



Appeal Decision

Hearing Held on 10 November 2020 & 11 January 2021

Site visit made on 12 January 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2021

Appeal Ref: APP/H5960/W/20/3246208

Albany House, Portslade Road, London SW8 3DJ

- 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 Andrew Thomson of Thomson Lavers Architects Ltd against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref 2016/6020, dated 14 October 2016, was refused by notice dated 8 August 2019.
 - The development proposed is the demolition of existing two-storey residential property and construction of a 10-storey building plus basement to provide a mixed use development comprising office (B1 use) floorspace at ground and first floor level and 9 x two and three bedroom self-contained flats (C3 use) above, with a residents gym and bike store at basement level and refuse store and one onsite disabled car parking space at ground level.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In my heading above I have taken the description of development from that used in the appeal form and decision notice as it is more precise than that given on the planning application form.
3. The appellant requested that a revised site plan/block plan, drawing number 15/128/A000 replaced site plan/block plan drawing number 15/128/A000a. This would extend the red line further south eastwards to encompass the entirety of the works shown on the remaining drawings. The revision primarily seeks to regularise a deficiency and make sense of the proposal. It relates to a small area of land and the substance of the proposal would not change. Consultation has taken place on the remainder of the drawings. On that basis, interested parties are unlikely to have been deprived of the opportunity to comment or prejudiced in their understanding of the likely extent of the development when taking the application as a whole. Moreover, the Highway Authority have commented and were present at the hearing. Therefore, I am satisfied that no one would be seriously disadvantaged by my determining the appeal on the basis of the revised plan. I have determined the appeal accordingly.

Main Issues

4. The main issues are:

- Whether the site provides a suitable location for the proposal having regard to local and national planning policies, and;
- The effect of the proposal on the character and appearance of the area, and;
- The effect of the proposal on highway safety having regard to access, delivery and servicing.

Reasons

Location

5. Policy EI3 of the Wandsworth Local Plan, Employment and Industry Document, December 2018 (EID) sets out areas and premises that will be protected for employment uses. This includes a strategic reservoir of industrial land that can be used in a way that produces noise, odours, dust and other irritants which would harm amenity if these activities were carried out in residential areas. Paragraph 2.7 of the EID explains that the encroachment of residential uses into these industrial areas can harm their operation and limit their capacity and states that it is therefore crucial to protect them from non-economic uses. Moreover, industrial areas provide land for strategically important functions such as waste management, transport, aggregate transfer, wholesale markets and distribution.
6. This approach accords with paragraphs 80-82 the National Planning Policy Framework (the Framework) which in relation to building a strong, competitive economy stipulates, amongst other things, that planning policies should help create the conditions in which businesses can invest, expand and adapt, identify strategic sites and recognise the specific locational requirements of different sectors.
7. The Queenstown Road Strategic Industrial Location (SIL) forms part of the strategic reservoir of industrial land in policy EI3 and adjoins the north west boundary of the appeal site. This SIL is also referred to in policy E5 of the Publication London Plan, December 2020 (PLP). Given the advanced stage of preparation of this spatial development strategy for London, the parties generally agreed that it attracted significant weight and I can see no reason to disagree. Policy E5 of the PLP refers to the management of SILs through a plan-led process to sustain them as London's largest concentrations of industrial, logistics and related capacity for uses that support the functioning of London's economy.
8. A builder's merchant site borders the SIL boundary and the north eastern flank of the appeal building directly adjoins the access to it. The SIL continues along the northern side of Portslade Road and includes businesses within the railway arches. These are predominantly of a general industrial nature encompassing vehicle repair and servicing, metal works, machinery and tool hire and the like.
9. Notwithstanding that the appeal site is not within the SIL, where residential development would be resisted, it is in such close proximity to it that it is reasonable to consider whether the strategic protection envisaged by policy EI3

would be undermined by the residential element of the proposal. This is reinforced by policy DMS1 of the Wandsworth Local Plan, Development Management Policies Document, March 2016 (DMPD) which includes a criterion amongst the general development principles listed that requires development to take account of the operational needs of existing businesses and not to prejudice the existing uses or operations. Furthermore, policy E5 of the PLP states that development proposals within or adjacent to SILs should not compromise their integrity or effectiveness in accommodating industrial-type activities and their ability to operate on a 24-hour basis.

