The Planning Inspectorate

Appeal Decision

Site visit made on 6 June 2017

by David Walker MA MRTPI

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

Decision date: 3rd July 2017

Appeal Ref: APP/P3610/W/17/3166436
1 Chase Road, Epsom, Surrey KT19 8TL

- 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 Lavender Property Investments Ltd against the decision of Epsom & Ewell Borough Council.
- The application Ref 15/01530/FUL, dated 26 January 2016, was refused by notice dated 14 October 2016.
- The development proposed is demolition of existing buildings on site to allow for the redevelopment of two three-storey (ground plus two-storeys) buildings accommodating a total of 14 flat units with associated car parking and additional works.

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing buildings on site to allow for the redevelopment of two three-storey (ground plus two-storeys) buildings accommodating a total of 14 flat units with associated car parking and additional works at 1 Chase Road, Epsom, Surrey KT19 8TL in accordance with the terms of the application, Ref 15/01530/FUL, dated 26 January 2016, subject to the conditions in the attached Schedule.

Preliminary Matter

2. I have amended the description of the development to reflect that contained within the Council's decision notice in the interests of accuracy and consistency.

Main Issues

3. The Council has confirmed that its reasons for refusal relating to parking and dwelling mix have been withdrawn. On this basis I consider the main issues in the appeal to be:

    i) whether the proposal would result in an adequate provision of employment floorspace, and

    ii) whether the proposal would make adequate provision for affordable housing.

Reasons

Employment floorspace

4. The existing buildings are located within a predominately residential area and used for employment generating uses in the form of a car hire business. The front building, evidently long converted from two dwellings, contains an office and waiting area with flats above. A utilitarian shed type building to the rear

provides covered car maintenance space. With a constrained arrangement, as was apparent at my site inspection, the current occupants have indicated their desire to leave.

5. Although, from the limited market testing carried out, there is nothing to indicate that an alternative occupier could not be found there is no evidence before me to suggest that the existing buildings could be made attractive for contemporary business needs. My attention has been brought to alternative premises nearby but these do not have identical conditions to the appeal site.

6. It is apparent from submissions that both employment and housing land supply within the borough is heavily constrained. However, it is not shown that there remains an ongoing need to retain the employment floorspace of the appeal site. Beyond the cautious approach of Policy CS 11 of the Epsom and Ewell Core Strategy 2007 (the Core Strategy) to retain all employment land, the appeal site does not fall within any of the protected locations for employment generating uses. Such a measure is to be balanced with the aims of Policy CS 8 of the Core Strategy that also seeks to achieve housing at accessible locations, such as that provided by the appeal site.

7. I have nothing before me to indicate that either of the Core Strategy policies should take precedence where there is potential for conflict. In the circumstances the Government's policy to boost significantly the supply of housing at paragraph 47 of the National Planning Policy Framework (the Framework) attracts considerable weight. Moreover, the existing occupant's aims to relocate rather than close, with a resulting loss of jobs, and the reuse of the previously developed land of the appeal site are further considerations weighing in the proposal's favour.

8. I conclude that the redevelopment of the existing and constrained employment buildings of the appeal site would have a satisfactory effect on the adequacy of the employment land provision in the area. Therefore while there would be some conflict with Policy DM24 of the Epsom and Ewell Development Management Policies Document 2015 and its aim to retain employment floorspace outside of existing employment locations, harm has not been shown.

Affordable housing

9. There is some uncertainty from the submitted financial appraisals whether a sufficient profit could be obtained to meet the cost of providing affordable housing. Alternative views on the proposed residential values of the scheme and existing use values of the appeal site generate differing residual sums; in the Council's initial estimation amounting to a significant surplus.

10. However, the expert valuation advice obtained by the Council acknowledges that such appraisals are subject to a degree of judgement. In a subsequent email the Council acknowledges the appellant's revised calculations also show a residual with no capacity to provide any affordable housing. There is no further evidence available for me to reach any alternative finding.

11. With reference to paragraph 173 of the Framework it is the Government's intention that a landowner and developer should be able to obtain a competitive return after any planning requirements have been taken into account. I conclude therefore that while the proposal would make no provision toward affordable housing that this is a satisfactory outcome in the

circumstances, outweighing the conflict with Policies CS 9 and CS 12 of the Core Strategy and their associated requirements for developer contributions.

Other matters

12. While appreciably larger than the existing buildings, the Art Deco design of the proposal and end of street position would be of appropriate scale and relate well to the appearance of the inter-War houses in the vicinity. The nearest windows of the rearmost building to existing occupants would be projecting bays with only sideways views to prevent a harmful loss of privacy. Concerns raised in relation to these matters do not weigh heavily against the scheme.

Conditions

13. I have attached conditions identifying the implementation period and approved plan in the interests of certainty. It is necessary that construction transport is managed through a scheme to be agreed before any commencement of works in the interests of highway safety. Due to past industrial uses of the land I am also satisfied that the risk of ground contamination needs to be properly assessed before any development commences. I have combined the Council's suggested drainage conditions into a single condition requiring agreement to a suitable scheme for drainage before any occupation. This is necessary to ensure that drainage is properly implemented and maintained throughout the lifetime of the development.

