



Appeal Decision

Hearing Held on 22 October 2019

Site visit made on 8 November 2019

by D J Board BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 December 2019

Appeal Ref: APP/N5660/W/18/3212148

Former South London College, Knights Hill, West Norwood, London

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Cashco UK Ltd against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 17/04472/OUT, dated 7 September 2017, was refused by notice dated 23 March 2018.
 - The development proposed is Mixed-use redevelopment comprising B8 floorspace, B1 floorspace and residential apartments, with associated car parking and landscaping.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was made in outline with the matter of access to be considered. The appeal is also considered on this basis.

Main Issues

3. The main issues are the effect of the proposal on:
 - the effect of the provision of a residential use on the long-term viability of the Key Industrial and Business Area (KIBA), as designated in the Lambeth Local Plan (LLP) (adopted 2015);
 - The effect of the scheme on highway safety; and
 - whether the scheme would make appropriate provision for infrastructure, having particular regard to affordable housing and employment, sustainability and transport mitigation measures.

Reasons

The KIBA Designation

4. At the national level the National Planning Policy Framework (the Framework) states that significant weight should be placed on the need to support economic growth and productivity whilst taking into account local business needs and wider opportunities for development. Para 121 of the Framework does allow for a flexible approach to alternative uses of land. However, this is where land has not been allocated in a plan for a specific purpose. In this case the site has been allocated for employment purposes in the LLP.

5. The appeal site is described as a vacant brownfield site that was previously occupied by the former South London College. The officer report identifies that the educational use ceased in 1998 and that the buildings were then demolished and the site was cleared. In terms of its location it sits on a prominent site at the junction of Knights Hill and Chapel Road. The scheme is for a mixed-use development of the site. The Council has made it clear that it raises no objection in principle to the provision of the B8 or B1 elements of the scheme. Its concern relates to the provision of 24 residential units onto the site across the upper floors of the scheme.
6. Within the LLP policy ED1 sets out that within KIBAs development will only be permitted for business, industrial, storage and waste management use, including green industries and other compatible industrial and commercial uses. This policy is supported by evidence within the Lambeth Employment Land Review and does not support any residential uses within KIBAs.
7. Both parties referred me to the Draft London Plan (DLP) policies. The DLP is at an advanced stage. As such the policies, whilst not yet part of the development plan, attract moderate weight. Moreover, the Council point out that policies for employment land remain unchanged. Specifically, policy E4 seeks to ensure a sufficient supply of land and premises in different parts of London to meet current and future demands for industrial and related functions is maintained. The plan highlights that over the previous plan period a significant amount of land has been released to other uses. As such the DLP is seeking to address this by retaining, enhancing and providing additional industrial capacity. In particular the DLP categorises boroughs and Lambeth has been identified as being required to 'retain capacity'¹.
8. The Council submitted at the hearing that its emerging local plan is seeking to align with the DLP. I have also been provided with the Council's Review of KIBAs² which was produced as part of its review of the LLP. The KIBA review identifies that the appeal site is located within the West Norwood Commercial Area. It is described as being the largest KIBA in the Borough and contains 117 land parcels. It recommends that no changes are made to the current KIBA designation. The review adds weight to this with consideration of the number of jobs and mix of activities that are evident across the whole designation. This supports the LLP position and DLP approach to retain capacity.
9. The appellant submits that the DLP employment policies on co location supports the provision of a residential use on the site. In particular at the hearing several distinct points were made which I address in turn. The first of these is that the development would be a net intensification of industrial development on the site if a plot ration approach is taken. The appellant referred me to DLP paragraph 6.4.5 and a general principle seeking no overall net loss of industrial floor space across London in designated Strategic Industrial Locations (SIL) and Locally Significant Industrial Sites (LSIS). The Council is clear that the KIBAs are the boroughs LSIS and as such represent its strategic reservoir of land for industrial and business use. The appellant submits that there would be no overall net loss of floorspace. In particular that the scheme as submitted would exceed the 65% plot ratio outlined in the DLP. This argument is taken a step further in suggesting that this intensification is a

¹ DLP table 6.2

² October 2018

benefit and that LLP policy ED2 supports this approach. However, policy ED2 is clear that it relates to sites outside of designated KIBAs. Therefore, I do not consider that part (c) of that policy in fact offers any support for the appeal scheme.

