



PART 6: Planning Applications for Decision

Item 6.4

1 APPLICATION DETAILS

Ref: 16/05927/CONR

Location: 6 Scarbrook Road, Croydon, CR0 1UH

Description: Retention of 8 storey mixed use building comprising commercial use on ground floor with 66 flats over (without compliance with condition 7 – the proposed north facing ground floor commercial unit shall be only used for purposes with Use Class A3 – attached to permission 08/01716/P)

Drawing nos: None.

Applicant: Matthews Yard

Agent: None

Case Officer: Toby Gethin

1.1 This application is being reported to committee because: objections above the threshold in the Committee Consideration Criteria have been received.

1.2 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The proposal would allow for a wider number of uses on the site.
- There are no extant policies in the local development plan which restrict sites within the Croydon Metropolitan Centre or the Opportunity Area Planning Framework Boundary to only A3 (restaurant/café) uses.
- Policies in the local development plan support a number of uses in the area. These current policies have superseded the need for the premises to be preserved solely for the purposes of A3 use, as was the case when the original permission was granted.
- The change would be broadly consistent with other commercial units in the surrounding area. It would not harm the character and vitality of the area or the amenity of adjoining occupiers.

2 RECOMMENDATION

2.1 That the Committee resolve to GRANT planning permission.

2.2 That the Director of Planning and Strategic Transport is delegated authority to issue the planning permission and impose conditions [and informatives] to secure the following matters:

Conditions

Amended condition:

- Condition 7: The north facing ground floor commercial unit shall only be used for purposes within Use Classes A1/A2/A3/B1a as defined by the Town and Country Planning (Use Classes) (Amendment) Order 2005. Reason: To contribute to the character and vitality of the area.

Outstanding conditions of permission 08/01716/P which appear to have not yet been discharged:

1. Within 2 months of the date of this permission, the approval of the Local Planning Authority shall be obtained with respect to the following matters:

Section A

- (1) bollards
- (2) screens to balconies of flats P37, P48, P58
- (3) planting to green/brown roofs
- (4) A detailed scheme for the external illumination of the building and its environs

Section B

- (5) refuse collection facilities and arrangements
- (6) acoustic glazing and ventilation details to windows facing east and into the eastern lightwell
- (7) new shopfronts
- (8) external facing materials

The approved matters shall be provided as approved and retained for as long as the development remains in existence.

Reason: To ensure an acceptable standard of development.

2. This condition is no longer applicable [For reference, it read as follows: Unless otherwise previously agreed by the Local Planning Authority in writing the matters approved in compliance with Condition 1 shall be provided before any part of the development is occupied and those in Section A thereof shall also be retained for so long as the development remains in existence. Reason: To ensure that an acceptable standard of development is provided and retained].

3. The following shall be provided as specified in application 08/01716/P and shall be retained for so long as the development remains in existence:

- (1) obscure glazing to western elevations
- (2) screening to terraces on western elevations
- (3) cycle parking
- (4) privacy screens to Flats P8, P19, P30, P41, P51

Reason: To ensure an acceptable standard of development having regard to the Policies of the Croydon Replacement Unitary Development Plan (the Croydon Plan)

4. Within 2 months of the date of the grant of this permission, a hard and soft landscaping scheme shall be submitted to the Local Planning Authority for approval; when approved, the surface treatments and planting shall be provided within two months of the Council's written approval and shall be maintained for a period of 10 years from the date of planting; any planting which dies or is severely damaged or becomes seriously diseased or is removed within that period shall be replaced by planting of similar size and species to that originally provided.

Reason: To enhance the appearance of the development, protect the visual amenities of the locality, and to ensure that the new planting becomes established.

5. Unless otherwise agreed in writing by the Local Planning Authority no vehicles shall enter or park on the site other than those requiring access for maintenance or emergency purposes to the Thames Water facilities on the adjacent land.

