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## Appeal Decisions

Site visit made on 24 September 2025

**by E Catcheside BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 21 October 2025**

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### **Appeal A Ref: APP/L5240/W/25/3368320**

#### **16 Elgin Road, Croydon CR0 6XA**

- 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 Qasim Gulamhusein (Marlpark 16 CR0 Ltd) against the decision of the Council of the London Borough of Croydon.
  - The application reference is 24/03711/FUL.  
The development proposed is single storey extension, basement excavation, loft conversion, and conversion of 2 maisonettes into 8 person sui generis HMO.
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### **Appeal B Ref: APP/L5240/W/25/3369814**

#### **16 Elgin Road, Croydon CR0 6XA**

- 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 Qasim Gulamhusein (Marlpark 16 CR0 Ltd) against the decision of the Council of the London Borough of Croydon.
  - The application reference is 25/01683/FUL.
  - The development proposed is change of use from 2 maisonettes to a Sui Generis House in Multiple Occupation for a maximum of 7 occupants.
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## **Decisions**

1. Appeal A is dismissed.
2. Appeal B is dismissed.

## **Applications for costs**

3. Applications for costs in respect of Appeal A and Appeal B were made by Marlpark 16 CR0 Ltd against the Council of the London Borough of Croydon. The applications for costs are the subject of separate decisions.

## **Preliminary Matters**

### Appeal A and Appeal B

4. As set out above, there are two appeals on this site. Both appeals propose the change of use of the building to a House in Multiple Occupation (HMO). A key difference between the two schemes relates to the proposed number of occupants in the HMOs, as is set out in the development descriptions. The Appeal A scheme also proposes various alterations to the building, which are not included within the Appeal B scheme. I have necessarily considered each scheme on its own merits. However, because the issues arising in the two appeals are similar, and to avoid

duplication, I have dealt with the two schemes together where appropriate and unless indicated otherwise.

5. The appellant has raised multiple concerns in respect of the lawfulness of the Council's decision-making process, and I have been referred to various pieces of case law in this regard. I have considered the issues raised insofar as they are relevant to the applications for costs in those separate decisions. However, matters of lawfulness fall beyond the scope of these Section 78 appeals, and I have no power to quash the Council's decisions. I have necessarily determined the appeals with regard to the development plan and the other relevant considerations before me.
6. On 9 October 2025, the Council granted planning permission 25/02300/FUL at the site for a development described as "change of use from 2 maisonettes (C3) to a C4 small house in multiple occupation for a maximum of 5 occupants". The decision notice includes a condition that limits the occupation of the development to 5 persons in 5 separate rooms at any one time. Whether or not the permission authorises the occupation of the property by 6 people is not a matter for me to consider as part of the appeals before me. However, I have had regard to planning permission and the submissions made in respect of it in my consideration of the appeals.

#### Appeal A

7. Two signed Unilateral Undertakings (UU) were submitted during the appeal process. The second UU, submitted alongside the appellant's final comments, seeks to correct an error in the first UU that was submitted at the time the appeal was made. I have had regard to the UUs and will set out my approach to them later in this decision.
8. The decision notice cites a single reason for refusal, which refers to the effect of the proposal on the residential characteristics of the East India Estate Conservation Area (EIECA). However, from my review of the whole evidence before me and my own observations of the site and surroundings, I have identified two main issues in this appeal, with the second being the effect of the proposal on car parking and highway safety. This issue is described in the evidence as having been a relevant consideration in other applications and appeals at the site, and both parties have commented on it in respect of this appeal in their evidence. Therefore, I am satisfied that there is no prejudice caused in me determining the appeal without reverting to the parties for further comment on this matter.

#### Appeal B

9. A signed UU was submitted at the final comments stage of the appeal due to a technical error at the time of the appeal submission. I have had regard to the UU and shall set out my approach to it later in this decision.

