



Appeal Decision

Site visit made on 6th February 2024

by Megan Thomas KC Barrister-at-Law

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 27.02.2024

Appeal Ref: APP/L5240/W/23/3326983

Rahat, Pine Close, Kenley, Croydon CR8 5HX

- 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 Montague (London) Limited against the decision of the London Borough of Croydon.
 - The application Ref. 23/00084/FUL, dated 4 January 2023, was refused by notice dated 26 June 2023.
 - The development proposed is the demolition of the existing dwelling and erection of 3 dwellings with associated access, parking, landscaping and site infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing dwelling and erection of 3 dwellings with associated access, parking, landscaping and site infrastructure at Rahat, Pine Close, Kenley, Croydon CR8 5HX in accordance with the terms of the application, Ref.23/00084/FUL, dated 4 January 2023, subject to the Schedule of Conditions at the end of this decision letter.

Main Issue

2. The main issue in the appeal is the effect of the proposed development on the character and appearance of the area with particular regard to the existing pattern and design of development in the surrounding area.

Reasons

3. The appeal site is on the south side of Pine Close, which is a narrow, single track, steeply inclined cul-de-sac connected to Welcomes Road. The dwellings in the area are varied in design, scale, and appearance although there are shared design characteristics such as being set back from the highway behind trees, hedges and soft landscaping and generally sited in large plots.
4. There is a single storey detached house on the site within a generous plot surrounded by soft landscaping. There is a change in levels on the site with land sloping up to the west. The part of Kenley in which it is located is suburban in character but is verdant and leafy with many trees. Kenley Common is close by. Topography is a key feature of Kenley and land levels differ concealing some development in the landscape.
5. Welcomes Road comprises several large, detached dwellings with several infill dwellings and flatted developments present within the street scene. Several cul-

de-sacs, such as Pine Close, have been added to Welcomes Road historically, resulting in a number of backland development sites. The existing cul-de-sac comprises 3 dwellings, which are laid out in a sporadic development pattern with large gardens around the form of the cul-de-sac. None of the dwellings are identical.

6. The proposed development includes the demolition of the existing dwelling and the erection of three detached dwelling houses of the same basic design. They would have two full storeys with the roof space utilised to provide additional accommodation. The development would offer two points of access and would utilise a one-way system for vehicles entering and exiting the site. Each dwelling would be afforded two car parking spaces (6 in total) and private amenity spaces.
7. The proposal would result in smaller dwellings in smaller plots than are typically found in the area. However, all three would not be orientated in precisely the same direction thereby injecting some informality into the layout. Furthermore, each would be on a different land level which dilutes the uniformity further and results in a more sporadic configuration of development. Furthermore, they would be located away from the Close behind a landscaped communal garden (including a boundary hedge) and parking area. The layout would be appropriate for a cul-de-sac.
8. The proposed dwellings would not be too tightly laid out. I agree with the Council that the planned separation distances offer some relief between the proposed built forms. Whilst Welcomes Road is not a cul-de-sac, some of the closest houses to the appeal site on that Road have close flank-to-flank relationships, possibly closer than the proposed dwellings.
9. The site is partially previously-developed land as defined in the National Planning Policy Framework and it mandates that substantial weight should be given to the value of using suitable brownfield land within settlements for homes. In this case, more effective use of the site can be made while safeguarding and improving the environment and ensuring safe and healthy living conditions.
10. The design of the homes would be reasonably traditional in character. Gable ends are common in the area. Some detailed vernacular cues have been taken from nearby dwellings, including 12 and 106 Welcomes Road and Rahat itself. Two homes would be red brickwork with stone soldier coursing above the openings. The other would be finished in white render with red brick soldier coursing above the window openings and a red brick feature at the base. More detail and individuality could be incorporated into the design by the use of further different materials. A planning condition is included to give the local planning authority control over the final choice of external facing materials.
11. Consequently, I conclude that the proposed development would not unduly harm the character or appearance of the area. It would not conflict with policies D3 or D4 of the London Plan 2021 or policies SP4 and DM10 of the Croydon Local Plan 2018.

Other Matters

12. I have considered the residential amenities of nearby properties including Buena Vista and Cheriton. The proposed dwellings would not have any unacceptable

detrimental impact on privacy, outlook or daylight and any increase in noise from the additional dwellings would not be sufficient to warrant refusal of planning permission. The Council agree.

13. A construction logistics plan is required via planning condition, and this would minimise impacts and inconvenience during the construction period. Additional traffic movements would be generated on Pine Close, which is single track and which currently entails some waiting and reversing when vehicles meet. The minimal increase in traffic does not provide a basis for refusal of permission and I have noted that the Highway Authority have not objected to the development on any grounds including highway safety or capacity.
14. There are references to restrictive covenants preventing development on the appeal site but those are private law matters outside the remit of this town and country planning decision.

Conditions

15. I have had regard to the Council's suggested conditions which I have amended slightly. I have also had regard to advice on conditions in the National Planning Practice Guidance. The conditions I have imposed are those that I think are necessary. In addition to the standard implementation condition, the approved plans condition is imposed for certainty. A construction logistics plan is required in order to minimise any detrimental impacts on neighbours and road users during construction. This condition needs to be a pre-commencement condition in order to ensure that all phases of demolition and construction strive to avoid adverse impacts. The appellant has consented to the form of this condition.
16. Conditions are required to secure protection measures related to biodiversity and enhancement measures related to biodiversity in order to conserve and enhance protected and Priority species and ensure that nature conservation legislation is met. For the same reasons, I have required a biodiversity lighting design scheme to be approved prior to occupation of the dwellings.
17. To ensure that the appearance of the development is acceptable and contributes towards a high quality development I have attached a condition requiring further detailed drawings and samples of materials to be approved by the Local Planning Authority. For the same reason, a landscaping condition is attached.
18. To ensure that the development incorporates the necessary fire safety measures in accordance with the Mayor's London Plan Policy D12, there is a condition tying the development to the submitted fire safety strategy.
19. The condition seeking details of cycle and bin stores, electric vehicle charging points, visibility splays and gradients is necessary to ensure that the development is built to a high and safe standard.
20. To ensure high standards of sustainable design and construction in new development there is a condition limiting dwelling emissions and water use.
21. To ensure that surface water run-off is managed safely and effectively to manage flood risk, there is a condition requiring details of a surface water drainage scheme to be approved, implemented and retained.