14. The specification of external materials, hard and soft landscaping, and exterior details will be important to the character and appearance of the area and so are necessarily controlled by conditions. Before any occupation commences and to ensure satisfactory access and highway safety it is necessary for parking and highways works as detailed in the proposal to have been provided. Evidence of the potential for the existing buildings to be used by bats was found and on this basis suitable mitigation is necessary, to be provided before any occupation. Conditions were requested relating to water consumption and energy efficient materials but are unnecessary as these matters are controlled through the Building Regulations.

Conclusion

15. For the reasons given above I conclude that the appeal should be allowed.

David Walker

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans:

A2000 Proposed Location Plan H
A2001 Proposed Site plan H
A2100 Proposed Ground Floor Plan H
A2101 Proposed Level 1 Floor plan J
A2102 Proposed Level 2 Floor plan H
A2103 Proposed Roof Plan J
A3001 Proposed North Elevation Building 1 J
A3002 Proposed South Elevation Building 1 J
A3003 Proposed East Elevation Building 1 H
A3004 Proposed West Elevation Building 1 H
A3005 Proposed North Elevation Building 2 J
A3006 Proposed South Elevation Building 2 H
A3007 Proposed East Elevation Building 2 H
A3008 Proposed West Elevation Building 2 H
A3101 Proposed Cross Section AA' E
A3102 Proposed Cross Section BB' E
A4101 Proposed Landscaping Ground Floor Plan H
A4102 Proposed Landscaping Levels 1 Floor plan H
A5102 Proposed Accommodation Schedule H

3) No development shall commence until a Construction Transport Management Plan, to include details of:

a) parking for vehicles of site personnel, operatives and visitors
b) loading and unloading of plant and materials
c) storage of plant and materials
d) programme of works (including measures for traffic management)
e) HGV deliveries and hours of operation
f) measures to prevent the deposit of materials on the highway
g) on-site turning for construction vehicles

has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction of the development.

4) Unless otherwise agreed by the local planning authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 1.1 to 1.5 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the local planning authority in writing until condition 1.4 has been complied with in relation to that contamination.

1.1 Site Characterisation

An intrusive ground investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination including any ground gas and volatile vapours;

(ii) an assessment of the potential risks to:

- human health;
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
- adjoining land;
- groundwaters and surface waters;
- ecological systems;
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options (if remediation is deemed necessary), and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

1.2 Submission of Remediation Scheme - if deemed necessary

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared if deemed necessary based on the findings of the site characterisation and risk assessment. This is subject to the approval in writing of the Local Planning Authority (see EEBC Planning Advice note on the assessment and remediation of contaminated land). The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

1.3 Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority (see EEBC Planning Advice note on the assessment and remediation of contaminated land). The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

1.4 Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be

reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition 1.1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 1.2, which is subject to the approval in writing of the Local Planning Authority (see EEBC Planning Advice note on the assessment and remediation of contaminated land).

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 1.3.

1.5 Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

1.6 Certificate of Completion

A certificate of completion, shall be provided to the Local Planning Authority by an appropriate person, before occupation of any part of the site by any end user, stating that remediation has been carried out in accordance with the approved remediation scheme and 'that the site is suitable for the permitted end use.

5) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

a. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

b. include a timetable for its implementation; and,

c. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

6) Prior to any development above base course level, details and samples of the materials to be used for the external surfaces of the development shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the approved details.

7) No development shall take place above base course level until full details, of both hard and soft landscape proposals, including a schedule of landscape maintenance for a minimum period of 5 years, have been submitted to and approved in writing by the local planning authority. The approved landscape scheme (with the exception of planting, seeding and turfing) shall be implemented prior to the occupation of the development hereby approved and thereafter retained.

8) Prior to any development above base course level, a 1:20 scale vertical section through the front and flank elevations including details of windows (including head, sill and window reveal details), balcony balustrade, rainwater goods, as well as a 1:50 scale typical elevation, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

9) No new development shall be occupied until space has been laid out within the site in accordance with the approved plans for a maximum of 13 cars and a minimum of 14 bicycles to be parked. The parking area shall be used and retained exclusively for its designated use.

10) Prior to occupation of the new development, a scheme of public highway improvements as shown on the application drawings including:

    i) the alteration of the refuge island in Chase Road to make a crossing point for pedestrians

    ii) the removal of the layby to the front of the application site and replacement with a footway

    iii) the provision of pedestrian dropped kerbs for accessibility

    shall be designed in detail, approved by the Highway Authority and constructed by the developer under an appropriate agreement with the Highway Authority.

11) The development hereby approved shall not be first occupied unless and until the proposed vehicular modified access to Chase Road has been constructed and provided with visibility zones in accordance with the approved plans and thereafter the visibility zones shall be kept permanently clear of any obstruction measured from 0.6m above the road surface.

12) Prior to occupation of the new building, bat and bird boxes shall be installed in accordance with details submitted to and approved by the local planning authority. The boxes shall be retained thereafter.

End of schedule