Reason: To protect pedestrian safety

6. The north facing windows to Staircase B above 3rd floor level shall be obscure glazed and permanently retained as such.
Reason: To protect the amenities of adjoining residential occupiers
7. [See above amended condition]
8. Unless otherwise agreed in writing by the Local Planning Authority the ground floor non-residential uses of the building shall not be open to the public except between the hours of 07.00 and 23.30 hours on any day.
Reason: To protect the amenities of adjoining occupiers
9. Within 2 months of the date of grant of this planning permission, an independently verified EcoHomes report that achieves a 'Very Good' rating shall be submitted to the Council for approval in writing. The approved scheme shall be provided in accordance with these details and retained for as long as the development remains in existence.
Reason: To ensure an acceptable standard of development
10. Unless otherwise agreed in writing by the Local Planning Authority no construction works or deliveries to the site shall take place except between the hours of 07.30 and 18.00 Mondays to Fridays and 07.30 to 13.00 on Saturdays and not at all on Bank Holidays.
Reason: To protect the amenities of adjoining occupiers
11. The construction of the surface water drainage system shall only be carried out in accordance with details submitted to and approved in writing by the LPA within 2 months of the date of the grant of planning permission.
Reason: To prevent pollution of the water environment
12. Any soakaway shall be constructed in natural ground, such that its base is at least 1m above the highest seasonal water table and in any case no deeper than 3m.
Reason: To prevent pollution of the water environment
13. No soakaway shall be constructed in contaminated ground.
Reason: To prevent pollution of the water environment

Informatives

- 1) Removal of site notices
- 2) Any [other] informative(s) considered necessary by the Director of Planning

- 2.3 That the Committee confirms that adequate provision has been made, by the imposition of conditions, for the preservation or planting of trees as required by Section 197 of the Town and Country Planning Act 1990.

3 PROPOSAL AND LOCATION DETAILS

Proposal

Full planning permission is sought for:

- 3.1 Retention of 8 storey mixed use building comprising commercial use on ground floor with 66 flats over (without compliance with condition 7 – the proposed north facing

ground floor commercial unit shall be only used for purposes with Use Class A3 – attached to permission 08/01716/P)

- 3.2 This s73 application proposes to amend condition 7 of permission 08/01716/P. That condition restricts use of the north facing ground floor commercial unit in the building to an A3 (restaurant/café) use only. Whilst the applicant states they intend to use the unit under an A3 use, they wish to have the condition amended to allow a greater range of uses in the unit. This change would allow a more flexible use of the unit, in-line with other nearby commercial premises.
- 3.3 The application does not propose any other changes to the approved scheme/existing as-built development.

Site and Surroundings

- 3.4 The application site is located on Scarbrook Road and Matthew's Yard/Exchange Square. It is occupied by a building comprising residential units on the upper floors and two ground-floor commercial units. This application specifically relates to the north facing ground-floor commercial unit in the existing building. Currently vacant, this commercial unit fronts Matthew's Yard/Exchange Square.
- 3.5 The surrounding area comprises a mix of residential (including directly above the commercial units) and commercial uses. The site is within the Croydon Metropolitan Centre, the Opportunity Area Planning Framework, an Area of High Density and an Archaeological Priority Zone.

Planning History

- 3.6 03/00614/P – Permission granted for alterations and the erection of two additional floors to provide 64 flats with nineteen parking spaces situated in the basement and part of the ground floor of the building. This permission was not implemented.
- 3.7 04/04684/P – Permission granted for Alterations and extensions to create an 8 storey building comprising 286 sq metres (1 unit) for either use class A1 (retail), A2 (financial and professional services), A3 (restaurant/cafe), B1 (business), D1 (non residential institution) or D2 (assembly and leisure), 565 sq metres (1 unit) for class A3 (restaurant/cafe) and 66 residential units with landscaped service area.
- 3.8 08/01716/P – Permission granted for Amendment during the course of construction to planning permission 04/04684/P for the alterations and extensions to create an 8 storey building comprising 286 sq metres (1 unit) for either use class A1 (retail), A2 (financial and professional services), A3 (restaurant/cafe), B1 (business), D1 (non residential institution) or D2 (assembly and leisure), 565 sq metres (1 unit) for class A3 (restaurant/cafe) and 66 residential units with landscaped service area. The application covered an increase in residential floorspace (resulting in a change to the unit mix) and some minor external amendments.
- 3.9 15/05745/P – Permission granted for Alterations to elevations of ground floor unit and installation of shopfront. This application related to the south facing ground floor commercial unit fronting Scarbrook Road.
- 3.10 16/02063/P – Permission refused for Use of ground and lower ground floor unit as a gym (without compliance with condition 8 – hours of use – attached to planning

permission 08/01716/P). Permission was refused on the grounds that the proposed change in operating hours would harm the amenity of adjoining occupiers.

4 CONSULTATION RESPONSE

- 4.1 The views of the Planning Service are expressed in the MATERIAL PLANNING CONSIDERATIONS section below.
- 4.2 Given the nature and location of the proposal, no statutory consultees were consulted regarding the application.