- 22.To protect privacy, a condition prevents additional windows being inserted into flank elevations and ensures some approved windows are obscurely glazed.
- 23.Given the need to maintain some openness and space in the layout of the 3 dwellings and to safeguard residential amenity, I consider there is specific justification to remove class A permitted development rights via planning condition.

Conclusion

- 24.I have given weight in favour of granting planning permission to the fact that two (net) additional housing units would be provided by the development and this supports the Government's objective of boosting the supply of homes. The development would also bring some economic activity which is also a factor which weighs in favour of granting planning permission.
- 25.Having taken into account all representations made, for the reasons given above, I allow the appeal.

Megan Thomas K.C.

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following documents and approved drawings: 541.1250.PL.01 (Site Location Plan), 541.100.PL.01 Rev.A (Proposed Floor Plans), 541.100.PL.02 Rev A (Proposed Sections), 541.100.PL.03 Rev.A (Proposed Elevations Middle House), 541.100.PL.04 (Proposed Elevations End Houses), 541.200 PL.02 Rev.A (Proposed Site Plan).
- 3) Prior to the commencement of development (including demolition) a Construction Logistics Plan (CLP) 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 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 of any non-road mobile machinery with legislation; k) Details confirming that all delivery vehicles are registered under the Freight Operators Recognition Scheme achieving a minimum of silver status. All demolition and construction phases of the development shall be carried out strictly in accordance with the details so approved.

- 4) All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal and Preliminary Roost Assessment (MKA Ecology, January 2022), Reptile Survey Report (MKA, November 2022), Nocturnal Bat Roost Survey (MKA, November 2022) as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.
- 5) Prior to the commencement of above ground works, full details of the following shall be submitted to and approved in writing by the Local Planning Authority:
 - a) Hard landscaping materials (including samples as appropriate); b) Soft landscaping details, including existing planting to be retained, the species, size and density of proposed new planting, as well as the dimensions of new trees;
 - c) Boundary treatments; d) A maintenance/management plan for all aspects of the hard and soft landscaping, including a 5-year planting plan; e) Biodiversity enhancements. The details approved shall be provided and completed in accordance with this condition prior to the first occupation of the development, and retained for the lifetime of the development except for 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 at least 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) Prior to the commencement of above ground works, a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the Local Planning Authority. The content of the Biodiversity Enhancement Strategy shall include the following:
 - a) Purpose and conservation objectives for the proposed enhancement measures;
 - b) detailed designs to achieve stated objectives;
 - c) locations of proposed enhancement measures by appropriate plans;
 - d) persons responsible for implementing the enhancement measures;
 - e) details of initial aftercare and long-term maintenance (where relevant).The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter.
- 7) Prior to the commencement of above ground works, notwithstanding materials shown on approved plans, full details of the following shall be submitted to and approved in writing by the Local Planning Authority:
 - a) External facing materials including samples of all facing materials and finishes;
 - b) Detailed drawings in plan and elevation and section at 1:5 through all typical external elements/details of the facades including all openings in external walls. The

development shall be carried out strictly in accordance with the details thus approved.

- 8) Prior to the occupation of the development the following details shall be submitted to and approved in writing by the Local Planning Authority: a) appearance of cycle and refuse stores; b) electric vehicle charging points; c) visibility splays; d) sections demonstrating the gradients of vehicular and pedestrian access. Thereafter the approved details shall be provided on site prior to the first occupation of the development and shall be retained for the lifetime of the development.
- 9) Prior to the commencement of above ground works, a detailed surface water drainage scheme incorporating the following measures shall be submitted to and approved in writing by the Local Planning Authority: a) Calculation of the existing and proposed run-off rate (which should achieve greenfield run-off rates unless an alternative rate is adequately justified and achieved); b) Confirmation of the impermeable and permeable site areas used for the infiltration calculations; c) Details of the on-site infiltration drainage; d) Details of the on-site attenuation tank; e) Details of further sustainable drainage measures; f) An updated layout plan (to scale) of the proposed drainage scheme; g) Details of the ownership and / or maintenance agreement for the SUDS on the site. The approved scheme shall be implemented prior to the first occupation of the development and maintained and retained thereafter.
- 10) Prior to the occupation of the development, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and maintained and retained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.
- 11) The development hereby permitted shall achieve a minimum 19% improvement in the Dwelling Emission Rate over the Target Emission Rate (as defined in Part L1A of the Building Regulations (2013)) and achieve a minimum water efficiency standard of 110 litres/person/day.
- 12) The development must be carried out in accordance with the provisions of the Planning Fire Safety Strategy prepared by CHPK Fire Engineering dated 26 August 2022.
- 13) No additional windows shall be formed in the flank elevations of the proposed dwellings. The approved windows to be installed in the flank elevations of all buildings at first floor level shall be glazed with obscured glass of an obscurity level of no less than 3 and they shall be non-opening below 1.7m in height and shall thereafter be permanently retained as such.

- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no development pursuant to Class A (Enlargement, improvement or other alteration of a dwellinghouse) of Part 1 of Schedule 2 shall be undertaken without express planning permission from the Local Planning Authority.