



Appeal Decision

Site visit made on 11 August 2025

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2025

Appeal Ref: APP/L5240/C/23/3331046

31 Whitehorse Road, Croydon CR0 2JH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Pelican Assets Ltd against an enforcement notice issued by the Council of the London Borough of Croydon.
 - The notice was issued on 8 September 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised change of use of the ground floor commercial unit to residential use.
 - The requirements of the notice are:
 - 1) Cease the use of the ground floor as a separate residential flat (use class C3).
 - 2) Remove all partitions, walls and doors (and locks) which facilitate the conversion of the property into a residential flat. Remove the kitchen from the ground floor unit this includes kitchen cabinets, worktops, cupboards, cookers and extract hoods.
 - 3) Remove all the resultant debris from the premises as a result of compliance with requirements 1 and 2 as identified above.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary matters

2. At the time of the site visit the ground floor unit was no longer in residential use and was converted back to a retail unit. However, there is no dispute that the residential use was in situ when the Notice was served, and photographs of the site and floorplans¹ have been submitted with the appeal documents which show the former layout of the site, when in residential use. I was also able to observe the overall layout of the unit, and the location and size of windows and doors within the unit. Therefore, the appeal has been determined on this basis.
3. A proposed plan² has been submitted showing external alterations proposed to front, side and rear elevation of the building and a revised internal configuration for the flat. I shall return to this proposed plan later in my decision.

¹ Drawing No: 5090/LO/01.

² Drawing no: 5090/LO/02.

Appeal on ground (a) and the deemed planning application (DPA)

Main Issues

4. The main issues are:

- Whether the occupiers of the flat enjoy satisfactory living conditions, having regard to layout, floorspace, the provision of amenity space, light and outlook;
- Whether the development is acceptable, having regard to car parking, cycle parking and refuse and recycling storage facilities; and
- Whether the development provides suitable fire safety for all building users.

Reasons

Living conditions for occupiers of the flats – layout and floorspace, amenity space, light and outlook

5. The appeal site relates to the ground floor unit of a three-storey building. The upper floors of the building are in use as a self-contained residential unit. Access to the upper floor flat is provided via the side passageway behind a locked gate. The same side passage provides access to another dwelling to the rear of the site. Currently, access to the ground floor unit is only possible from the front entrance doors, and there is no direct access to the side passageway or the rear yard.
6. To ensure that new housing development provides an acceptable level of residential quality and amenity, Policy D6 of the London Plan 2021 require compliance with the minimum space standards in Table 3.1 and of the London Plan 2021 (London Plan). Policy D6, Table 3.1 of the London Plan requires a minimum gross internal floor areas of 37sq.m for 1 bedroom 1 person dwellings and 50sq.m required for 1 bedroom 2-person dwelling.
7. The Council raised an objection to the layout as they considered that the rear bedroom which measures approximately 15sq.m in total enables a 1 bedroom two person dwelling, and as such, the internal floorspace of circa 44sq.m was below the 50sq.m minimum space required. However, the appellant has clarified that the unit would be for a 1-bedroom 1-person unit. Subject to a condition which limits the number of occupants to only 1, the overall internal floorspace and layout conforms with Policy D6 and Table 3.1 of the London Plan.
8. With regard to amenity space Policy DM10.4 of the Croydon Local Plan, 2018 (CLP) and Policy D6 of the London Plan requires a minimum amount of private amenity space of 5m² per 1–2-person unit. Contrary to this, there is currently no direct access to the rear yard from the ground floor unit, and access to the rear of the site is only possible via the side entrance gate which currently provides access to the upper floor flat and dwelling to the rear of the site. The details provided fail to demonstrate the provision of private amenity space solely for the occupiers of the ground floor unit. Consequently, the current layout of the site, fails to provide suitable private amenity space contrary to Policy DM10.4 of the CLP and D6 of the London Plan.
9. In terms of daylight and outlook, whilst the rear bedroom has adequate natural daylight and outlook provided from a rear window, the current ground floor plan and photographs provided by the Council show that the living room area

was only served by the obscure glazed windows of the shopfront. Whilst the large glazing would provide acceptable levels of natural light, the obscured nature of the glazing would have resulted in extremely poor levels of outlook for occupiers of this one-bedroom dwelling.

10. Furthermore, the two windows serving the dining room/kitchen in the middle of the unit are positioned facing the narrow-shared side passageway for the other residential units and are in close proximity to the brick flank wall of the adjacent new 4 storey building. This would further limit the amount of natural daylight reaching the dining and kitchen area and would also result in poor levels of light (daylight and sunlight) and outlook for occupiers of this ground floor unit.
11. Therefore, whilst the overall internal floorspace and layout of the ground floor flat is acceptable, I conclude that the unauthorised use harms the living conditions for the occupiers of the dwelling, with particular regard to outlook, daylight, sunlight, and the provision private amenity space, in conflict with Policy D6 of the London Plan, and Policies DM10.4 of the CLP. Amongst other things these require the aforementioned aims and requires that new housing to be of high-quality design and should provide sufficient daylight and sunlight to new housing.

