
Appeal Decision

Site visit made on 10 November 2025

by **L Gardner MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 November 2025

Appeal Ref: APP/L5240/W/25/3371647

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 outline planning permission.
 - The appeal is made by Mr Qasim Gulamhusein of Marlpark 16 CR0 Ltd against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 25/01686/OUT.
 - The development proposed is application for outline planning consent: single storey side and rear extension, basement extension, loft extension and conversion into 4 self contained flats. All matters reserved except for layout, scale and appearance.
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Decision

1. The appeal is dismissed.

Applications for Costs

2. An application for costs was made by Mr Qasim Gulamhusein of Marlpark 16 CR0 Ltd against the Council of the London Borough of Croydon. This is the subject of a separate decision.

Preliminary Matters

3. The application was made in outline (dealing with appearance, layout and scale) with matters relating to access and landscaping reserved for future consideration. I have determined the appeal accordingly.
4. During the appeal proceedings, the appellant has provided revised plans showing amendments to the scheme considered by the Council. The changes relate to the internal layout at basement and ground floor, amongst other factors reconfiguring the main living spaces and bedrooms. Whilst the appellant considers these changes to be minor, they do not reflect the scheme which was subject to consultation.
5. The appeal must be determined based on the plans as originally submitted to the Council and upon which it based its decision. To do otherwise would prejudice the interests of the Council, interested third parties and consultees, who have not been consulted on the revised scheme and who may have observations to make, particularly in respect to the revised sizes of main living spaces (which in the case of the bedroom on the ground floor would be smaller). I have therefore proceeded to determine the appeal based on the plans as originally submitted.
6. The appellant has also provided a daylight and sunlight assessment in response to the Council's reason for refusal. The Council has had the opportunity to comment

on this document during the appeal proceedings and therefore I have taken it into account in reaching my decision.

7. The first reason for refusal referred in part to an undersized second-floor unit. However, the Council has accepted that, based on the details submitted to support the appeal, the second-floor unit would comply with the relevant standards regarding internal floor space. Given this matter is no longer in dispute between the main parties, I shall not address it further.
8. The Council's officer report makes various references to the proposal relating to a scheme for a house in multiple occupation (HMO). I have disregarded reference to these given that the proposal is for four self-contained units rather than a HMO.
9. A unilateral undertaking (UU) was submitted to accompany the appeal. This document was subsequently updated during the appeal proceedings, providing a signed and dated version, to which the Council has had the opportunity to comment. Having regard to recent case law¹, the UU forms a material planning consideration and as such I have accepted and considered it as part of my decision.

Main Issues

10. The main issues are:

- the effect of the proposal on car parking and highway safety and whether the proposal would make adequate provision for any additional need for sustainable transport improvement arising from the development, and;
- whether the proposal would provide its occupants with acceptable living conditions, with particular regard to the provision of internal living space, outlook and daylight.

Reasons

Car parking and sustainable transport

11. Elgin Road is within a controlled parking zone (CPZ) with a public transport accessibility level (PTAL) of 4, which is considered to be good on a scale of 0 – 6b. Parking along the road is also restricted by the prevalence of dropped kerbs. At the time of my site visit, I observed that parking availability was limited. Whilst I appreciate that this is a snapshot in time, I have not been presented with evidence such as parking surveys which suggest the situation is usually different.
12. The proposal would lead to the creation of four flats which would generate additional traffic to the highway network. The development is proposed to be car-free which the Council has accepted in principle. I also note that this has been accepted by an Inspector in dealing with previous appeals at the appeal site, specifically for a three-unit scheme² and a proposal for four self-contained flats³.
13. In the case of the three-unit scheme, the Inspector concluded that a legal agreement to mitigate the effects of the development on parking was not

¹ Tiwana Construction Ltd v SSHCLG & West Suffolk Council [2025] EWHC 1485 (Admin)

² APP/L5240/W/23/3334189 decision dated 3 April 2025

³ APP/L5240/W/24/3337606 decision dated 3 April 2025

necessary. However, the proposal before me is for a greater quantum of development and is therefore materially different.

