

Appeal Decision

Hearing held on 14 December 2016

Site visit made on 14 December 2016

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19th January 2017

Appeal Ref: APP/L5240/W/16/3155273

Land to the rear of, 2 Bensham Lane, Croydon CR0 2RQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Patrick Maher (Regent Land & Developments Ltd) against the decision of the Council of the London Borough of Croydon.
 - The application Ref 16/00741/P, dated 12 February 2016, was refused by notice dated 18 May 2016.
 - The development proposed is described on the application form as the demolition of existing buildings and the construction of three buildings; one part two/ part three storey building and four x two-storey townhouses to provide a total of 15 residential units, associated car parking, cycle storage and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's decision notice describes the development as the "demolition of existing buildings, erection 4 three bedroom houses and a two/three storey building comprising 9 two bedroom and 2 one bedroom flats; provision of associated car parking, cycle storage and landscaping". It was confirmed at the hearing that this description has been agreed and reflects the development proposed and I have dealt with the appeal on this basis.

Main Issues

3. The main issues are the effect of the proposed development on the supply of employment land and the effect of the development on the character and appearance of the area.

Reasons

Employment land

4. The appeal site is located to the north west of the centre of Croydon and extends to approximately 0.22 ha in size. There are two buildings on site, a part single storey/part three storey building known as the Barnacle Works and a building at the rear of the site which was last used as a scrap metal recycling workshop.
 5. Policy SP3 of the Croydon Local Plan Strategic Policies 2013 (CLP1) outlines a four tier approach to employment land. The appeal site is designated as a
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fourth tier site (scattered employment site). Table 4.3 of Policy SP3 indicates that planning permission will be granted for limited residential development providing that it can be demonstrated that there is no demand for the existing premises or a scheme comprised solely of the uses permitted by the policy (Classes B1, B2, B8, D1 and employment generating sui-generis uses).

6. The supporting text to Policy SP3 (at paragraph 4.30) outlines the evidence expected to demonstrate that there is no demand for Class B1, B2 or B8 uses in Tier 3 and 4 locations, which includes a marketing exercise for a minimum period of 18 months. Policy EM5 of the Croydon Replacement Unitary Development Plan 2006 (CRUDP) also has similar requirements and objectives to Policy SP3 in this respect.
7. From the evidence before me, and confirmed at the hearing, the site has not been marketed for employment uses for a minimum of 18 months. In relation to community uses, some evidence has been provided which shows that the community organisations on the Council's contact list do not have an interest in acquiring the site. Whilst this evidence goes some way to demonstrate that there has been no interest in the site for community uses, this does not overcome the lack of marketing or evidence in relation to employment uses.
8. I understand that the principal reasons for not marketing the site at the time of the application related to the emerging planning policy position and the condition of the buildings on site. From the evidence before me, a large proportion of the site has been vacant for over 18 months, with only a welding business which occupied a small part of the site and this use ceased operating in March 2016.
9. As part of the Preferred and Alternative options version of the Croydon Local Plan Detailed Policies and Proposals (CLP2) the appeal site was put forward as part of a larger residential redevelopment known as site 302. However, the site was removed from CLP2 during 2016 following the consideration of the appeal application. The proposed submission version of CLP2 underwent further public consultation during September and October 2016 and it was confirmed at the hearing that the document would be shortly submitted to the Inspectorate for examination in public without featuring site 302.
10. Although I note the concerns over why the site was removed from the proposed submission version, this is nevertheless the position before me. Given the direction of travel of CLP2, and the exclusion of site 302 from the proposed submission version, I give the Preferred and Alternative options version of CLP2 very little weight.
11. I have also had regard to the Harold Stiles Williams Report, submitted with the application, which stated that the existing structures are in a very dilapidated condition and neither building is structurally sound or watertight. It also concluded that they were not suitable for beneficial occupation. However, this is essentially a site valuation report and does not consider the costs or likelihood of getting the site back into a reasonable condition which would allow for its reoccupation, or any rental values which could be achieved with or without prior remedial works.
12. I acknowledge that the buildings are not built to modern day standards and that the condition of the single storey element at the rear of the Barnacle works appears to require significant remedial works. Works would also be

required to the three storey element and also the detached building to the rear. In addition to the above, the access arrangements for further employment uses are not ideal given the shared access driveway. However, none of these issues would, to my mind, provide a compelling reason why some form of employment use could not occupy the site.

13. The report also provided a limited consideration of the viability of redeveloping the site for industrial purposes, with the letter of 25 July 2016 providing an updated position. However, these do not represent a full viability assessment and as such I give this limited weight.
14. My attention has also been drawn to the pre-application discussions which took place, and in particular the parts relating to the loss of the existing commercial uses and the timing of the submission of the application. This pre-application advice acknowledges the draft CLP2 allocation, but notes that the lack of marketing, in accordance with the adopted development plan policies, would need to be assessed. Additionally, it is generally accepted that such advice is usually given without prejudice to the final determination any application.
15. For the above reasons, I conclude that the proposal would result in the loss of employment land contrary to Policy SP3 of the CLP1, Policy EM5 of the CRUDP, and Policy 4.4 of the London Plan (2015) which amongst other matters seek to ensure that sufficient employment generating land is available.