10. However, the policies of the development plan do not support co location or a mixed-use scheme on an allocated site. Policy E7 of the DLP refers to industrial intensification, co-location and substitution. Part B of the policy suggests that in an LSIS the scope for co-location industrial uses with residential and other uses may be considered. However, it sets out that this should be part of the intensification of an LSIS through a plan-led process and not through ad hoc planning applications. Part E of the policy lists a number of criteria that should be met if co location is to be considered. I appreciate that in this case there would be no overall net loss of industrial use and the intensified industrial use could be secured to be provided prior to any residential component being occupied. However, co-location in this case would not be part of a plan led approach. As such this would be in conflict with DLP policy E7.
11. There is no dispute that the site is currently vacant and located on the edge of the KIBA. As such there are residential properties opposite it along Chapel Road and further along on Knights Hill. The Council's report contained comments from the Environmental Health officers. These comments do not object to the scheme as submitted. The appellant has provided an additional note on noise issues as part of the appeal³. This document suggests that any future KIBA compliant uses that might generate excessive noise or planned expansion would have to provide appropriate mitigation measures to protect the dwellings on Chapel Road and Knights Hill. However, these dwellings are separated from the edge of the KIBA by the roads. In addition, the main garden areas for these dwellings are located to the rear. Whereas by contrast the indicative plans show that the communal garden, private garden and balcony areas would primarily be within the site and close to the remaining nearby KIBA area. In this regard there would be no separation for the new residential units. As such there is a clear difference between the existing dwellings outside of the KIBA and placing residential dwellings onto a site within the KIBA designation.
12. The noise survey undertaken in 2016 considers the potential garden areas. It considers that sound levels in garden levels are 'expected' to be in the appropriate region such that noise levels within the proposed garden area and roof terrace are 'expected' to be satisfactory. In addition, the appellant submits that, as set out in the Framework, it is reasonable to expect that emission controls would be effective. However, whilst this may be the case, it does not alter the fact that in my view an assessment that gardens areas are 'expected' to be satisfactory is not sufficient to satisfy me that the living conditions of future occupiers would not be adversely affected by the proximity to the KIBA and that a residential use could therefore be accommodated satisfactorily on the site.
13. At the hearing I was provided with a copy of a decision⁴ which refers to site 2 in the West Norwood KIBA. Specifically, that it considered the principle of a residential use on the site. I appreciate that in contrast to the appeal scheme

³ RS Acoustic Engineering, 29 November 2018 & Noise Assessment Report, January 2016

⁴ APP/N5660/W/15/3130479

it proposed to change the whole site to a residential use and that it is in a different location to the appeal site. Nevertheless, the decision referred to would have led to the loss of a commercial use in a KIBA. It would also have placed residential development close to other KIBA compliant uses. For those reasons I attach some limited weight to it.

14. The appellant provided copies of two appeal decisions⁵ for a site that the Council confirmed is within the Waterworks Road KIBA. The Council submitted that the Waterworks Road KIBA is very different in nature to the West Norwood one. In particular that it is in fact proposed to be de designated. Considering this, and the changes in planning policy since those decisions were issued, these decisions are not directly comparable to the scheme before me. As such I attached very limited weight to them.
15. The appellant submits that the site has been vacant for a number of years. However, the Council do not object to its use in principle for the B1 and B8 elements of the scheme. Therefore, whilst I appreciate that the residential element of the scheme would provide new homes, this element would be in direct conflict with LLP policy ED1 and this conflict is a consideration that would outweigh the matter of vacancy. Therefore, overall, on the matter of the provision of a residential use on the site which is located in a KIBA I conclude that the scheme would have a harmful effect. It would be in conflict with LLP policy ED1, Lambeth Employment Land Review, DLP policies E4 and E7 and the Framework.

