



Appeal Decision

Site Visit made on 12 August 2021

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 September 2021

Appeal Ref: APP/L5240/W/20/3265390

The Beehive and Land to the Rear of Anthony Road, South Norwood, London, SE25 5HQ

- 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 Lali Enterprises Ltd against the decision of London Borough of Croydon.
 - The application Ref 20/03381/FUL, dated 27 July 2020, was refused by notice dated 11 November 2020.
 - The development proposed is the "Demolition of existing buildings behind 1 - 31 Anthony Road, erection of a two storey terrace comprising 9 dwellings, and provision of associated off-street parking and motor vehicular access/exit from Woodside Green, and pedestrian access from Anthony Road, provision of associated refuse storage and cycle storage. Partial demolition of the single storey wing to the rear of the Beehive Pub (north east), and associated works."
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Decision

1. The appeal is allowed, and planning permission is granted for the "Demolition of existing buildings behind 1 - 31 Anthony Road, erection of a two storey terrace comprising 9 dwellings, and provision of associated off-street parking and motor vehicular access/exit from Woodside Green, and pedestrian access from Anthony Road, provision of associated refuse storage and cycle storage. Partial demolition of the single storey wing to the rear of the Beehive Pub (north east), and associated works" at The Beehive and Land to the Rear of Anthony Road, South Norwood, London, SE25 5HQ in accordance with the terms of the application, Ref 20/03381/FUL, dated 27 July 2020, subject to the conditions set out in the Schedule attached to this Decision.

Main Issues

2. The main issues are
 - the effect of the proposal on the supply of employment generating land,
 - the effect of the proposal on the living conditions for residential occupiers of Anthony Road, having specific regard to loss of privacy and outlook,
 - whether the layout of the proposal is suitable having regard to its density and layout,
 - whether the parking layout would be safe, secure and efficient, and
 - whether the proposal offers a contribution towards sustainable transport in the area.

Reasons

The supply of employment generating land

3. Policy SP3 of the Croydon Local Plan 2018 (the Local Plan), Employment, sets out the 4-tier approach to the retention and redevelopment of land and premises relating to industrial or employment activity. The appeal site is categorised as a scattered employment site, in which the approach is to protect land for industrial and warehousing activities and allowing for residential development subject to certain criteria.
4. The appellant suggests that the previous use of the site has been abandoned, and as such, the provisions of this policy do not apply. The Council do not engage with the issue of abandonment, but state that they would expect 18 months of marketing information to show that there is no demand for the employment generating land at the site.
5. From my site visit and the evidence of the appellant, it is clear that the site is not in employment generating use and has not been for some time. It is also clear, again from my site visit and the evidence of the appellant, that the context to the site as an employment generating one has changed significantly since any such use has taken place. The site is now wholly surrounded by residential uses, and as such, unlikely to be suitable for an employment generating use. Added to this, I note that in their submissions the Council describes the site as an "ex-vehicle repair yard/garage block land" which is variously "fallow", "vacant" and "derelict". In their pre-application advice to the appellant, they also noted that "for a site to be considered 'abandoned', the land would have to be left to seed without any intention of using it for any other purpose". It seems to me that this has been the case.
6. Whilst it may be suggested there would be a minor conflict with the development plan in this issue, I find it would arise from the specific process which the Council seeks to follow, rather than from the policy itself. This process, namely the provision of 18 months of marketing information, is set out in the supporting text to the policy and does not therefore have the force of the policy. From the facts of this case and the conclusions which can be clearly drawn from the evidence before me, to my mind it is plain that the appeal site is not in employment generating use, there is no demand for it as such, and that its availability as such would not be lost as a result of the proposal in this case, on this site, having regard to its characteristics and surroundings.
7. On balance therefore, I am satisfied that there is no current employment generating use of or on the land, and that there is no demand for one. Whilst I note the Council normally seeks evidence of 18 months of marketing to demonstrate the lack of such demand, I am satisfied that the evidence before me shows a clear lack of such demand.
8. Given this and the new context to the site, I am satisfied that the proposal would not harm the supply of employment generating land in the area. As such, it would comply with Policy E4 of the London Plan 2021 and Policy SP3 of the Local Plan.