10. It is established that the existing two storey building at the appeal site can be lawfully used as a single dwelling¹ and the existing plans indicate this has one bedroom². The proposal would introduce 9 apartments comprising 2 or 3 bed dwellings. Consequently, the residential use and consequent number of residential occupants of the site would increase considerably as a result of the proposed development.
11. Paragraph 182 of the Framework requires planning decisions to ensure that new development can be integrated effectively with existing businesses and goes on to state that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. In circumstances where the existing business could have a significant adverse effect on new development in its vicinity, it is the new development that should be required to provide suitable mitigation. In broad terms, the mitigation generally envisaged by policy EI3 of the EID would be to prevent the encroachment of residential uses into industrial areas in order to avoid situations where the differing requirements of the users of such land would conflict. Avoiding noisy locations in the first place is recognised as a mitigation measure for noise sensitive developments in Planning Practice Guidance (PPG)³.
12. PPG further indicates that the 'agent of change' will need to take into account not only the current activities that may cause a nuisance, but also those activities that businesses or other facilities are permitted to carry out, even if they are not occurring at the time of the application being made⁴. Additionally, it states that care should be taken when considering mitigation to ensure the envisaged measures do not make for an unsatisfactory development⁵. Moreover, policy D13 of the PLP makes provision for the agent of change principle.
13. The noise generated by the existing nearby industrial uses has informed the proposal to an extent. The majority of fenestration in the building faces Heathbrook Park, which the supporting information acknowledges is to minimize any inconvenience or noise from the industrial use zone⁶. In addition, the Environmental Noise Assessment⁷ provided, although limited in scope, indicates that the noise levels at the appeal site are typical of an environmental noise climate dominated by commercial activity. Moreover, the levels measured

¹ Lawful Development Certificate reference 2008/3410 dated 02 October 2008

² Drawing number 110(S)01 Existing Plans

³ Paragraph 010 Reference ID 30-010-20190722 Revision date 22.7.19

⁴ Paragraph 009 Reference ID 30-009-20190722 Revision date 22.7.19

⁵ Paragraph 010 Reference ID 30-010-20190722 Revision date 22.7.19

⁶ Planning Report 14.10.16, Thomson Lavers Architects, Page 3 Design

⁷ Peak Acoustics, Environmental Noise Assessment 3.5.17

would exceed the BS8233:2014 acceptable level standard for external amenity spaces. Consequently, it would require all balconies to be enclosed in order to achieve this.

14. Noise arising from nearby industrial uses is, amongst other things, likely to include impulsive bursts of noise from engines, the operation of machinery, use of tools, vehicle reverse alarms and other vehicle movement. The character of this noise is likely to prove particularly annoying for future residential occupiers and therefore, has potential to disturb such occupants. Furthermore, at the hearing no party was aware of any restrictions limiting the level of noise or the hours of trading that would prevent nearby industrial uses taking place in the evenings and at weekends or even overnight and therefore, at times when the impact from noise would be likely to cause significant disturbance to residents. Given the dynamic nature of industrial practices, it is foreseeable that existing occupiers could expand or adapt their practices and activities or may bring different occupiers. This is especially so as policy E5 of the PLP encourages opportunities to intensify and make more efficient use of land in SILs and refers to 24-hour operation. In this context, the potential industrial uses at the nearby SIL could encompass a wide range of different uses and hours of operation with consequent implications for noise quality and sound levels.
15. It was confirmed at the hearing that, aside from the windows in the north elevation, future residents would be able to open windows and enclosed balconies for ventilation. The scope of the technical noise information provided is limited to the consideration of external amenity space and balconies. In combination with the evidence given at the hearing, I am not assured that achieving acceptable internal noise levels for future residents takes open windows into account. Given the primarily south-west facing fenestration, it is likely that future residents would seek to open windows and the enclosed balconies to access fresh air and for cooling purposes. This is likely to coincide with seasons when residents are more likely to use the balcony areas provided to sit out.
16. Furthermore, the acoustic information provided related to a 48-hour weekday period in April 2017. It is not shown that allowance has been made regarding the potential intensification of industrial activity or 24-hour operation. The location of the proposal so close to industrial activities is likely to either result in noise that would cause unreasonable disturbance to the occupants or, alternatively would require residents to keep their windows and balconies shut, risking unpleasant overheating of the living environment.
17. Therefore, due to the close relationship of the appeal site with the SIL, I have significant concerns that future residential occupants of the proposal would be likely to experience unacceptable living conditions due to activities and noise emanating from the SIL. This, in turn, is likely to lead to complaints that would increase pressure for restrictions to be placed on users of the existing nearby commercial premises. Furthermore, it may reduce the capacity of industrial uses within the SIL to expand or curtail their flexibility to adapt to changing circumstances. I am not assured that my concerns would be fully addressed by the imposition of conditions.
18. Paragraph 127 f) of the Framework states that planning decisions should ensure that developments create places that, amongst other things, promote health and well being with a high standard of amenity for existing and future

