play space which it has been suggested could be restricted to the future occupiers of the flat.
9. However, private amenity space accessed directly from the property does not serve the same purpose and function as the proposed communal space and play space. Future residents would not undertake the usual activities associated with private space, such as hanging out washing, in the communal space. Furthermore, to access the play space situated on the roof, this would require future residents of the flat to leave their private internal space and walk through communal areas. As such, I do not find that access to the communal area and play space would diminish the harm or otherwise justify the under provision of private amenity space.
10. Therefore, the proposal would provide an inadequately sized private amenity space which would be cramped for the number of occupiers it would serve. This would result in harm to the living conditions of future occupiers. However, this harm would be limited given the small scale of the shortfall. The proposal would conflict with Policies SP2 and DM10 of the Croydon Local Plan (2018) (CLP) and D6 of the London Plan (2021) (LP). These policies, amongst other criteria, seek to ensure that new homes meet the needs of residents over a lifetime and provide high quality private outside space.

### *Living conditions – privacy*

11. The ground floor plan shows that there is a proposed internal door between the public house and residential accommodation. This would allow people from within the public house to access the internal stairwell of the residential accommodation.

12. The appellant states that this door would be “a single heavy duty maintenance door that would remain locked at all times and would be accessible by maintenance and cleaning only when the pub is not in operation”<sup>1</sup>.
13. It has been suggested a condition could be used in order to ensure that this door is locked whilst the public house is open to the public. I have not been provided with draft wording for such a condition.
14. However, with regard to paragraph 57 of the National Planning Policy Framework (the Framework) I do not consider that such a condition would be reasonable or enforceable. It would be unreasonably onerous and practicably impossible for the planning authority to detect a breach of such a condition as it would require the consistent monitoring of who goes through an internal door located within private property.
15. Even if I was to find that a condition was reasonable and enforceable, the internal door would still allow non-residents access into the residential element of the development from the public house. It is unclear as to why maintenance workers and cleaners associated with the public house would need to access the residential element of the development. As such, the proposed door would facilitate unwarranted intrusion from the operation of the public house into the residential areas and would undermine the sense of security future residents would expect within their homes and associated spaces. Therefore, the proposal would result in a lack of privacy for future occupiers of the development which would result in significant harm to their living conditions.
16. The proposal would therefore conflict with Policy D6 of the LP and DM10 of the CLP. These policies, amongst other matters, seeks to ensure that housing developments are of a high-quality design with fit for purpose layouts that are safe for all users.

### *Cycle facilities*

17. The evidence before me shows that the development would provide a sufficient quantity of cycle storage spaces for occupiers of the development, as required by Policy T5 of the LP.
18. However, Policy T5 also requires the provision of visitor cycle spaces and to demonstrate how the cycle parking facilities will cater for larger cycles, including adapted cycles for disabled people. The development does not show that any visitor spaces would be available. Furthermore, the development relies on vertical stands which would not cater for larger and adapted cycles and would not be readily accessible to future occupiers who may have physical limitations or mobility issues. The appeal scheme therefore would make inadequate provisions for cycle storage.
19. It has been suggested that a condition could be used to secure an alternative cycle storage scheme. However, given the limited size of the cycle storage area, I cannot be confident that there is sufficient space for an acceptable arrangement to come forward at the condition discharge stage which could also provide guest spaces and spaces capable of catering to larger and adapted cycles.

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<sup>1</sup> Statement of Case of the Appellant page 2

20. I therefore do not have convincing evidence to suggest that an acceptable alternative scheme could be secured by a condition. As such, in accordance with paragraph 56 of the Framework, I do not consider that the otherwise unacceptable cycle storage arrangement could be made acceptable through the use of a condition.
21. The proposed development would therefore not provide adequate cycle storage facilities, which would attract considerable harm against the development. The proposal would conflict with Policy T5 of the LP. This Policy, amongst other matters, seeks to ensure that development proposals should help to remove barriers to cycling and create a healthy environment in which people choose to cycle. This is achieved by securing the provision of appropriate levels of cycle parking which should be fit for purpose and cater for larger cycles, including adapted cycles for disabled people.

### *Refuse storage*

22. The proposed refuse storage area would be situated on the ground floor with an external access from Union Road. The storage area would serve both the commercial and residential elements of the proposal.
23. The proposed floor plans show that 4x1280 litre bins would be provided in the refuse storage area. However, it is clear from the floor plans that whilst the door would be wide enough for the bins to fit through, the proposed refuse storage room is of an inadequate size to accommodate the bins. With inward opening doors, refuse collectors would be required to take bins out of the store and into Union Road to access and take out bins located further into the store.
24. The refuse storage area would therefore be impractical and not easily accessible for refuse operators owing to the cramped arrangement with poor internal circulation. I therefore cannot conclude that the refuse area would provide sufficient useable capacity for the development.
25. It is also proposed that the commercial component and residential component of the development would share this refuse storage area. By integrating the domestic and commercial refuse, this would likely lead to cross-contamination of commercial waste which would give rise to safety implications for the occupiers of the residential units.
26. Furthermore, Policy DM13 of the CLP is clear that a temporary storage area for bulky waste materials is required for the development, however such an area is not provided. The Council's officer report identifies that a previous decision at the site accepted the development would not have a bulky waste storage area on the basis of it effecting the quantity of commercial floor space.
27. However, the appeal before me is for a different proposal and each proposal should be considered on its individual merits. In this case, the refuse storage provision for the development is unacceptable for the reasons I have given above. Therefore, the lack of a bulky waste storage area would further add to the unacceptable refuse storage provisions proposed by the development before me.
28. The proposal would therefore not provide adequate refuse storage which would attract considerable harm against the development. The proposal would conflict with Policy DM13 of the CLP. This Policy, seeks to ensure that development

provides adequate space for the storage of refuse, including bulky waste, with a layout that ensures facilities are safe, conveniently located and easily accessible.

### **Other Matters**

29. The development would provide a 17-bedroom HMO and a flat, which would contribute to the supply of housing within the borough. Given the scale of the development, this would attract moderate weight in favour of the proposal. The proposal would also provide a new public house which would attract economic and social benefits to the area. I have not been provided with any substantive evidence regarding the need for the pub or level of economic activity it would generate. As such, this would attract moderate weight in favour of the proposal. The development would utilise brownfield land which paragraph 125c of the Framework sets out should be given substantial weight and should be approved unless substantial harm would be caused. The harm caused by the development would meet this threshold of substantial harm for the reasons that I have given. Therefore, these matters are not sufficient to outweigh the harm that I have identified.

### **Conclusion**

30. 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 that the appeal should be dismissed.

*C Housden*

INSPECTOR