Car parking, cycle parking, refuse and recycling facilities

12. The site lies within a public transport accessibility level rating (PTAL) of 6b which represents an excellent level of public transport accessibility. The site is within an area of Controlled Parking Zone (CPZ) restrictions.
13. In relation to car parking Policy DM30 of the CLP requires car parking to be provided in accordance with the London Plan. Policy T6, T6.1 and Table 10.3 of the London Plan requires sites in PTAL 6 to be car free, with the exception of disabled persons parking. This is to ensure that residential developments do not adversely impact the highway network and promote the use of more sustainable forms of transport in areas well served by public transport.
14. In general conformity with the above policies, no on-site parking provision is proposed to serve the development. To secure the car free development, a mechanism is required to ensure that anyone living at the appeal site, other than a Blue Badge holder, would not be eligible to apply for a resident's parking permit. My attention has been drawn to the planning history of the site where an appeal was dismissed at this site also for a change of use of the appeal site to residential use (Appeal Ref: 3250507 dismissed on 5 October 2021). In relation to car parking, the Inspector stated:

"9. I have not been provided with any detailed information in respect of car parking demand in surrounding streets. However, the existing use of the ground floor use would also likely to generate some demand for parking and it has not been demonstrated that the proposed development would increase that demand. As such, in this instance the proposed development would not significantly impact on demand for on-street parking and future occupiers of the proposed dwelling would have options other than the private motor car. Therefore, in this instance the lack of parking would be acceptable provided that appropriate cycle parking could be provided.

15. With the current appeal, no further evidence has been provided in relation to parking stress data in the surrounding area, and I agree with the previous Inspector's comments that the former use as a shop would have also generated some demand for parking. Given the site's location in an area of excellent public transport accessibility and the limited size of the flat created for one person only, the development with no on-site parking provision is acceptable on this occasion, and in general conformity with Table 10.3 and Policy D6 of the London Plan.
16. Turning to cycle parking, Policy T5 of the London Plan requires developments to provide cycle parking at least in accordance with the minimum standards set out in Table 10.2. For studio flats the minimum requirement is one cycle parking space. Whilst no cycle parking spaces are currently provided on site, a cycle parking space is proposed within the rear yard, which complies with Policy T5. The same rear yard could also be used to provide space for refuse and recyclable storage which could be secured by condition.
17. I therefore conclude that the development is acceptable, having regard to car parking, cycle parking, and refuse and recycling facilities in accordance with Policies T1, T2, T5 and T6 of the London Plan, and Policies DM13, DM29 and DM30 of the CLP. Together, these seek the aforementioned aims, and promotes measures to increase the use of public transport, cycling and walking and ensures that the location and design of refuse and recycling facilities are treated as an integral element of the overall design.

Whether the development provides suitable fire safety for all building users

18. The appellant has submitted a Fire Statement with their appeal, which outlines a number of fire safety measures for the site which has already been approved by the Council in a recent planning application for a similar change of use of the ground floor to a residential flat. No further explanation has been provided to explain why this statement would not be acceptable.
19. Therefore, the development provide suitable fire safety for all building users, in accordance with Policy D12 of the London Plan, which requires that that all development proposals provide the highest standards of fire safety.

Alternative scheme

20. Section 177(1) of the Act allows me to grant planning permission in respect of the matters stated in the Notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the Notice relates.
21. The appellant has submitted further proposed drawing³ with a revised internal configuration which he considers would overcome the harms outlined above. In addition to the revised internal layout of the residential flat, the alternative scheme also proposes the replacement of the existing shopfront with two new windows on the front elevation; the installation of new doors and windows on the side elevation and the enlargement of an existing window in the rear elevation. These external alterations to the building facilitates the revised design and layout of the building to create a studio flat. Therefore, I must consider whether or not this proposed alternative scheme amounts to 'part of the matters' and should be permitted.

³ Drawing no: 5090/LO/02

22. It is clear from the Notice (including the heading, allegation, requirements and reasons for issuing the notice) that it is only 'attacking' the unauthorised change of use of the ground floor commercial unit to residential use. The external alterations proposed as part of the revised scheme do not form part of the matters stated in the Notice. Furthermore, the allegation cannot be corrected in order to change the DPA, and there is no power to grant planning permission for something completely different to that being enforced against and on the ground. As such, the proposed external alterations proposed to the building on the front, side and rear elevations falls outside of the scope of the Notice.
23. The proposed external alterations combined with the proposed revised internal layouts for the studio flat is fully integrated and there are no severable, acceptable parts. Therefore, the proposed revised layouts of the self-contained flat are not functionally and physically severable from the proposed external alterations of the building. I therefore conclude that this alternative scheme does not form part of the matters alleged, and so I cannot consider it. Indeed, I note the appellant has applied for permission for this scheme outside of this appeal.

Other matters

24. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The unauthorised use provides unacceptable living conditions for occupiers of the appeal site, in conflict with the development plan taken as a whole. The adverse impacts of the unauthorised use would outweigh the limited benefit of a studio flat close to Croydon Town Centre with excellent public transport accessibility. Furthermore, the 'alternative scheme' proposed does not form part of the matters alleged, and so I cannot consider it. Therefore, there are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.

Conclusion

25. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

R Satheesan

INSPECTOR