14. The appeal decision for the previous scheme for four self-contained flats is of more relevance to my decision. In respect to this main issue, the Inspector concluded that, *“the uplift in the number of units is likely to materially increase parking demand and it is not shown that there is sufficient capacity for any additional vehicles to be parked on the highway. I therefore find that the development is more likely to result in an increase in parking stress and associated annoyance and inconvenience for existing residents in the area”*.
15. I see no reason to reach a different conclusion and therefore also find that, in order to deliver a car-free development a mechanism is required to ensure that residents would not be eligible to apply for a residents parking permit.
16. The Council's reason for refusal in relation to this matter also refers to the promotion of sustainable transport measures. The Council has set out the planned sustainable transport improvements which include car clubs with electric charging points and the required traffic order for these, to improve air quality and decarbonise private transportation over the plan period. A contribution of £1,500 per unit is sought.
17. Policy SP8 of the Croydon Local Plan (2018) (CLP) states, amongst other matters that new development will be required to contribute to the provision of electric vehicle charging infrastructure, car clubs and car sharing schemes. Policies DM29 and DM30 of the CLP relate to promoting sustainable growth in Croydon by promoting measures to increase the use of public transport and reducing the impact of car parking. Policy T6 of the London Plan (2021) (LP) acknowledges that car parking should be restricted in line with levels of public transport accessibility, whilst Policy T6.1 of the LP in part recognises that car club spaces may be considered appropriate but that they should have active charging facilities.
18. Paragraph 58 of the National Planning Policy Framework (the Framework) sets out that planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
19. The Council has referred to recent linked appeal decisions⁴ elsewhere in the Borough which have addressed the matter of providing contributions for sustainable transport. The Inspector in those decisions referred to a High Court judgement⁵ which supports the financial contributions justified through Policy SP8 of the CLP.
20. Specifically of relevance to the determination of the appeal before me, the Inspectors decision states, *“The judgement explains that the requested figure of £1,500 per unit was based on a transport assessment study commissioned by the Council and is a matter of expert advice of the Council's strategic transport team. The judgement concludes the contribution would support a variety of sustainable transport initiatives and is a modest sum that was fairly and reasonably related to the scale and kind of the development. The judgement suggests that precise*

⁴ APP/L5240/W/24/3341508, APP/L5240/W/24/3345390, APP/L5240/W/24/3352094 decision dated 10 October 2025

⁵ R(Whiteside) v Croydon LBC & Others (2022)

quantification of adverse impacts and the effects of an obligation are not necessary in every case.”

21. As above, I have found that the proposal will lead to a material increase in parking demand. In the absence of occupiers being able to apply for parking permits, the use of car clubs is likely to form an attractive and viable option. The officer report details where the required contributions would be spent in line with Policy SP8 of the CLP. Taking all of the above factors into account, I am therefore satisfied that the requested contributions would meet the tests within the Framework.
22. The submitted UU covenants (amongst other matters) that the owner shall not apply for a parking permit in connection with the occupation of the appeal site. It also requires the payment of a sustainable transport contribution to the sum of £6,000.
23. The Council has had the opportunity to comment on the submitted UU and has raised concerns that it fails to list all parties with a relevant legal interest in the land, including the Mortgagee and existing leaseholders. Although the UU includes a clause relating to the Mortgagee Consent, the Mortgagee is not a signatory to the UU before me for consideration. This could be an issue if the Mortgagee took possession of the appeal land, they could then implement any extant planning permission without being bound by the planning obligations within the UU. In that scenario the obligations in the UU could not be enforced and it would not be effective.
24. Although the appellant has indicated that arrangements are underway to obtain the lender's signature to the UU, this has not been received to date. It would be inappropriate to delay the appeal determination to wait for a revised UU, particularly given the timescales outlined in the Procedural Guide for Planning Appeals in England.
25. Without appropriate mitigation in the form of a robust and enforceable UU, the proposal would lead to an unacceptable increase to parking stress in the surrounding area and would fail to make adequate provision for sustainable transport improvement arising from the development. It would therefore be contrary to Policies SP8, DM29 and DM30 of the CLP and Policies T6 and T6.1 of the LP. The Council's reason for refusal also refers to Policy SP8.3 of the LP but I note that this policy does not exist, so I have taken this as a typographical error.