- users. In this case, maintaining the conditions in which industrial businesses in the SIL can expand and adapt flexibly would be likely to have consequent environmental implications for levels of noise and activity that would conflict with the components necessary for a successful residential living environment.
19. It was highlighted at the hearing that the site lies within the Vauxhall Nine Elms Battersea Opportunity Area and is within reasonable walking distance of public transport facilities. Moreover, the PLP contains policies that encourage making the best use of brownfield land to support the growth and regeneration of opportunity areas. Be that as it may, optimising site capacity means ensuring that development is of the most appropriate form and land use for the site⁸. As such, national, local and emerging policies seek to avoid the harm I have identified.
20. Accordingly, I find that the appeal site, due to its proximity to the SIL, would not provide a suitable location for the residential element of the proposal. Therefore, it would conflict with policy EI3 of the EID which seeks to protect the Queenstown Road SIL as the main focus for industry, logistics, storage, warehousing, waste management and transport functions within the borough. In addition, it would conflict with policy DMS1 of the DMPD which requires account to be taken of the operational needs of existing businesses.
21. Policy EI5 of the EID is also cited in the first refusal reason on the decision notice. This policy sets out requirements for new employment development. Amongst other matters, for mixed use development the policy requires the proposed uses to complement each other with mitigation provided where necessary. However, it does not expressly refer to existing nearby businesses. The proposed office use would be compatible with a residential use. The office and residential uses would be on separate floors and as such, would maintain a reasonable relationship that would avoid conflict. Therefore, I find no conflict with this policy in relation to this main issue.

Character and appearance

22. There is a palpable difference in character either side of Portslade Road. The distinctive physical feature of the viaduct and railway arches presents hard onto its northern side and has an overtly industrial character. In contrast, due to the areas of grass and mature trees, the opposite side is greener and more spacious, with Heathbrook Park and two tall residential blocks set well back from the road. Accordingly, the area has a mixed character but one where there is broad separation between residential and industrial components.
23. Portslade Road terminates near to the appeal building and leads to part of a larger scale industrial working environment. The modest scale, height and traditional form of the appeal building possesses little architectural merit and has a low key presence relative to the railway viaduct on the other side of the road. Despite being in a residential use, my observations were that its restricted curtilage and immediate proximity to the entrance road into the builder's merchants means that it reads as part of the industrial development at the end of Portslade Road reminiscent of a gatehouse. Overall, it has a neutral impact on the character of the area.

⁸ Policy D3, PLP

24. The proposal would remove the existing structure and replace it with a building of a contemporary design rising to 10 storeys to provide a mixture of office space and apartments. This would significantly increase the height of the structure on the site making it much higher by comparison to the railway viaduct and industrial buildings in the immediate vicinity. Moreover, as shown in the context elevation drawing⁹ submitted, it would be higher than the mature trees along the boundary of Heathbrook Park. The contrast in the height of development with those in its immediate context would give the building notable prominence in the street. In views from the park and surrounding area it would appear isolated and incongruous rather than successfully assimilated.
25. In addition, the footprint of the building would extend to the edges of the appeal site leaving negligible space at the base that would be free of built form. As a result, the broadest elevations would be directly adjacent to the access lane into the builder's merchants and the boundary with the park. The resulting immediacy in the street scene and proximity to the park would give it an imposing presence that would exacerbate the scale of the structure.
26. Furthermore, as most of the fenestration would be concentrated on the elevation facing the park, this would leave limited detailing in the remaining elevations. To a degree the slender width of the east and west elevations would counter this. Nevertheless, on the broader north facing elevation there would be considerable areas of unrelenting brickwork which would have a negative impact. Taking these factors together, the proposal would have an incongruous and imposing appearance that would not successfully integrate with its immediate surroundings.
27. The appellant highlights the presence of the matching pair of 21 storey residential blocks that form part of the Westbury estate. Nevertheless, I observed the prevailing height of most of the surrounding built form to the appeal site to be fairly low rise. The two tower blocks are an obvious exception and have a magnitude of scale and massing that contrasts with most of the other nearby residential development. In addition, they have spacing around their bases separating them from other built form. As such, they appear distinct from the general order of development. The proposal would be significantly different from these tower blocks in that it would have a lower height, different footprint and form, limited spacing around the base and would not comprise a pair. As such, it would neither read as a continuation of the existing tall buildings nor would it respect the prevailing height of other surrounding development. Consequently, it would appear isolated rather than integrated.
28. At my visit I also observed construction taking place elsewhere on the Westbury estate comprising residential blocks some of which appeared to be broadly comparable in height to the appeal proposal. However, this development was sited the other side of the tall towers from the appeal site and close to Wandsworth Road. As this is some distance from the appeal site, it has less relevance in my assessment than its more immediate surroundings. Therefore, the new development attracts limited weight.
29. The proposal would not be considered a tall building for the purposes of triggering policy DMS4 of the DMPD, and therefore the criteria in that policy do