5 LOCAL REPRESENTATION

- 5.1 The application has been publicised by way of one or more site notices displayed in the vicinity of the application site. The number of representations received from neighbours, local groups etc in response to notification and publicity of the application were as follows:

No of individual responses: 31 Objecting: 19 Supporting: 11

No of petitions received: 0

- 5.2 The following issues were raised in representations that are material to the determination of the application, and they are addressed in substance in the next section of this report:

Objecting:

- Potential noise disturbance
- Potential for crime/anti-social behaviour
- Change of opening hours
- No need for more food retailers
- Lack of details regarding the proposed usage limiting assessment of the potential impacts

Supporting:

- More activity and growth should be encouraged
- Reduced crime/security issues
- Proposal would provide more space for creativity
- Regeneration of the area

- 5.3 The following issues were raised in representations that are not material to the determination of the application:

- Concerns regarding the use, noise, construction works and health and safety issues at the gym in unit 2 (Officer comment: this application does not involve unit 2. That unit is a separate site and is not the subject of this application. Please see below for further details).
- Not in keeping with the appearance of the surrounding area/poor design (Officer comment: the application does not involve a proposed change to the unit's approved external appearance. This issue is therefore not considered further).

6 MATERIAL PLANNING CONSIDERATIONS

- 6.1 The main planning issues raised by the application that the committee must consider are:
1. The principle of the development
 2. Residential amenities of adjoining occupiers

The principle of the development

- 6.2 The Council primarily assesses planning applications against policies in the London Plan 2015, the Croydon Local Plan Strategic Policies 2013 (CLP1), the Croydon Replacement Unitary Plan 2006 (2013 Saved Policies, as identified in appendix 4 of the CLP1). For convenience, the plans are respectively referred to as the London Plan, CLP1, and CRUDP in the sections below. The draft Croydon Local Plan: Detailed Policies and Proposals (CLP2) (Proposed Submission) and a partial review of CLP1 (CLP1.1) are due to be submitted to the Secretary of State in early 2017. Once submitted, the draft policies in CLP2 (Proposed Submission) and the partial review of CLP1 will become material considerations. The Proposed Submission documents are considered below as necessary.
- 6.3 Condition 7 of permission 08/01716/P reads: "The proposed north facing ground floor commercial unit shall only be used for purposes with Use Class A3 as defined by the Town and Country Planning (Use Classes) (Amendment) Order 2005. Reason: To contribute to the character and vitality of the area as required by Policy SH4 of the Croydon Replacement Unitary Development Plan (the Croydon Plan.)"
- 6.4 Condition 7 specifies that the proposed north facing ground floor commercial unit shall only be used for purposes within Class A3 as defined by the Town and Country Planning (Uses Classes) Order 2005. The reason being, to contribute to the character and vitality of the area as required by Policy SP29 of the Second Deposit Draft Replacement Unitary Development Plan (the Croydon Plan). Policy has however changed since the original decision (permission 08/1716/P was an amendment to permission 04/04684/P).
- 6.5 Policy SP3.9 of CLP1 states the Croydon Metropolitan Centre will remain the principal location in the borough for office, retail, cultural and hotel activity, and also be the largest retail and commercial centre in South London. CLP1 Policy SP3.10 states that the Council will adopt a flexible approach to B1 uses (office, light industry and research & development), retail, leisure (including evening/ night economy uses), visitor accommodation, and housing and community facilities within Croydon Metropolitan Centre. This flexible approach will be supplemented by the Croydon Opportunity Area Framework and the Council's masterplans that apply to the Croydon Metropolitan Centre.
- 6.6 There are no policies in CLP1, CRUDP or the emerging Croydon Local Plan (Detailed Policies, CLP2, Proposed Submission) which restrict sites within the Croydon Metropolitan Centre or the Opportunity Area Planning Framework Boundary to A3 use only. Rather, as outlined above, Policies SP3.9 and SP3.10 support and promote a number of uses such as office, retail, leisure and cultural.
- 6.7 The operative policies in the local plan support a number of uses in the Croydon Metropolitan Centre and the development of other areas of Croydon. These current policies have superseded the need for the premises to be preserved solely for the

purposes of A3 use, as was the case when the original permission was granted. It is therefore considered acceptable in land-use terms for condition 7 to be varied as follows:

“The north facing ground floor commercial unit shall only be used for purposes within Use Classes A1/A2/A3/B1a as defined by the Town and Country Planning (Use Classes) (Amendment) Order 2005.

Reason: To contribute to the character and vitality of the area”.