Highway Safety

16. There was some discussion about how the new use would operate. The Council is concerned that a larger building would generate more visitors than the existing operation. The appellant submits that the larger footprint would offer additional storage and improved facilities. In particular that with an increased product range that existing customers would buy more rather than there necessarily being an increase in customers to the site. The application is made in outline so there are no detailed plans to demonstrate what the eventual layout would be. As such the Council is, in essence, advocating consideration of the worst case scenario which I consider is a reasonable approach.
17. Regarding the B8 use the appellant had initially considered trip generation based upon the end user of the existing cash and carry. This was submitted as part of the Transport Statement. In response to the Council's concerns further information has been sought using TRICS regarding different types of B8 use. The Council has not provided any alternative evidence on this matter. The appellant identifies that the potential use that would generate most movements would be parcel distribution and that all of the uses would have a low level of HGV movement. Even taking into account that the new site would be larger than its existing base the cash and carry use would be within the range of uses considered by the TRICS information. As such I consider that the appellant's information is reasonable.
18. I understand that the Council is also concerned about the effect of parking from the B8 use. However, at the hearing the Council accepted that the amount of parking proposed would accord with the LLP requirements. The appellant submits that the parking provision for the B8 element is based on recorded

⁵ APP/N5560/A/14/2216737 & APP/N5660/W/15/3128978

demand. However, there could as a result of this larger footprint be an overspill parking requirement for the B8 element. The appellant considers that a car parking management plan could be operated on site. This would control the use of the on site spaces. However, whilst I note that this could be done in principle, I have no indication of how this could be used effectively to manage parking. Therefore, whilst I accept that the amount of parking for the B8 element would be acceptable, further detail on its management would be required to conclude that the worst case to operate on site without harm.

19. The Council is also concerned that the scale of the B1 use has not been adequately considered. In particular that no specific parking is provided for this use. As such future employees of any B1 use would arrive in personal vehicles and without parking available on site would park on the surrounding streets. As part of the appeal the appellant has considered the floor area of B1 use and the level of car use that might result. It is submitted that the amount proposed would equate to up to 82 employees for this element of the scheme. Using information from the census⁶ the appellant also submits that it is probable that about 40% of employees would drive to work. The statement of case sets out that this would equate to about 33 cars. On that basis if employees were to use private cars then parking would have to be accommodated on the surrounding streets.
20. To assess capacity the appellant relies upon the submitted parking survey information. In particular the fact that the on street parking stress is not at 100% in the times the survey was undertaken. Furthermore, that adding 33 vehicles into the situation would not increase the levels to 100% during the times when workers would wish to park in the area. However, the Council point out that this survey should have included information for all of the working daytime of 8am-6pm or times when conflict with residential parking would have the potential to be greatest. Neither the 2015 or subsequent 2018 information would appear to categorically support the submission that the totality of any overspill parking from the B1 use could be accommodated on surrounding streets.
21. In considering the residential element of the scheme the appellant undertook an initial parking survey that was submitted with the Transport Survey with the planning application. A further survey is provided with the appeal documentation that has been undertaken in accordance with the Lambeth Methodology. It uses a smaller survey area and considers the period overnight when most residents would be at home. There was disagreement about the number of cars from the residential development that would be seeking to park on street. The Council consider that it would be about 8 whereas the appellant considers the figure would be lower. I understand that the locality does not have a controlled parking zone and that the PTAL is 4. Nonetheless, the parking survey information demonstrates that unrestricted parking in the locality is not at 100% saturation, when considering overnight demand. Further, even taking into account the higher level of overspill from the residential element, this overspill could reasonably be accommodated within the locality. In addition, the scheme includes measures to support and encourage alternative means of travel.