⁹ Drawing No. 15/128 A010a Context Elevation South

not apply. Nevertheless, the preamble¹⁰ to the policy clarifies that buildings below the threshold for the policy will, regardless of its height, still be subject to assessment against the more general policies in the development plan, including those relating to high quality design. Hence, it does not follow that just because policy DMS4 is not triggered, the height of the proposal would be acceptable.

30. The existing mature trees within Heathbrook Park would, when in full leaf, provide a degree of screening and softening to the development in some views. Nevertheless, this would not fully address my concerns regarding the overall impact of the proposal.
31. Specific mention was made of a residential block in Courland Grove as an example of a single tall building of a comparable height. However, I observed this block to be a considerable distance from the appeal site and would be highly unlikely to be seen in contiguous views. Although near to a park, it was set back in line with other development on the opposite side of the road and has a different form to the proposal before me. Overall, its presence attracts little weight.
32. I am referred to earlier comments of the Council's Conservation and Urban Design Officer who considered the proposal to be acceptable. Nevertheless, I am required to form my own views in relation to the evidence before me, including my own observations. Therefore, whilst I have taken account of the comments, they do not lead me to a different finding on this matter.
33. Accordingly, I find that the proposal would have a harmful impact on the character and appearance of the area. Therefore, it would conflict with policy IS3 of the Wandsworth Local Plan, Core Strategy, March 2016 (CS) which requires development of good quality design that contributes positively to the local environment and reinforces local character. In addition, it would be contrary to policy DMS1 of the DMPD which sets out general development principles, including that buildings should ensure a high level of physical integration with their surroundings. It further requires the scale, massing and appearance of development to contribute positively to local spatial character.
34. Refusal reason 2 on the decision notice also cites policy DMS4 of the DMPD which concerns tall buildings. As this policy would not be triggered by the proposal, I find no conflict with it.

Highway safety

35. Amongst other things, policy IS3 of the CS requires development to be safe and accessible to all. Similarly, policy DMT1 of the DMPD stipulates that development should have safe and suitable access for all people. Policy DMT2 of the DMPD permits development that has adequate servicing arrangements for commercial vehicles and general servicing and encourages the provision of off-street servicing facilities. This generally accords with paragraph 108 of the Framework which, amongst other things, states that planning decisions should ensure safe and suitable access to the site can be achieved for all users.
36. The proposal would introduce office space and 9 residential dwellings which, by comparison to the existing single dwelling, would generate additional delivery and servicing movements over the lifetime of the building.

¹⁰ Paragraph 2.44 DMPD

37. The appeal site is located at the end of Portslade Road adjacent to a single vehicle width access and egress point for a builder's merchants. This is also near to the entrances into several railway arches used by other businesses. Consequently, there are frequent vehicle movements made along Portslade Road, a notable proportion of which will involve larger commercial vehicles. At the time of my visit I observed that vehicles were parked along both sides of Portslade Road such that only a single carriageway width was available for most of its length. This appeared consistent with the typical circumstances described in the evidence presented.
38. Service and delivery vehicles serving the appeal proposal would need to negotiate the length of Portslade Road, whose carriageway width is likely to be restricted by the presence of parked vehicles. There is limited space to turn at the end of Portslade Road. This is reinforced by the Access Report¹¹ provided which shows a tracking diagram indicating that the space would be tight for a standard vehicle to turn. It also assumes there would be no encroachment into the available turning space by any approaching or parked vehicles, including any using the proposed undercroft disabled parking space, access into which would not be a particularly easy manoeuvre.
39. Similarly, the alternative turning area suggested for medium sized commercial vehicles using a roadway leading to one of the railway arches and located approximately 50 metres from the appeal site, would need to be free from vehicles using the entrance or parked within the space. This would also require vehicles to reverse about 50 metres along Portslade Road to reach the appeal site. Moreover, if a larger vehicle was involved, the nearest suitable turning space would necessitate reversing a sizeable vehicle along Portslade Road for approximately 120 metres. In either case, this would represent a considerable distance making it a difficult manoeuvre in this context and would present a highway safety risk to the driver and other road users. This would particularly be the case for delivery drivers unfamiliar with the area, who may fail to anticipate the limited turning space at the end of Portslade Road before it was too late.
40. Limiting the size of future delivery and service vehicles visiting the site could not be guaranteed for the lifetime of the building, albeit it may be possible to put some arrangements in place for private waste collection. Even so, at the hearing the appellant did not commit to using terms of reference to govern future private waste collection that covered the size of vehicle to be used. Moreover, more generally, the nature and size of delivery and service vehicles varies widely and would not necessarily be known in advance to future occupiers of the building. Therefore, it is difficult to see how suitable specific arrangements for parking and turning could be made in advance as part of an agreed service and delivery plan without presenting an onerous and unrealistic burden on the various future residential and office occupants.
41. The combination of these factors would impede safe and suitable access to the site for delivery and service vehicles and given the constrained configuration of accesses at the end of Portslade Road is likely to result in conflict with vehicles seeking to access nearby industrial uses. Although a comparison is drawn with access and servicing arrangements for larger vehicles within small housing cul-