#### **Main Issues**

10. The main issues in Appeal A and Appeal B are:
  - The effect of the proposal on car parking and highway safety; and
  - Whether the character or appearance of the host property and the EIECA would be preserved.

## Reasons

### *Car parking and highway safety*

11. The appeal site lies within a controlled parking zone (CPZ) where the availability of on-street parking spaces is restricted by the prevalence of dropped kerbs. I observed that, at the time of my site visit, there was very limited availability of on-street parking spaces and there is no parking survey or other evidence before me to suggest this situation is different at other times or on different days. Therefore, the area around the appeal site experiences parking stress. It is also located within an area with a Public Transport Accessibility Level of 4 with good access to public transport. Policy DM30 of the LP states that, in these circumstances, development proposals must reduce the impact of car parking. It is therefore appropriate for the developments to be car-free, as is proposed.
12. In its consideration of planning application 25/02300/FUL, the Council concluded that the use of the property as a 5-bedroom HMO would not materially increase the demand for car parking in comparison to the existing use of the building as two maisonettes. This position broadly reflects the approach taken in a previous appeal decision at the site<sup>1</sup>, in which the Inspector concluded that a reduction in the number of bedrooms and the likely occupancy of the building would not increase the demand for car parking and would not adversely affect existing levels of parking stress in the area.
13. However, in considering a separate appeal for a large HMO at this site<sup>2</sup>, the same Inspector found that the use of the property by 7 separate households would be likely to generate materially greater parking demands than two single household maisonettes or a large single dwelling. The appellant has referred me to various pieces of case law<sup>3</sup>, which highlight the desirability of consistency in decision-making, and there is no car ownership data or other substantive information before me to contradict the previous Inspector's findings in this regard.
14. Moreover, the plans and supporting information for Appeal A indicate that the existing on-plot car parking provision would be removed to provide space for refuse storage and its screening by bushes across the site frontage. The application form for the Appeal B scheme states that there is no existing parking provision, which does not align with my own observations of the site. The evidence for the Appeal B scheme states that refuse storage would be positioned at the front of the property behind additional planting, which would impede the use of the existing forecourt for parking. Therefore, unlike the existing development, both appeal schemes would preclude the opportunity to park vehicles on the site.
15. In this context, future occupants choosing to own a car would be likely to seek parking spaces in the surrounding area. This would exacerbate the parking stress that already exists on Elgin Road which, in turn, would lead to a car-dominant environment and the risk of unsafe parking practices to the detriment of highway safety. Therefore, in order to effectively deliver the car-free proposals, there must

<sup>1</sup> Appeal decision reference: APP/L5240/W/23/3334189, dated 3 April 2025

<sup>2</sup> Appeal decision reference: APP/L5240/W/23/3333964, dated 3 April 2025

<sup>3</sup> Including: North Wiltshire DC v SSE & Others [1993] 65 P. & C.R 137; Baroness Cumberlege of Newick and Patrick Cumberlege v SSCLG & Others [2017] EWHC 2057 (Admin); St Albans City and District Council v SSCLG & others [2015] EWHC 655 (Admin); The Queen (on the application of The Midcounties Co-operative Limited) v Forest of Dean District Council [2017] EWHC 2056 (Admin); and The Queen on the application of Angus Bates v Maldon District Council [2019] EWCA Civ 1272.

be a mechanism through which future occupants would be prevented from applying for a residents parking permit.