⁶ Table 4 Transport Statement of Case

22. There is dispute regarding both the width and use of the access. The appellant's statement sets out that the access bell mouth would be 10.5m wide and that the road safety audit did not raise any issues with its width, the drawings show adequate visibility and that speed signage would be provided.
23. The appellant has provided vehicle tracking information for a 16.5m articulated vehicle⁷⁷ (HGV) which includes a 300mm error margin. The Council remain concerned that a vehicle of this size undertaking a manoeuvre either left or right out of the site could block oncoming traffic. Turning left out of the site the tracking drawing shows that an articulated vehicle would have to use the opposite side of the carriageway to make the manoeuvre. When exiting to turn right the tracking shows that the vehicle could block the carriageway if the crossing is called at the point the manoeuvre is made. The other point raised by the Council is that when turning right from Knights Hill into the site that the tracking information shows that there would be a point at which the HGV would overlap the carriageway. The appellant has submitted that the frequency of these events would be low and would not be every time a HGV leaves the site. In addition, the number of vehicles of this size that would be required for the cash and carry use is submitted to be low. The main types of vehicle that would visit the site are given as other goods vehicles (OGV) and cars. As such, based on the likely frequency of these HGV movements as part of the B8 and B1 uses it is not likely that there would be significant adverse cumulative transport impacts from HGV movements.
24. The Council consider that the access point is not large enough from a pedestrian safety perspective. The appellant referred to the access point at Big Yellow Storage which is similar in size to the appeal scheme. However, this is not access for a mixed use scheme. By contrast the appeal scheme access would potentially be a shared route for all types of vehicles, pedestrians and cyclists. The Council's concern regarding width referred to potential conflict between the users of the access point. Therefore, even if HGV movements are low there will be other vehicles using the access. If a residential use were to be permitted the new units would have limited parking and there would not be parking on site for the B1 use. As such a clear and dedicated safe route would be required to ensure future residents or employees would feel secure in accessing the site by foot or cycle. Based on the information before me on the indicative plans and highways plans there is no detailed evidence that demonstrates that the access would be made safe for all users.
25. The need for a delivery and servicing plan has been identified. This is not in dispute. The appellants submit that this could be secured by condition if I were minded to allow the appeal. In principle this seems to be to be a reasonable approach in this case and would be linked to the need to manage the use of the internal parking and turning areas.
26. The appellant has proposed a number of off site highways works. In particular, these include traffic calming by way of speed cushions on Knights Hill, raised pedestrian crossing on Knights Hill, double yellow lines on the Knights Hill/Chapel Road priority junction and the widening of a section of Chapel Road along the boundary of the site.
27. The widening of Chapel Road would include inset parking bays, allowing for a widened carriageway and re provision of a 2m footpath. There are trees

⁷⁷ 152059/AT/A01

within the appellant's land that would be affected. There is no objection to the scheme in principle from the Council's tree officer. I appreciate that the Council is concerned that this change would lead to increase in speeds along Chapel Road. However, there is no evidence that this would be the case. The Council's own information highlights that it is a lightly trafficked road. Furthermore, it is subject to a residential speed limit. The evidence does not suggest that undertaking these works would increase parking capacity. However, it acknowledges that the appeal scheme would use more of the on street parking along Chapel Road. This in turn could have a harmful effect on traffic movement on this road. Therefore, these works would offer a solution to allow two way traffic rather than the scheme overspill utilising the spare bays currently used informally as passing places on this road.

28. The appellant has provided a stage 1 road safety audit which addresses point regarding speed cushions and the access point to the site. The Council is concerned about the use of a speed table on Knights Hill as it is a strategic route used by multiple bus routes, fire engines and other emergency vehicles. The Council raise valid points regarding the need for detailed design elements to be agreed. Nevertheless, based on the information discussed at the hearing, I am satisfied that ultimately this point could be agreed. Nonetheless, in terms of highway safety I do not have any evidence that the provision of these elements would be necessary to make the scheme acceptable. As such I attached limited weight to their provision.
29. I have found that there are some outstanding issues regarding highway safety. Most critically the interaction of B8, B1 uses and the residential element of the scheme and the absence of some information regarding the effects of any overspill parking from a B1 use and the internal operation of the site for the B8 use. I have considered the highway works proposed but none of these would alter my view on those specific points. I therefore conclude that for these reasons the proposal would have a harmful effect on highway safety. It would be in conflict with LLP policies T6 and T8 which amongst other things seek new development that would not have unacceptable transport impacts.

Provision for Infrastructure

30. Planning obligation requirements are set out in LLP policy D4. The submitted obligation addresses various requirements and I will take each in turn. Part (vi) of policy D4 sets out a requirement for the obligation to secure car club membership, and the provision of a travel plan. The LLP seeks to support employment and training schemes, maximise local employment opportunities and help address skills deficits in the local population. The Employment and Skills Supplementary Planning Document sets out how planning obligations would be sought to help deliver the policy aims. It sets out a formula to determine the monetary contributions. The obligation makes provision for the requirements of this document.
31. Policy D4 (c) sets out that development should secure appropriate scheme implementation and control. In this case the Council is seeking to secure the considerate contractors' scheme to minimise the impacts of the scheme. In addition, part (b) (xvi) seeks development proposals to provide sustainability measures. In this case the scheme would provide sustainability measures in the form of an energy strategy that would demonstrate measures to make the fullest contribution to tackling climate change by minimising carbon dioxide

emissions. In particular it would aim to achieve a 35% reduction of carbon dioxide emissions across the scheme.

