
Appeal Decision

Site visit made on 15 September 2025

by **P Terceiro BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24th October 2025

Appeal Ref: APP/L5240/W/25/3365570

1A Brighton Road, South Croydon, Croydon CR2 6EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Qasim Gulamhusein (1a CR2 LTD) against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 24/04012/OUT.
 - The development proposed is described as outline planning application for the erection of a 5 storey block comprising 25 flats and 2 commercial units (access reserved).
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Qasim Gulamhusein against the Council of the London Borough of Croydon. This application is subject to a separate decision.

Preliminary Matters

3. The original application was made in outline with details of appearance, landscaping, layout and scale submitted for approval. Details relating to access are reserved for later consideration. I assessed the appeal on that basis.
4. The appellant submitted a revised set of drawings with the appeal which seek to address concerns raised by the Council. In comparison with the originally submitted plans, the latest revised plans include changes to the bin and cycle store, top floor indentation, entrance door treatment and third floor rear balconies. The appeals procedural guide¹ makes it clear that the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the Council, and on which interested people's views were sought.
5. Whilst individually the proposed changes are minor, cumulatively they are substantial and fundamentally different to what was considered by the Council when it made its decision. Therefore, having regard to the principles established by the Courts in this matter², in the interests of fairness, I have determined the appeal based on the plans on which the Council made its decision, and which have been

¹ Procedural Guide: Planning Appeals – England

² Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 and Wheatcroft (Bernard) Ltd v Secretary of State for the Environment [1982] JPL 37

subject to consultation. To do otherwise could unacceptably prejudice the interests of other parties.

6. My attention is drawn to a previous appeal decision³ relating to an outline planning permission for demolition of existing showroom and warehouse and erection of a 5-storey block to contain up to 28 self-contained residential units and up to 3 retail units (reserved matters are access, appearance, landscaping, layout). I have had regard to that decision only insofar as it is relevant to my assessment of the main issues in this case, but I have determined the appeal based on the evidence and the details of the proposal before me.

Main Issues

7. The main issues are:

- the effect of the proposed development on the character and appearance of the area, including its effect on the significance of the non-designated heritage asset (NDHA); and
- whether the development necessitates the provision of affordable housing, end user occupier/fit out commercial unit, air quality, carbon emission offset, be seen energy requirements, highway works, sustainable modes of transport and promotion, and local employment and training opportunities and, if so, whether an appropriate mechanism to secure these has been secured.

Reasons

Character and appearance

8. The appeal site lies within Brighton Road, near its junction with South End and Selsdon Road. It is a parcel of land with an irregular shape and wide frontage, which accommodated a commercial building that has been demolished. Brighton Road is a major thoroughfare which in this area is characterised by a variety of building styles that range from Victorian and Edwardian eras to more modern buildings, normally with commercial or retail uses on the ground floor and residential accommodation above, as well as blocks of flats. The front elevations are usually visually balanced, and the shop fronts are normally articulated. The scale of the surrounding buildings is varied, and it includes three and four storey high terraces and detached buildings.
9. The former Swan and Sugarloaf Public House, now a convenience store with residential units on the upper floors, is a NDHA adjacent to the site. This Victorian building occupies a prominent position within the street scene, and insofar as is relevant to this appeal, its significance derives from its distinctive façade and prominent features including ornate detailing, distinctive fenestration with a clear hierarchy and striking roof form.
10. The proposed building would be 5-storey and have frontage onto Brighton Road. Despite being arranged around a central section, the proposed front façade would display an irregular pattern of terraces and window grids, with the flanking elements of the building appearing significantly different. Moreover, at roof level, the mix of windows and projecting balustrades would not follow any pattern and would not adequately respond to those on the lower levels of the building. As a result, the

³ Appeal Ref APP/L5240/W/23/3326319

front elevation would overall have a discernibly irregular rhythm and would fail to appear coherent.

11. At ground floor level, the front elevation would be dominated by glazing, with little elements of visual interest and detail to break up the glazing. The cycle and bin store doors would be prominent because of their size and height, while the main front door to the building would be recessed and less legible. Therefore, while the scheme would provide opportunities for passive surveillance, the proposal would appear incongruous in its surrounding context, thereby failing to create a sense of place and would not successfully address the public realm.
12. The composition of the proposed building, due to the lack of a clear rhythm, flat elevations with minimal detailing, and large expanses of uniform and stacked glazing would fail to relate well with the Swan and Sugarloaf, thereby causing substantial harm to the setting of the NDHA and therefore to its significance. On the other hand, the proposed reduction of scale and massing would respect the prominence of the NDHA. However, in my judgement, this would not overcome the identified harm to the significance of the NDHA.
13. The appellant asserts that details regarding materials, commercial plinth, window reveal depths, main entrance, bin and cycle doors and articulation of shopfronts could be secured by condition, were I minded to allow the appeal. However, in considering whether this otherwise unacceptable development could be made acceptable through the use of conditions, I find that securing such matters through condition would amount to significant changes to the appeal scheme. Therefore, I am not persuaded that the use of planning conditions would be reasonable in this case.
14. In light of the above, the proposed development would have a harmful effect on the character and appearance of the area, including on the significance of the NDHA, contrary to Policies D3 and D4 of the London Plan 2021 (LP) and to Policies SP4, DM10 and DM18 of the Croydon Local Plan 2018 (CLP). Amongst other things, these policies promote high quality design which respects and enhances local character and only permit development affecting heritage assets if their significance is preserved or enhanced.

