



Appeal Decision

Site visit made on 4 July 2023

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2023

Appeal Ref: APP/L5240/W/22/3304506

132 Epsom Road, Croydon CR0 4PY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Allan White (Allan White Trading Ltd) against the Council of the London Borough of Croydon.
 - The application Ref 22/01412/OUT, is dated 1 April 2022.
 - The development proposed is the change of use and the formation of six three-bedroom houses with associated bicycle and refuse storage.
-

Decision

1. The appeal is dismissed and outline planning permission is refused for the change of use and the formation of six three-bedroom houses with associated bicycle and refuse storage.

Preliminary Matters

2. The planning application was made in outline with appearance and landscaping reserved for later consideration. I have therefore dealt with the appeal on this basis and I have treated drawings showing the appearance and landscaping of the proposed development as for illustrative purposes only.
3. The Council's jurisdiction to determine the planning application for the appeal development fell away when the appeal was lodged. From the evidence before me, the Council would have refused planning permission had it been able to do so. I have considered the Council's submitted appeal statement and putative reasons for refusal in terms of defining the main issues below.
4. The appellant has submitted an executed Unilateral Undertaking (UU), in counterpart form, pursuant to Section 106 of the Town and Country Planning Act 1990, dated 26 January 2023, to make payment of a Sustainable Transport Contribution of £1500 per residential unit (plus payment of monitoring fees) and limiting the ability of future occupiers of the proposed dwellings to acquire residents on-street car parking permits. I will return to this later in my decision.

Main Issues

5. The main issues are:
 - The effect of the proposed development on the availability of employment land.
 - The effect of the servicing of the proposed development on highway safety, with particular regard to accessibility of the site for vehicles.

- Whether the proposed development would provide suitable living conditions for future occupiers, with particular regard to arrangements for refuse and recycling collection.
- Whether or not the measures sought to secure car free development and contributions to improve sustainable transport are reasonable and necessary to make the development acceptable.

Reasons

Employment land availability

6. Policy SP3 of the Croydon Local Plan (adopted February 2018), (the CLP), seeks generally to protect and retain all existing industrial and employment sites, except where a lack of demand is demonstrated, and other policy requirements are met. Although this policy predates the current version of the National Planning Policy Framework (the Framework), its approach to the protection of employment land is broadly consistent with Paragraphs 81, 82 and 83 of the Framework, which state that policies should set a clear economic vision, strategy and criteria, which encourages sustainable economic growth and addresses locational requirements of different sectors. It is also broadly consistent with Paragraph 123.a) of the Framework, which states that local planning authorities should support proposals to use employment land for homes in areas of high demand provided this would not undermine key economic sectors.
7. CLP Policy SP3 and CLP Table 5.1 set out the Council's 4-tier approach to the retention and redevelopment of industrial and employment land. Within Tier 4, which the appeal site falls within, the table sets out the approach that will be taken in that employment sites will be protected for industrial and warehousing activities in the Borough, with allowance being made for community uses to locate in more accessible locations. Identified 'permitted uses' in Tier 4 locations are Class B1, excluding offices, Class B2, Class B8, employment generating sui generis uses and Class D1 in accessible locations. Although the existing vehicle rental business on the appeal site is a sui generis use and not an industrial or warehousing use, it is nonetheless an employment use of the land and indeed one of the 'permitted uses' in Tier 4 locations.
8. CLP Policy SP3 is clear that planning permission for limited residential development will be granted in Tier 4 locations if it can be demonstrated that there is no demand for the existing premises or for a scheme comprised solely of the permitted uses set out in CLP Table 5.1, and the residential use would not harm the wider location's business function.
9. Other than information about the premises being no longer required by the appellant following consolidation of its business activities at another location, no substantive information or marketing details have been submitted about the demand for the existing employment premises or for a development scheme comprising of the 'permitted uses'. Consequently, the proposal would result in an unjustified loss of employment land in conflict with the relevant provisions of CLP Policy SP3.

Highway safety

10. The site is located close to the junction of Epsom Road with the A232. At my site visit on a weekday afternoon, I observed that traffic movements on Epsom

Road and along the frontage of the appeal site were relatively light and infrequent. This contrasted with the busy A232, which forms part of the Transport for London road network. Whilst just a snapshot in time, I have no evidence that the traffic conditions I observed were abnormal outside of peak hours.