16. The appellant has stated a willingness to enter into planning obligations to secure the proposals as car-free; and I have been provided with signed UUs in respect of both appeals. However, none of the UUs before me are dated and the site plans referred to in each of the documents is missing. There are some other drafting errors, including reference to the applications being for outline planning permission when they are not. Consequently, the UUs are flawed and incomplete and I have concerns over their effect and enforceability. For that reason, I do not ascribe weight to the UUs in my decisions.
17. Like the Inspector dealing with the previous appeal for a HMO at this site, I do not consider the developments could be secured as car-free through a condition, including a negatively worded condition requiring a planning obligation or other agreement to be entered into before the developments can commence. The Planning Practice Guidance<sup>4</sup> is clear that such a condition should only be used in exceptional circumstances, and there are no such circumstances before me. Moreover, the Procedural Guide: Planning Appeals – England makes it clear that the appellant must ensure that an executed and certified copy of the planning obligation is submitted at the time of making their appeal.
18. The absence of completed planning obligations in respect of the appeals is not a minor procedural matter. Rather, it would lead to unmitigated harm through the exacerbation of parking stress, leading to a car-dominant environment and unsafe parking practices. This is a relevant planning consideration in these appeals, and it has implications for the acceptability of the proposed developments in planning terms which I must necessarily consider.
19. It is clearly open to the appellant to re-apply for planning permission for the appeal schemes inclusive of the necessary planning obligations. Whilst I acknowledge the appellant's pessimism as to whether such applications would be successful, I cannot predetermine the Council's future decisions and, in any event, I must assess the proposals as they are before me.
20. Consequently, and having regard to all of the above, I find that the Appeal A scheme and the Appeal B scheme would each exacerbate parking stress in the area, leading to increased congestion and harm to highway safety through unsafe parking practices. Therefore, for both appeals there would be conflict with Policies T6 and T6.1 of The London Plan (March 2021) and Policies SP8, DM29, and DM30 of the LP which, taken together, seek to ensure that proposals incorporate an appropriate approach to car parking and do not cause detrimental impacts to highway safety.

### *Character and appearance*

21. The appeal site lies within the EIECA. Therefore, the statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is engaged, which requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the- EIECA. The National Planning Policy Framework (the Framework) states that the significance of a heritage asset should be taken into account when considering the impact of

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<sup>4</sup> Planning Practice Guidance Paragraph: 010 Reference ID: 21a-010-20190723

proposals; and that any harm to the significance of a designated heritage asset should require clear and convincing justification.

22. The EIECA encapsulates six parallel roads, including Elgin Road, which are noted within the East India Estate Conservation Area Appraisal and Management Plan Supplementary Planning Document (CAAMP) for creating a strong urban 'ladder' structure that contributes to the spatial quality and formal layout of the estate. These special characteristics contribute to the significance of the EIECA as a designated heritage asset, along with its concentration of historic buildings of a high architectural quality and the area's strong historical association with the East India Military Academy. The CAAMP notes that almost all of the buildings in the EIECA are in residential use.
23. The appeal building is locally listed, and it forms part of the large collection of historically and architecturally significant buildings found on Elgin Road. The property comprises one half of a three-storey semi-detached pair that retains its original architectural detailing, and it is identified in the CAAMP as one of the most distinguished examples of such buildings in the EIECA. Like most other buildings in the EIECA, the property is in residential use, albeit that it has been converted into two maisonettes. The appeal property therefore makes a positive contribution to the character and appearance of the area, and to the significance of the EIECA.

#### Appeal A

24. The CAAMP sets out the key threats to the character of the EIECA, which include overly large extensions, poor quality alterations, and changes that disrupt the uniformity of architectural groups. The Council has not identified any harm in respect of the proposed extensions to the property, which are similar in scale and nature to some extensions that are permitted under a separate planning permission. The proposed physical changes to the building would predominantly take place to the rear of the property, or they are otherwise small in scale. Therefore, these elements of the proposal would safeguard the character and appearance of the EIECA.

#### Appeals A and B

25. The Council makes clear in its evidence that it does not object to the loss of a small residential unit<sup>5</sup> in either appeal scheme, due to the presence of a viable fallback position which allows for the amalgamation of the two existing maisonettes into a single dwelling house with a large internal floor area. I see no reason to disagree. Rather, the Council's concern, as is made clear in its appeal evidence, is that harm to the character of the area would arise through the change in the composition of households residing in the appeal building and in the EIECA as a whole, where the Council states that most properties are occupied by families.
26. Case law<sup>6</sup> has determined that the effect of a development on the character and appearance of the area is not necessarily limited to physical changes to the exterior of buildings. Moreover, whilst the CAAMP does not specifically identify the change in household composition as a threat to the EIECA, it does note that the conversion of dwellinghouses to multiple occupancies can result in changes to the

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<sup>5</sup> Policy DM1.2 of the LP resists the loss of homes smaller than 130m<sup>2</sup>.