¹¹ Access Report prepared by Thomson Lavers Architects

de-sacs, the industrial context of the surroundings clearly distinguishes the proposal from those circumstances.

42. The appellant highlights that no objection has been raised in terms of traffic congestion, nor the sites accessibility to public transport or cycling. The parties agreed at the hearing that pedestrian access would be acceptable subject to footway improvements along the southern side of Portslade Road being suitably secured and implemented. Be that as it may, these factors would not address nor outweigh the concerns regarding access for servicing and delivery vehicles identified.
43. Accordingly, I find that the proposal would fail to provide safe and suitable access for delivery and service vehicles which would result in an unacceptable impact on highway safety. Therefore, in this regard it would conflict with policy IS3 of the CS, policies DMT1 and DMT2 of the DMPD and EI5 of the EID. Furthermore, given the conflict that is likely to arise with vehicles seeking to access existing businesses it would conflict with criterion k the general development principles in policy DMS1 of DMPD.
44. The third reason on the Council's decision notice also cites policy EI3 of the EID. However, I have not identified a specific conflict with policy EI3 of the EID as it primarily identifies protected employment land and premises.

Other matters

45. At the hearing the parties agreed that planning obligations would be necessary to secure highway improvements, private waste collection and a financial contribution towards providing play equipment in the adjacent park. They further agreed that, in the event the appeal was to be allowed, it would be appropriate to use a negatively worded condition to require legal agreements to secure those matters before development could take place. This was notwithstanding the advice in PPG¹² that such a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. However, I have no planning obligation before me and as I am dismissing for other reasons and these matters would not affect the outcome of my decision, there is no requirement for me to consider them further.
46. Both parties referred to the length of time it had taken for the Council to determine the planning application. The appellant referred to the published report for the Planning Applications Committee on 14 December 2017, which was subsequently withdrawn such that it was not presented. Nevertheless, concerns were raised regarding the Council's apparent change in approach in comparison to that report. However, these are matters that lie outside of the scope of my determination which rests upon the planning merits of the case.

Planning balance and conclusion

47. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise¹³.

¹² Paragraph 010, Reference ID: 21a-010-20190723

¹³ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

48. The proposal would provide additional dwellings that would contribute towards the overall supply as well as additional office space in a reasonably accessible location. Economic benefits would be derived from the future residential and commercial occupants of the building but also as a result of the construction. In addition, the proposal would use previously developed land more efficiently than is presently the case, for which there is general support given in the Framework. Given the scale of the proposal these benefits attract moderate weight.
49. Nevertheless, this does not outweigh the significant weight given to the conflict with the development plan in relation to the main issues. Hence, they would not justify my determining the development other than in accordance with the adopted development plan.
50. Therefore, for the reasons given above, I conclude that the appeal is dismissed.

Helen O'Connor

Inspector

APPEARANCES

FOR THE APPELLANT

Alan Gunne-Jones MRTPI, MIOD : Managing Director of Planning & Development Associates Ltd

Andrew Thompson MA (Hons) Edin. Dip Arch RIBA ARB: Director of Thomson Lavers Architects Ltd

George Macari

FOR THE LOCAL PLANNING AUTHORITY

Janet Ferguson DipUP, Planning Foundation Certificate, HNC Land Administration, MRTPI: Planning Manager

Joanna Chambers BA BTP, MRTPI: Principal Planner

Don Murchie BA MILT: Principal Transport Planner

Mike Singham Geography Degree, Diploma in Wastes Management, Corporate Member of the Chartered Institution of Wastes Management: Waste Strategy Manager

INTERESTED PARTIES

Alex Christopher: Director of Turley Associates representing The Arch Company

Mark Bennett: Local resident