11. Double red line restrictions are in place along Epsom Road across the frontage of the appeal site and the evidence suggests they prevent stopping, waiting or parking by any vehicle at any time. The double red lines terminate just beyond the site frontage on Epsom Road, at which point single yellow line parking restrictions continue for some distance on both sides of Epsom Road, apart from where there are marked bays for parking permit holders. As such, the availability of parking on Epsom Road for vehicles involved in the construction of the appeal development is limited.
12. The appeal site is relatively short from front to back and accessibility appears to be limited to vehicles no longer than 10m in length. Vehicles of around this length will likely need to reverse into or out of the site due to the limited space for turning. However, the appeal site's vehicular access is set away from the junction of Epsom Road and the A232, allowing for some capacity on Epsom Road for queuing vehicles clear of the A232, in the event of traffic flow on Epsom Road being temporarily halted by a vehicle reversing into and out of the site. Moreover, the appellant has indicated in their Draft Construction Logistics Plan (DCLP), that controls, including the requirement for marshals and banksmen to supervise the reversing of vehicles onto and off the site, will be put in place by the appointed contractor through a finalised DCLP, to ensure the safety of highway users. In addition, the DCLP also proposes to limit the timings of certain deliveries and collections to avoid peak traffic conditions on the road network.
13. Given such measures, which could be controlled by planning condition, I am satisfied that the reversing of vehicles into and out of the appeal site would not pose a severe risk to the safety of pedestrians, cyclists or other highway users.
14. Concerns are raised that larger vehicles associated with the construction of the development would park in Epsom Road and across the access to the adjacent car park of Waddon Lodge. However, parking across this access is restricted by a single yellow line. Even if the car park access was parked across temporarily by vehicles, I have no substantive evidence that it would cause harm to highway safety. The car park is relatively small, lessening the probability of any conflict between vehicles entering/exiting the car park, and parked vehicles. With regard to parking on Epsom Road, the DCLP advises of the potential for applying for licenses to secure the temporary closure of parking bays on the road. I am satisfied that parking within the highway over the likely duration of this modest scale development would be adequately controlled by existing restrictions and would not lead to a severe impact on the safety of road users.
15. For these reasons, I conclude that the servicing of the development during construction would not have a severe adverse effect on highway safety, with particular regard to accessibility of the site for vehicles. It therefore complies with Policies T4 and T7 of The London Plan (2021) (TLP), which require development proposals to be informed by a Construction Logistics Plan and that inclusive and safe access for people walking or cycling should be prioritised and maintained during the construction phase of development. It also complies with

CLP Policies DM29 and DM30, which require that development must not have a detrimental impact on highway safety or impede the movement of other highway users.

Refuse and recycling collection

16. The layout drawings show that 2 bins could be stored at the front of each dwelling. I therefore see no reason why a recycling bin and a refuse bin, as opposed to 2 recycling bins, could not be stored at the front of each dwelling and wheeled to the collection point when required. This would obviate the need for future occupiers to walk to the communal bin storage area each time waste needed depositing in the bin.
17. However, the bin collection point would be located some distance away from the dwellings on Plots 1-4. Although the footway is hardsurfaced and level, given that the bins would be likely to be heavy on collection days and that the future occupiers of the proposed development may be elderly or have mobility issues, such a distance to dispose of waste would be excessive and inconvenient, potentially resulting in their waste not being collected on a regular basis. It is unclear whether Council bin operatives would wheel bins from an alternative collection point closer to Plots 1-4 to reduce the distance that future residents would have to wheel their bins, particularly given the double red line restrictions that are in place.
18. For these reasons, I conclude that the proposed development would not provide suitable living conditions for future occupiers, with particular regard to arrangements for refuse and recycling collection. It therefore conflicts with CLP Policy DM13, insofar as it requires storage facilities for refuse and recycling bins to be conveniently located and easily accessible by occupants, operatives and their vehicles. The policy's supporting text advises that such facilities should be easily accessible to all residents. TLP Policy T7 relates to deliveries, servicing and construction of a development and is not directly relevant to the distance for wheeling bins. As such, I find no direct conflict with this policy.

Contributions sought

19. The submitted and executed UU takes the form of counterpart documents signed by different parties to the agreement. The UU obligates a contribution to fund provision of a combination of measures to promote the use of sustainable transport, including electric vehicle charging points, changes to the highway such as on-street parking restrictions, and improvements to cycle and walking routes.
20. Paragraph 57 of the Framework and Regulation 122 of the Community Infrastructure Regulations 2010 (CIL Regulations) set out that planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, are directly related to the development; and fairly and reasonably related in scale and kind to the development.
21. I have not been made aware of any assessment by the parties as to whether the contribution would meet the tests in Paragraph 57 of the Framework and the CIL regulations. The evidence available does not give specific details of the improvements and/or changes to highway infrastructure that would be funded by the contribution. There is no evidence setting out the demand the proposed

development would place on transport infrastructure and whether it would have sufficient capacity to meet this demand. In particular, the requirement for future occupiers of the proposed development (who are prevented by the UU from acquiring residents car parking permits to reduce car ownership) to fund the provision of electric vehicle charging points does not appear reasonable or directly related to the development.