<sup>6</sup> Nasir Kazalbash v SSLUHC & Others [2023] EWCA Civ 904.

- visual appearance of the area, and it cites the lack of screened storage for refuse bins as harmful to the street scene and the visual appearance of buildings.
27. I have not been directed to any development plan policy or local guidance that sets out the concentration of HMOs that would be acceptable in the EIECA. However, Policy SP2 of the LP highlights the importance of ensuring there is a choice of housing for people in socially balanced and inclusive communities; and the Framework encourages the delivery of homes to meet the needs of different communities. The evidence before me suggests that there are only a small number of existing HMOs on Elgin Road and in the wider EIECA. Therefore, even with either appeal scheme in place, HMOs would represent a minority of properties on the street and in the area. Consequently, the proposals would not significantly change the household mix in this residential community and, with either appeal scheme in place, the EIECA would remain an area that is predominantly made up of family accommodation.
  28. There is no substantive evidence before me to indicate that the comings and goings associated with the use of the appeal property as either an 8-person HMO (Appeal A) or a 7-person HMO (Appeal B) would be materially different or more intensive than its current use as two maisonettes. The two existing properties could feasibly house multiple occupants who could have individual schedules for schooling, employment, and socialising spread across various times of the day. Even if there was some increased activity associated with the proposals, the movements to, from, and around the property would be related to its domestic use and, therefore, would be in-keeping with the residential character of the EIECA.
  29. The plans for Appeal A show that refuse bins would be enclosed within a store and screened by planting; and cycle parking would be concealed from public viewpoints to the rear of the building. The evidence for Appeal B is that a similar arrangement to Appeal A is proposed for the location of refuse and cycle storage facilities, although no details are shown on the plans. I am satisfied that there would be sufficient space within the grounds of the property for the facilities to be provided in a visually discrete way for each appeal scheme. In this regard, the proposals differ from the appeal scheme at 39 Mitcham Park<sup>7</sup>, where the Inspector found that there would be a substantial amount of refuse bins that would be visually prominent. For both appeals, the details of the refuse storage and the cycle parking facilities could be secured through conditions if the appeals were to be allowed, which would enable the Council the opportunity to ensure there would be no visual harm arising to the building or the EIECA.
  30. Overall, for both Appeal A and Appeal B, I conclude that the character and appearance of the host property and the EIECA would be preserved. Therefore, there would be no conflict in either appeal with Policy DM18 and SP4 of the LP, and Policy HC1 of the LonP which seek to ensure that development proposals preserve, respect or enhance the significance of heritage assets.

## Planning Balance and Conclusions

31. Each of the appeal schemes would contribute towards a mix of housing to meet the needs of different groups in the community, and they could make efficient use of this existing building. They would, therefore, conform with locally adopted and national policies in these respects. However, whilst these benefits carry positive

<sup>7</sup> Appeal decision reference: APP/T5720/W/21/3272488, dated 20 December 2021.

weight, they would not outweigh the unmitigated harm to parking stress and highway safety that I have found in respect of Appeal A and Appeal B.

32. I have not identified harm would be caused to the character or appearance of the host property or the EIECA in either appeal. This is a neutral matter that weighs neither for nor against the proposals.
33. Consequently, I find that both the Appeal A scheme and the Appeal B scheme would conflict with the development plan when read as a whole. The material considerations do not indicate that decisions should be made other than in accordance with the development plan. Therefore, for the reasons given above, Appeal A and Appeal B should be dismissed.

*E Catchside*  
INSPECTOR