- 6.8 This change would be broadly consistent with other commercial units in the surrounding area. It is considered that the alternative uses that would be allowed by varying the condition would not harm the character and vitality of the area. It would not result in a use which would be out of character of its town centre location or result in an over-provision of similar commercial uses in the area. Allowing a wider number of uses on the site would provide more flexibility of the unit and therefore assist with bringing it into use. This would support the on-going growth and regeneration of the surrounding area, as noted by the supporting comments received from the public.
- 6.9 In theory, use classes A4, A5, D1 and D2 may also be acceptable uses at the site. However, such uses (for example as a pub, a gym or place of worship) could generate more noise and disturbance than an A1/A2/A3/B1a use. Given the proximity of numerous flats to the application site and objectors concerns about noise (considered further below, in ‘Impact on the residential amenities of adjoining occupiers’), it is therefore considered that these uses should not be allowed by the amended condition within this s73 application. If an A4/A5/D1/D2 use is contemplated for the site in future, then a separate full planning application would need to be submitted. This would enable full consideration of the proposed use’s impact and any necessary mitigation measures (such as sound insulation, limits on the playing of loud music, etc).

Impact on the residential amenities of adjoining occupiers

- 6.10 CRUDP Saved Policy UD8 states that development proposals should not harm the privacy and amenity of occupiers of surrounding buildings. London Plan Policy 7.6 expects proposed developments to ‘*not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings*’. CRUDP Policy EP1 *Control of Potentially Polluting Uses* and London Plan Policy 7.15 *Reducing Noise* also seek to protect residents from pollution associated with new development, such as increased noise and disturbance. Saved Policy EP1 states that uses which have the potential to cause pollution (including noise pollution) will not be permitted. Saved Policy UD6 covers safety and security. CLP2 (Proposed Submission) includes similar policies. Draft policy DM11.6 sets out that the Council will support proposals for development that ensure that the amenity of the occupiers of adjoining buildings are protected. Draft policy DM24a states ‘Ensuring that future development, that may be liable to cause or be affected by pollution through air, noise, dust, or vibration, will not be detrimental to the health, safety and amenity of users of the site or surrounding land’.
- 6.11 Much concern has been raised by objectors. There however appears to be some confusion as to what is being applied for and which unit is the subject of the application; several objectors make reference to noise and disturbance arising from the gym located in the ground floor commercial unit on the other side of the building (which faces south and directly on to Scarbrook Road). This application however relates to a different unit to many of the concerns raised in objections; the north facing ground floor

unit in the same building, facing on to Exchange Square/Matthew's Yard. The issues with the other south facing unit (currently in use as a gym) are being dealt with as a separate matter and are not relevant to the consideration of this application.

- 6.12 This application relates to allowing a wider variety of uses in the north facing ground floor commercial unit. The proposal would not include a change in the existing approved opening hours or appearance of the unit/overall development.
- 6.13 The application involves limited information about proposed future uses. As highlighted by objectors, this does limit the ability to fully consider the proposal's potential impacts on adjoining occupiers. However, it is considered that allowing A1/A2/A3/B1a uses of the unit would not give rise to materially different scenario (including with regards to noise/disturbance) compared to the existing permitted situation (that of an A3 only use).
- 6.14 As detailed in the above section, it is considered that excluding use classes A4, A5, D1 and D2 from the amended condition will avoid an unacceptable increase in noise/disturbance compared to the existing permitted situation. However, even without including A4, A5, D1 and D2 uses in the amended condition, allowing a greater variety of uses to include A1/A2/A3/B1a could result in different activities within the unit which could in themselves create some additional noise/disturbance compared to the existing approved scenario. To protect the amenity of adjoining occupiers, it is therefore considered necessary to impose an additional condition which would prevent the use amplified speech/music in the unit. This would not prevent background music to be played within the unit but would mean that any such background music should be inaudible outside the premises.
- 6.15 Allowing a wider number of uses on the site would provide more flexibility of the unit and therefore assist with bringing it into use. Use of the unit would result in increased use of Exchange Square/Matthew's Yard, improving with natural surveillance and therefore helping to reduce crime/safety/security issues.
- 6.16 It is considered that the proposal would not be detrimental to the amenities of the surrounding residential uses. This is on the basis of the above additional condition being added to the permission and retaining the existing condition restricting hours of operation to between 0700 and 2330hrs on any day.

Other planning issues

- 6.17 It appears that several of the conditions attached to permission 08/01716/P have not been discharged. These conditions (as set out above) will therefore have to be added to any new permission which may be granted by this s73 application. The outstanding conditions should be discharged accordingly. Enforcement should also be informed to ensure that this progresses.

Conclusions

- 6.18 All other relevant policies and considerations, including equalities, have been taken into account. Planning permission should be granted for the reasons set out above. The details of the decision are set out in the RECOMMENDATION.