Whether a legal agreement is needed

15. CLP Policy SP4.2 relates to the delivery of affordable housing in the borough. The requirement for affordable housing, including review mechanisms, is set out with LP Policies H4, H5 and H6.
16. A viability review was not submitted with the planning application, but the Planning Statement advises that the viability of the proposed affordable housing contribution has already been established under a previous planning permission⁴ for a similar number of residential uses and commercial units as the proposal before me. Such provision comprised a financial contribution towards affordable housing and the delivery of four First Homes units, which is echoed on the legal agreement provided by the appellant. Accordingly, I am satisfied that the proposal would be acceptable in terms of affordable housing provision.

⁴ LPA Ref 24/01006/OUT

17. Policies in the LP and CLP require mitigation of the impact of the development on certain services and the environment. These include, in the absence of identified end users, the fit out of the proposed retail units; air quality; carbon emission offset; energy requirements; highway works; promotion of sustainable modes of transport; and local employment opportunities. I am satisfied that these requirements are necessary to make the development acceptable in planning terms, are related to the proposal and are proportionate in scale and kind. They therefore meet the relevant tests within the National Planning Policy Framework, Planning Practice Guidance and Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010.
18. The appellant provided a copy of a legal agreement, in similar terms to that approved under the previous outline application. This is a bilateral Section 106 agreement that places some obligations on the Council, including approving the local employment and training strategy, issuing a compliance certificate following receipt of evidence of a First Home disposal, and approving the submitted energy assessment.
19. The appeals guidance⁵ requires an executed and certified copy of the planning obligation to be provided at the time of making the appeal. This was not done. The version submitted at the final comments stage by the appellant was still not signed by all parties or dated. I see no reason to depart from the guidance in this case. Since the copy of the legal agreement has not been dated nor signed by the Council, it is therefore not enforceable. In the absence of a completed legal agreement the provision of the necessary contributions cannot be secured.
20. The proposal would therefore conflict with the policy requirements of LP Policies D4, D6, H4, H5, H6, E11, SI1, SI2 and T1, and with CLP Policies SP2, SP3, SP4, SP6, SP8, DM4 and DM29, which amongst other things seek to secure affordable housing and require the mitigations set out above.

Other Matters

21. It has been brought to my attention during the late stages of this appeal that the Council has resolved to grant outline planning permission for a 4 storey development comprising commercial units on the ground floor and 17 self-contained residential units on the upper floors (access reserved)⁶. However, I have not been provided with the full details and circumstances that led to the Council's resolution. In addition, the number of units pertaining to this other application differs from that in the scheme before me. As such, while I had regard to the North Wiltshire case⁷, I find that the Council's resolution in relation to this other scheme is of limited relevance in the context of this appeal.
22. I understand that this proposal follows previous planning applications, some of which were approved by the Council. While it may be that the proposed design has evolved from previous applications and shares some elements in common with those previous schemes, some of which may have been found acceptable, for the reasons set out above the proposal would be harmful in its own right.

⁵ Procedural Guide: Planning appeals – England

⁶ LPA Ref: 25/01253/OUT

⁷ North Wiltshire DC v Secretary of State for the Environment (1993) 65 P&CR 137 (CA)

23. The appellant asserts that the proposal would optimise site capacity. However, there is no compelling evidence before me to demonstrate that this proposal is the sole means to achieve this.

Planning Balance

24. The proposal would be acceptable in regard to other aspects, including living conditions of future residents, and employment of sustainable design principles. However, these are neutral factors that neither weigh for or against the development.
25. The benefits associated with appeal scheme include the delivery of a net gain of 25 new apartments in an accessible location and contribute towards the housing stock within the Borough. The scheme would make use of a brownfield site and would form an effective use of land. Future residents would be active in the local community, and some economic benefits would be delivered during construction phase and following occupation. Soft landscaping would be incorporated in the scheme which would assist in enhancing the ecological value of the site. Taken together, these benefits attract moderate weight in favour of the appeal proposal, but do not outweigh the harm that I have identified.

Conclusion

26. The proposal conflicts with the development plan as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

P Terceiro

INSPECTOR