Living conditions

9. Any overlooking or potential loss of privacy for properties on Anthony Road is prevented by a combination of the separation distances proposed, the lack of first-floor rear-facing windows, and the use of obscure glazing in the first-floor corner windows where they face Anthony Road. Whilst I acknowledge that the proposals may give rise to an increased perception of overlooking or loss of privacy, given the separation distances involved, I do not consider that this is harmful or unacceptable. In addition, given the dense, urban environment of and around the site, I am satisfied that the proposal is acceptable, and not beyond the scope of what would be expected in such an area. In reaching this conclusion, I note the comments of third parties, as well as the contents of the Council's Suburban Design Guide Supplementary Planning Document 2019.
10. The proposal will of course alter the outlook for the occupiers of properties on Anthony Road. However, I do not consider that the proposal would be so close, so overbearing or so dominant that the change it would cause to outlook would be harmful or otherwise unacceptable, having regard to the dense, urban nature of the site and its surroundings. The use of a flat-roofed design will also limit effects on outlook.
11. I therefore conclude that the proposal would not have an unacceptable or harmful effect on the living conditions for residential occupiers of Anthony Road, having specific regard to loss of privacy and outlook. It would therefore comply with the design and amenity policies of the London Plan 2021 and Policies SP4.2 and DM10.6 of the Local Plan, which seek, amongst other things, to ensure that development protects the amenity of adjoining occupiers with particular regard to privacy and outlook.

Layout

12. Around the appeal site is development of and at different scales, types, density and ages, all with their own character and appearance, of their time and responding to their contemporary challenges, constraints and opportunities with regard to their surroundings, giving rise to the character, appearance and layout which currently exists.
13. I accept that the proposal would be relatively dense, and that the character of this terrace would be different to that of the more traditional terraces facing onto streets. However, the nature of the site is different, and as such, its character must also be different.
14. To my mind the appeal proposal is the latest version of the same development imperative that has given rise to the now established character of the area. The design of the proposal is clearly driven by, and responds to, the character of its surroundings and the constraints which that delivers.
15. I am satisfied that the layout is a rational, pragmatic response to the site and its surroundings and that rather than being cramped and overcrowded, it would instead be well-designed and appropriate, whilst acknowledging that it would be delivered within a dense, urban environment.

16. I do not consider that the specific criticisms of the proposal, relating to surveillance of the bin and bike stores, the accessibility of the pedestrian access, the proposed landscaping or the comments around the 'sequence of spaces' are either borne out by the evidence, or of such weight to find that the layout of the proposal would be harmful or otherwise unacceptable.
17. I therefore find that the layout would not be cramped and overcrowded, and that the proposal is suitable having regard to its density and layout. I find that the siting, massing and layout of the development, with its contemporary design and materials would be interesting and attractive. The proposal would therefore comply with the relevant policies in the London Plan 2021 and Policies SP4.1, SP4.2 and DM10 of the Local Plan. These policies seek, amongst other things, to ensure that development is high quality, that its character is informed by and respects local character and qualities and is appropriately designed.

Parking

18. The appellant has provided vehicle tracking and swept path analysis which shows that all of the car parking spaces proposed can be appropriately accessed and used. I note the concern of the Council around the width of one of the spaces, but also note that the space tapers, and although slightly narrow at its entrance point, it would still be accessible and usable, as borne out by the swept path analysis.
19. Turning to the concerns over the relationship of the disabled persons parking space and the pedestrian access to the site, whilst I note this, I do not consider that this would be so severe as to be unacceptable or harmful, given the relatively minor expected level and intensity of use of the parking area as a whole.
20. In considering the suitability of the parking layout, I also note the PTAL level for the area and the contributions towards sustainable transport improvements which the Council seeks from development in this area. I also note that the proposal provides sufficient cycle parking spaces, including for visitors and adaptable cycles.
21. I therefore find that the proposed parking layout would be safe, secure and efficient, and in this regard the proposal would comply with Policies T4, T5, T6 and T7 of the London Plan 2021 and Policies DM29 and DM30 of the Local Plan. These policies seek, amongst other things, to ensure that development promotes sustainable travel, reduces congestion, is not detrimental to highway safety for all users, appropriately controls parking and ensures that movement is not impeded by it.

Sustainable transport

22. Subsequent to the Council's decision on the application, the appellant has now provided a Unilateral Undertaking (UU) under section 106 which secures the sustainable transport contributions sought by the Council. Those contributions seek to mitigate the effects of the development on local transport conditions by contributing towards a car club, electric vehicle charging and the improvement of walking and cycling routes in the vicinity, improving connections to other areas.