Character and appearance

16. The surrounding residential properties to the site are generally two storey in scale and of a traditional design. However, there are other modern buildings in the vicinity of the site on the opposite side of Bensham Lane and on London Road. These buildings also have a flat roof design and utilise a mixture of buff brickwork and metal cladding.
17. The proposed development includes three buildings which are a mixture of two and three storeys with a flat roof. The application indicates two different types of brick on all buildings with metal cladding on the upper parts of the larger building containing the flats. This metal cladding helps reduce the massing of the building and positively contributes to the townscape, particularly on its front elevation.
18. In contrast, the smaller buildings appear plain in appearance and lack the relief and interest which the cladding provides. Consequently, when viewed in the context of the larger building, the two smaller blocks appear unfinished and would not result in a coherent form of development.
19. In coming to that conclusion, I acknowledge that these two smaller buildings are located at the eastern end of the site and would only be visible from within the site itself. Whilst the location of these buildings means that significant harm would not result, it would nevertheless result in some harm and would be contrary to Policy SP4.1 of the CLP1; Policy UD3 of the CRUDP and Policies 7.4, 7.5 and 7.6 of the London Plan.
20. The Council have also raised concerns over the quality of the materials proposed, and that they do not complement one another in the design of the buildings.

21. From the submitted plans it is not clear where each of the two specified bricks would be used on any of the buildings. Notwithstanding that, I consider that the use of the TBS Gonville Cream Multi as the main brick does not give rise to any concerns. From the limited information before me I do however have some concern over the appearance of the buildings as a result of the use of the TBS Arte Tumbled brick when considered in combination with the Gonville Cream Multi. However, the limited use of this, as detailing brickwork, would not give rise to significant harm to the appearance of the overall development.
22. Given that the plans are unclear as to where each of the proposed bricks would be utilised, it was agreed at the hearing that should I be minded to allow the appeal it would be necessary to include a planning condition to detail the exact parts of the buildings where each type of brick would be used.
23. Turning to the Trespa metal cladding, I consider that the visual qualities of this product are not significantly different from the metal cladding on other buildings on Bensham Lane and London Road. These buildings also have a mix of buff brickwork and grey coloured metal cladding, albeit with a different design and pattern from the appeal proposal. Considering the variety of different metal cladding in the area, I consider that the use of the Trespa panel would not represent a low quality finish and would not have an adverse impact on the character and appearance of the area.
24. For the above reasons the proposed development would fail to provide a suitable standard of design and would not positively contribute to the townscape as a result of the plain appearance of the two smaller buildings. Consequently, the development would be contrary to Policy SP4.1 of the CLP1, Policy UD3 of the CRUDP and Policies 7.4, 7.5 and 7.6 of the London Plan which amongst other matters require development to be of the highest architectural quality and would respect and enhances the varied character of Croydon.
25. I have also considered the development in the context of Policies UD2 and H2 of the CRUDP. In this respect, the development would accord with the aims of objectives of these policies as it would provide for an acceptable siting and layout of buildings which would also respect the character of the adjoining and nearby residential properties. However, this would not outweigh the harm I have identified.

Other matters

26. I have been provided with a signed, but yet uncompleted, copy of a section 106 obligation which includes the provision of affordable housing, a car club, a restriction on future residents having off site parking permits and a financial contribution to cover the Council's monitoring costs of the obligations. However, as an uncompleted document, I am unable to take this into account.
27. Notwithstanding that, in respect of affordable housing, significant weight should be given to the Secretary of State's Written Ministerial Statement of the 28 November 2014 and the updated Planning Practice Guidance (PPG) on vacant building credit. The PPG details the national policy which provides an incentive for the development of brownfield sites containing vacant buildings¹.
28. The credit should be offered to a developer where a vacant building is demolished and to be replaced by a new building. In this case, the floor area

¹ Paragraph: 021 Reference ID: 23b-021-20160519

of the existing buildings would be greater than the floor area of the new buildings. Consequently, a credit amounting to 100% of the affordable housing requirement should be offered. Notwithstanding that, it was indicated at the hearing that the provision of eight affordable homes is a significant benefit of the development which should be considered in the overall balance of its planning merits.

29. My attention has also been drawn to the benefits of the redevelopment of the site, which includes the provision of much needed new homes, the regeneration of the site, including visual and environmental improvements over the current situation. I also acknowledge that the redevelopment of the site would help to assist in reducing anti-social behaviour in the area and would provide a Community Infrastructure Levy contribution.
30. Whilst all of these matters, individually and cumulatively, weigh in favour of the development, even if the section 106 agreement had been completed, I consider that these do not outweigh the harm I have found in relation to the loss of employment land.
31. In respect of the other matters contained in the section 106 agreement, as these relate to matters designed to mitigate the impacts of the development I have not considered these further given by conclusions above.

Conclusion

32. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Richard Quelch	GVA
Elizabeth Woodall	GVA
Patrick Maher	Regency Land & Development Ltd
Martyn Brindley	Hexagon Housing Association
Ian Angell	Owner of the site
Andre Fagan	MDR Associates

FOR THE LOCAL PLANNING AUTHORITY:

Emily Napier	Senior Planning Officer
Anisha Jogani	Placemaking Officer
Kieran Gilmore	Planning Policy Officer

DOCUMENTS submitted at the Hearing

1. Representation received from neighbouring property during the Council's consultation period on the planning application
2. Supporting text to Policy SP3 of CLP1 (paragraph 4.30)
3. Stiles Harold Williams Partnership report dated 8 February 2016
4. Additional planning condition suggested by the Council in relation to construction/demolition method statement