Living conditions

26. Despite its outline form, the application is clear that the intention is for the proposal to create four self-contained flats. The layout, scale and appearance of the development is before me for consideration. Policy D6 of the LP outlines that housing development should be of high quality, providing adequately sized rooms with comfortable and functional layouts.
27. The main living spaces for the basement and ground floor flats would be towards the rear of the building with a relatively deep plan form. The spaces would have varying widths, the narrowest elements suggested as accommodating space for kitchen units and dining tables. Nevertheless, in both cases the rear of the room would be wider in its extent, allowing space for larger forms of furniture typically expected within a main living space such as sofas. Overall, I am satisfied that this

would create a functional living environment without occupiers feeling overly constrained by the width or depth of the rooms.

28. Policy D3 of the LP seeks for proposals to deliver, amongst other matters, appropriate outlook, whilst Policy D6 of the LP specifically discourages against single aspect dwellings. Policy DM10 of the CLP states that the Council will support proposals for development which, among other things, are of a high quality design and provide adequate daylight to potential future occupants.
29. The main living areas for the basement flat would be served by windows facing south and east. Although the bedroom window proposed on the south elevation would be high level, it would still afford some upward outlook. Moreover, the outlook from the kitchen, lounge and dining room space would benefit from well-proportioned windows to both elevations. The unit would therefore have a dual aspect as supported by Policy D6 of the LP.
30. The outlook for the basement flat would be somewhat restricted by the retaining walls required for the lightwell. However, the external space would be of a sufficient size that these walls would not create an undue sense of physical or visual enclosure. As above, the bedroom would be partially served by a high level window but the windows to the rear would be even further away from the retaining walls. Based on the positioning and degree of glazing to the main living spaces, I am satisfied that the occupiers of the basement flat would have an acceptable outlook.
31. A daylight assessment has been submitted for six habitable rooms in the proposed basement and ground floor flats. Although light levels vary between rooms, the assessment indicates all meet or exceed daylight factor and illuminance targets in Building Research Establishment (BRE) guidance. The report does not specify which BRE version was used, but I am unaware of any adopted policy requiring such an assessment. Based partially on the report's findings, I am satisfied that the proposed flats would provide adequate daylight to main habitable rooms.
32. Both parties have referred to an extensive planning history at the site. The appellant has also referred to numerous examples of other cases which they consider represent precedent for the appeal. However, given that I have found the proposal to be acceptable on its own merits in relation to this main issue, it is not necessary for me to consider these cases further.
33. To conclude on this main issue, I find that the proposal would provide its occupants with acceptable living conditions, with particular regard to the provision of internal living space, outlook and daylight. I have therefore identified no conflict with Policies D3 and D6 of the LP, or Policy DM10 of the CLP.

Other Matters

34. The appeal property is recognised as a building of local interest (a non-designated heritage asset) and is also within the East India Estate Conservation Area (CA). I have a statutory duty under Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
35. The special character of the CA is largely defined by a concentration of historic buildings of high architectural quality. The CA has strong historical associations

with the East India Military Academy. It is made up of a formal estate layout with a strong urban ladder structure formed of six parallel roads.

36. Despite the objection of the Mid-Croydon Conservation Area Advisory Panel, I see no reason to disagree with the Council's assessment that the proposal would preserve the character and appearance of the designated CA. I have also identified no specific harm to the non-designated heritage asset through the extension and alterations to the building which are proposed.
37. I acknowledge the appellant's concerns over the Council's handling of the application. However, this is not a matter that I can consider under a Section 78 planning appeal and does not alter my findings, in which I have had regard solely to the planning merits of the proposal.
38. The proposal would provide additional housing in a sustainable location, making an efficient use of the site. Whilst these represent benefits of the proposal, they are not sufficient to outweigh the harm that I have identified in respect to the failure of the proposal to make adequate provision for a car free development and for the additional need for sustainable transport improvement arising from the development.

Conclusion

39. For the reasons given above, having regard to the development plan when read as a whole and all relevant material considerations, the appeal is dismissed.

L Gardner

INSPECTOR