23. The appellant disputes the need for these contributions; however, the site is in a PTAL3 area, having moderate accessibility to public transport. In their Transport Statement, the appellant states their desire to maximise the sustainable characteristics of the site. Contributions towards sustainable transport would therefore assist in achieving their aims and those of the Council. Furthermore, the contributions have their basis in the development plan, notably Policy SP8 of the Local Plan, referred to by the Council in their submissions. The necessity of these contributions is also balanced against caution over and concern around level of parking provision and the accessibility of the parking provided in the development. I therefore find that the contributions are reasonable and necessary.
24. I have considered whether the UU meets the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010. On the basis of the evidence before me and my conclusions above, I am satisfied that the UU is necessary to make the development acceptable in planning terms, directly related to the development and fairly related in scale and kind to the development.
25. As the proposal would offer a contribution towards sustainable transport in the area, I therefore find that it would comply with Policy T9 of the London Plan 2021 and Policies SP6, SP8, DM29 and DM30 of the Local Plan. These policies seek, amongst other things, to ensure that development makes appropriate contributions towards infrastructure funding, promotes sustainable travel, including public transport, walking and cycling routes and networks.

Other Matters

26. I note comments from third parties concerning harm to or unacceptable effects on trees on the site, but an Arboricultural Report has been submitted, which includes measures to mitigate any harm to the trees to be retained, details of proposed new tree planting and compliance with these recommendations has been secured through conditions. Similarly, noise and disturbance effects relating to construction will be addressed by condition.
27. The Council has highlighted that The Beehive public house is a locally listed building, a non-designated heritage assets for the purposes of the National Planning Policy Framework (the Framework). Given the distance between The Beehive and the proposal, as well as the other recent new development close by, I am satisfied that the proposal would not cause any harm or loss of significance to the locally listed building as a non-designated heritage asset.

Conditions

28. Having had regard to the suggestions of the Council, the requirements of the Framework and the Planning Practice Guidance I have imposed standard conditions concerning commencement (1) and compliance with the submitted plans (2), in order to ensure the satisfactory appearance of the completed development.
29. The appellant has confirmed that they have no objection to the terms of the pre-commencement conditions (3 and 4) proposed by the Council. It is necessary and reasonable that the information required by these conditions, concerning construction logistics (3) and land contamination (4) be provided prior to the commencement of development, as these are matters which

cannot properly or reasonably be addressed following the commencement of the development.

30. The landscaping condition (5) will allow suitable control over landscaping proposals, allows scope to meet Framework objectives and will ensure the satisfactory appearance of the completed development. Condition 6 is necessary to ensure that consideration is given to, and that certainty is assured around detailed matters of lighting, car parking, cycle storage and refuse management. Condition 7 is required to ensure that the development meets sustainable emissions rates in line with the aspirations of the Local Plan. Conditions 8, 9 and 10 are necessary to ensure compliance with submitted details around tree protection, drainage and biodiversity protection. Condition 11 is necessary to ensure the satisfactory appearance of the completed development.
31. I am therefore satisfied that the conditions meet the tests in, and requirements of both the Framework and the PPG.

Conclusion

32. For the reasons given above I conclude that the proposal accords with the development plan and there are no material considerations which indicate that a decision be taken other than in accordance with it. The appeal should therefore be allowed, and planning permission granted.

S Dean

INSPECTOR

Schedule of Conditions

1. The development shall be begun within three years of the date of the permission.
2. The development shall be carried out entirely in accordance with the approved drawings and supporting documents submitted with the application listed below:

PL2/13 Rev A ; PL2/01 ; PL2/07 Rev A ; PL2/08 Rev B ; PL2/09 Rev B ; PL2/10 Rev A ; PL2/14 Rev B ; PL2/15 Rev B ; PL2/02 Rev B ; PL2/03 Rev E ; PL2/04 Rev E ; PL2/05 Rev E ; PL2/06 Rev E ; Transport Assessment, prepared by Pulsar Transport Planning; Arboricultural Impact Assessment (including Tree Survey), prepared by APArboriculture; Noise Assessment, prepared by KP Acoustics; FloodSmart (Flood Risk Assessment), prepared by GeoSmart; EnviroSmart Plus (Contamination), prepared by GeoSmart; SuDSmart Pro (Sustainable urban Drainage Scheme), prepared by GeoSmart; Preliminary Ecological Appraisal, prepared by The Ecology Partnership; and Bat Emergence/Re-entry Survey, prepared by The Ecology Partnership.