32. D4 (iv) allows schemes to secure necessary highway and traffic works associated with the scheme. In this case the highway works would include the northbound and southbound VMS signs; speed cushions on Knight's Hill and double yellow lines and signs on the Chapel Road along with the widening of Chapel Road. The highway authority identifies that if the scheme was to go ahead that these are necessary in the interests of highway safety. Therefore, I consider that the approach adopted by the appellant in this case is necessary and relevant to the appeal scheme.
33. The provision of the planning obligations detailed in the preceding paragraphs would accord with the requirements of the development plan as well as the aims of the Framework. I consider that these obligations would be necessary, directly related to the development and fairly and reasonably related in scale and kind to the development. There would be no conflict with Regulations 122 & 123 of the CIL Regs or paragraph 56 of the Framework.
34. Policy H2 of the LLP addresses the provision of affordable housing and seeks to achieve the maximum reasonable amount of affordable housing on sites. In particular on sites capable of accommodating 10 or more homes it sets criteria regarding the amount and tenure split that would be sought in each case. More specifically that in the first instance the provision should be made on site and 70 percent of the affordable homes should be for social or affordable rent and the remaining 30 percent as intermediate. The policy at least 40 percent of the units to be affordable where no public subsidy is available, which the officer report confirms is the case for this scheme.
35. The submitted obligation would secure one hundred percent of the dwellings within the scheme as affordable homes. It would provide for 70 percent to be affordable rent and 30 percent as shared ownership units. This provision would be in excess of the 'at least 40 percent' requirement set out in the LLP policy.
36. Therefore, the appeal scheme would be in accordance with the policies of the development plan in making provision for at least 40% affordable housing of an appropriate mix. Any additional provision is not necessary to make the development acceptable in planning terms. That said its provision is considered in the planning balance as it is based on the split set out in adopted policy.
37. I therefore conclude that due to the provisions of the planning obligation that the scheme would make appropriate provision for infrastructure in accordance with LLP policy D4.

Other matters

38. The scheme would make provision for additional housing and it would also provide affordable housing. Indeed, as submitted all of the dwellings are proposed to be affordable. In this regard I have been referred to the Council's Annual Position Statement, Lambeth Strategic Housing Market Assessment and the 2017 London Strategic Housing Market Assessment. In particular the appellant submits that the borough has an unmet need for affordable homes. In addition, it was suggested that the borough does not have enough

completions of affordable housing. Within this context I acknowledge that the provision of affordable homes weighs in favour of the scheme.

Planning Balance and Conclusion

39. The proposal would make a modest contribution of 24 units and the appellant has indicated that all of these units would be provided as affordable, which adds weight to this benefit. These are matters to which I attach moderate weight to. However, I have found that due to its mixed use the scheme would have a harmful effect on highway safety and be in conflict with policies of the development plan in this regard. In addition, the scheme would be in conflict with the development plan in so far as it would introduce a residential use onto the site in direct conflict with policy ED1. This overall conflict with policies of the development plan and thereby the plan as a whole is a matter to which I attach significant weight. Paragraph 2 of the Framework is clear that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case there are not any material considerations that would lead me to make a decision other than in accordance with the development plan.
40. Accordingly, for the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

D J Board

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Piers Riley Smith	of Counsel
Christopher Jones	Iceni Projects
Stephen Eyton	Vectos Ltd
Udhyam Amin	Cashco UK

FOR THE LOCAL PLANNING AUTHORITY:

Michael Cassidy	London Borough of Lambeth
Catherine Carpenter	London Borough of Lambeth
Emily Kingston	London Borough of Lambeth

INTERESTED PERSONS:

Rob Andrew	Norwood Action Group & Norwood Forum
------------	--------------------------------------

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Annual Position Statement: Housing Supply & Delivery
- 2 Appeal decision APP/N5660/W/15/3130479

DOCUMENTS SUBMITTED AFTER THE HEARING

- 1 Completed s106 dated 4 November 2019
- 2 Lambeth Strategic Housing Market Assessment
- 3 Draft London Plan – Consolidated Suggested Changes Version, July 2019
- 4 Examination in public on the London Plan
- 5 Lambeth Employment and Skills Supplementary Planning Document, February 2018
- 6 The 2017 London Strategic Housing Market Assessment