22. On this basis, I cannot conclude with sufficient certainty that the proposed development would necessitate a payment towards measures to promote use of sustainable transport, including electric vehicle charging points, changes to the highway such as on-street restrictions, and improvements to cycle and walking routes. Therefore, the tests in Paragraph 57 of the Framework and the CIL regulations are not met in this instance.
23. TLP Policy T6.1 supports car-free development. CLP Policies SP8 and DM30, seek to encourage car free development in areas of good public transport accessibility (PTAL rating of 4 or more) or areas of existing on-street parking stress, to manage urban growth and make fullest use of public transport. The appeal site is situated close to a Controlled Parking Zone and the relevant obligation in the UU would be necessary to achieve the policy aims of car free development and prevent future occupiers from acquiring parking permits. As such, I find this obligation to be compliant with the tests in Paragraph 57 of the Framework.
24. For these reasons, I conclude that the submitted UU meets the tests in Paragraph 57 of the Framework and the CIL regulations, but only insofar as it prevents future occupants from acquiring parking permits to secure car free development in accordance with the policy objectives set out above.

Other Matters

25. In the context of the development plan, I have found that the proposal would conflict with CLP Policies DM13 and SP3. Although these policies pre-date the current Framework, I have found them to be broadly consistent with the Framework's objectives of supporting sustainable economic growth and addressing the locational requirements of different sectors; and promoting well-being and providing a high standard of amenity for future occupiers. Therefore, I give the appeal proposal's conflict with these policies significant weight.
26. The social benefits of the appeal proposal are that it would deliver 6 homes and make efficient use of previously developed land in a location where there is access to a range of services and employment opportunities, and good public transport accessibility.
27. The development would generate short term employment opportunities and economic activity associated with the construction works, and long-term benefits through residents supporting the economy and services. However, the economic benefits of the proposed homes are outweighed by the economic disbenefits associated with the unjustified loss of the employment land.
28. The external appearance and landscaping of the proposed development could be designed to make a positive contribution to the area, including delivery of a minimum 10% biodiversity net gain. The proposal would facilitate car free development to meet the objectives of promoting sustainable transport. It

would likely reduce emissions from vehicles compared to the existing use of the appeal site, contributing to improvements in air quality. Energy efficiency and water usage would exceed the Building Regulations. Optional Building Regulations accessibility and ventilation standards would be met and one of the dwellings would be designed to be wheelchair adaptable. However, given the scale of the proposed development, the social and environment benefits of delivering 6 dwellings carries modest weight in its favour.

29. Interior space would meet quantitative space standards. Harm to the living conditions of nearby occupiers could be avoided. Surface water drainage could be addressed through a planning condition. The development would not affect heritage assets. Conditions could be imposed to avoid harm to highway safety and secure satisfactory cycle parking. However, an absence of harm in these respects does not weigh in favour or against proposal, being requirements of any well-designed development.
30. The proposed development would make a modest contribution to the housing supply in the area and the appellant refers to a shortfall in the identified need for housing. Even if I were to conclude that paragraph 11.d)ii. of the Framework applies and that permission should be granted, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, I have already found that the benefits of the proposal would be relatively modest.
31. However, there would be conflict with the Framework in so far as the proposal would result in an unjustified reduction in the availability of employment land, inconsistent with the objectives of encouraging sustainable economic growth and the locational requirements of different sectors. Furthermore, it would not provide a high standard of well-being and amenity for future occupiers, with particular regard to arrangements for refuse and recycling collection.
32. Consequently, the appeal proposal's adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. As a result, the proposed development does not benefit from the Framework's presumption in favour of sustainable development.

Conclusion

33. For the reasons given above and having considered all matters raised, I conclude that the proposed development conflicts with CLP Policies DM13 and SP3. Although it may comply with other policies, the harm I have identified would result in conflict with the development plan as a whole. The material considerations, including the aforementioned potential benefits of the proposal and the associated provisions of the Framework, do not carry sufficient weight when taken together to outweigh the harm, nor do they indicate that the application should be determined otherwise than in accordance with the development plan. Therefore, the appeal is dismissed, and outline planning permission is refused.

G Sylvester

INSPECTOR