3. Prior to the commencement of the development (including demolition and foundation works) a Construction Logistics Plan (CLP) (including a Highway condition survey) shall be submitted to and approved in writing by the Local Planning Authority. The CLP shall include the following information for all construction phases of the development:
 - a) Hours of construction;
 - b) Hours of deliveries;
 - c) Parking of vehicles associated with deliveries, site personnel, operatives and visitors;
 - d) Facilities for the loading and unloading of plant and materials;
 - e) Details of the storage facilities for any plant and materials;
 - f) The siting of any site huts and other temporary structures, including site hoardings;
 - g) Details of the proposed security arrangements for the site;
 - h) Details of the precautions to guard against the deposit of mud and substances on the public highway, to include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances prior to entering the highway;
 - i) Details outlining the proposed range of dust control methods and noise mitigation measures;
 - j) Details demonstrating compliance with the non-road mobile machinery (NRMM) regulations 2015;
 - k) Details confirming that all delivery vehicles are registered under the Freight Operators Recognition Scheme (FORS) achieving a minimum of silver status.

All construction phases of the development shall be carried out strictly in accordance with the details so approved.

4. Before the development is begun a Phase 2 report for contaminated land issues for the site shall be carried out to the approval of the Local Planning Authority, to provide an assessment into the possibility of soil contamination. The investigation report shall include a risk assessment and details of remediation if required. Remedial works which are shown to be required must be approved by the Local Planning Authority before any such works are carried out and completed prior to the occupation of any building. A validation report detailing evidence of all remedial work carried out must be submitted to and approved in writing by the Local Planning Authority at the conclusion of the work and before any occupation of the properties. The developer shall notify the Local Planning Authority of any on site contamination not initially identified by the site investigation so that an officer of the Council may attend the site and agree any appropriate remedial action.
5. Prior to the commencement of the new development (excluding demolition and foundation works), full details of the following shall be submitted to and approved in writing by the Local Planning Authority:
 - a) Hard landscaping materials, including existing to be retained (including samples as appropriate).
 - b) Soft landscaping details, including existing planting to be retained, the species, size and density of proposed new planting, including semi-mature tree planting.
 - c) Measures to promote biodiversity/diverse ecology through flora and fauna enhancements.
 - d) Boundary treatments (including new partition fences and works of making good to existing boundary treatments).
 - e) full details of childrens' playspace.

The details approved shall be provided and completed in accordance with this condition prior to the first occupation of the new dwelling, and maintained for the lifetime of the development with the exception of new planting which shall be provided and completed in accordance with this condition prior to the end of the first planting season following completion of the development, and maintained for a period of five years from the date of planting. Any new planting which dies, is severely damaged, becomes seriously diseased or is removed within that period shall be replaced by planting of a similar size and species to that originally planted.

6. The following details shall be submitted to the Local Planning Authority for its written approval prior to the first occupation of the new dwellings :
 - a) security lighting (siting/manufacturer) ;
 - b) full details electric charging point/s for car parking and cycle storage ;
 - c) refuse management plan.

Once approved, the items above shall be implemented as specified and shall be retained as such for so long as the development remains in existence.

7. The new development hereby permitted shall achieve a minimum 19% improvement in the Dwelling Emission Rate (DER) over the Target Emission Rate (TER) as defined in Part L1A of the Building Regulations (2013).

8. The actionable arboricultural measures (including tree protection measures) of appropriate documents and drawings as submitted with the application shall be implemented and adhered to as specified prior to, or upon, the commencement of development (including demolition and foundation works) associated to the development. The actionable tree protection measures shall be retained as such for the duration of the demolition and construction works and, where appropriate, for so long as the development is in existence.
9. Actionable measures of the appropriate SUDs information submitted with the application shall be implemented as specified and retained as such for so long as the development remains in existence.
10. Actionable measures of the appropriate Ecology biodiversity protection and enhancement information submitted with the application shall be implemented as specified and retained as such for so long as the development remains in existence.
11. The development hereby permitted shall be implemented in accordance with the external facing materials as specified in the approved drawings and documents submitted with the application, and once implemented the external facing materials shall be retained as such for so long as the development is in existence.

End of Schedule of Conditions