



Appeal Decision

Site visit made on 17 June 2024

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 July 2024

Appeal Ref: APP/L5240/W/23/3331390

Timber Yard Rear Of 16 Holland Road, South Norwood, Croydon, London SE25 5QT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Crown Holland Developments Limited against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 23/00729/FUL.
 - The development proposed is the erection of three residential units (Use Class C3) and a commercial unit (Use Class E), amenity space, refuse and cycle storage.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Consistent with its appeal questionnaire, the Council has not provided an appeal statement or a list of suggested conditions, were the appeal to be allowed. I have determined this appeal on the basis of the evidence before me and my observations on site.

Main Issues

3. The main issues are the effect of the proposal on:
 - Employment land provision;
 - The living conditions of nearby occupiers on Stanger Road and Alfred Road, with particular regard to outlook;
 - The living conditions of future occupiers of Duplex 2 with particular regard to outlook, and privacy in the garden;
 - Parking provision and highway safety; and,
 - Fire safety.

Reasons

4. The appeal concerns a vacant backland site that is accessed via a narrow, gated lane from Holland Road. The access lane and much of the site are of concrete construction and there is a small flat-roofed building towards the north west corner of the site. Various pieces of detritus are to be found within the site, which has a somewhat unkempt appearance; there are bushes and some trees around the edges.

5. Aside from the access lane, the site has an irregular, generally quadrangular shape that is bounded on three sides by the fenced rear gardens of 2-storey terraced houses on Holland Road (to the south), Alfred Road (to the west) and Stanger Road (to the north). To the east, a 2-storey, flat-roofed, commercial-type building exists, with its western wall forming the boundary with the appeal site.
6. Alfred Road slopes upwards in a general south-to-north direction, meaning the dwellings at the northern end of the road, and on Stanger Road, are at a higher elevation than those at the southern end of the road, and on Holland Road. The site itself is at a generally similar elevation to Holland Road.

Employment land provision

7. The appeal site is currently vacant, and was previously used as a timber storage yard, with ancillary office space. Whilst such a use of the site in a residential area is likely to have caused some disturbance to nearby occupiers, which would be likely to be reduced were the proposal implemented, there is no substantive evidence such disturbance resulted in unacceptable harm.
8. The timber yard is said to have been a supplementary storage area for a local timber merchant, with their main premises located nearby. On the application form the appellant states there was one FTE employee at the appeal site before its closure.
9. The appeal site is considered to be a Tier 4 Employment Site by the Council, where limited residential redevelopment would be acceptable in principle, if, amongst other things, it can be demonstrated there is no demand for the existing commercial uses¹.
10. Paragraph 5.13 of the supporting text to Policy SP3 of the CLP describes how the Council could be satisfied that a demand for suitable commercial uses no longer existed, including a requirement for evidence of an appropriate marketing exercise for a period of at least 18 months.
11. The appellant's evidence in this regard is not compelling. The period for marketing is said to be less than the minimum 18 months required, and there is limited evidence to support even this; screenshots of websites show a point-in-time position only, and these are undated. Policy E7 (industrial intensification, co-location and substitution) of the London Plan 2021², and its supporting text, do not conflict with Policy SP3 of the CLP in this regard.
12. Furthermore, the marketing of the site on some platforms has been constrained, excluding potentially acceptable commercial uses from consideration. Whilst I note the comments of Acorn Group in their letter dated 13 February 2023 that commercial redevelopment is highly unlikely, the evidence to support this is limited.
13. The detailed evidence to show how the value of the site was established has not been provided by the appellant³. Reference is made in the Acorn Group letter to the value of industrial buildings nearby. This does not seem to address warehousing, and would not be comparable to the appeal site, which is largely

¹ Policy SP3 (employment) - Table 5.1, Croydon Local Plan 2018 (CLP)

² Spatial Development Strategy for Greater London 2021

³ Appendix 2 to the Acorn Group letter dated 13 February 2023

cleared of buildings. Given the acknowledged constraints of the site in a residential area, it is not clear the marketed value would be appropriate.

14. I note the appellant's claims regarding the limited employment at the site when it was used as a timber yard, and the indicative figures provided for employment numbers based on employees per square metre for storage and office uses. The appellant states that there would be an increase in employment as a result of the proposal of up to ten employees, through the redevelopment.
15. However, that is not the assessment required by the development plan at this stage. Whilst there would be a comparable amount of office space provided as part of the proposal, in a new and purpose-built building, there would be an overall reduction of employment space and it has not been demonstrated that there is no longer a demand for such space.
16. For these reasons, the proposed development would adversely affect employment land provision. Consequently, it would conflict with Policy SP3 of the CLP and Policy E7 of the London Plan, in this regard.

Living conditions of nearby occupiers – outlook

17. The appeal site is largely undeveloped and is located in a residential area. The size of the site, and its backland location, means that any redevelopment would be likely to significantly change the outlook from the rear of the surrounding dwellings and their rear gardens.
18. The Council is satisfied that the outlook of the residents of the dwellings on Holland Road would not be adversely affected by the proposed development. Given the position, scale and massing of the proposal and the separation distances, I would agree with this assessment.
19. The stated separation distance between the ground floor rear windows of Nos 11-13 and the blank western side elevation of the proposed terrace would be some 16 metres. Given the scale of the proposed side elevation, this would clearly not result in unacceptable harm to the outlook of the residents of Nos 11-13.
20. As previously mentioned, the dwellings on Stanger Road, including Nos 48 and 50, are at a significantly higher elevation than the proposed dwellings. I noted this when I visited the area, and it is also shown on the proposed elevation drawings, where the roof ridgeline of the proposed dwellings is below the rear eaves level of Nos 48-50 Stanger Road.
21. The proposal would mean a reduction in outlook from the rear of Nos 48-50 Stanger Road. However, this would be limited, given the scale and massing of the proposed dwellings, their significantly lower elevation, and the separation distances.
22. For these reasons, the proposal would not cause unacceptable harm to the living conditions of nearby occupiers, with particular regard to outlook. It would not, therefore, conflict with Policies D3 (optimising site capacity through the design-led approach) and D6 (housing quality and standards) of the London Plan; with Policy DM10 (design and character) of the CLP; or the Mayor of London's Housing Supplementary Planning Guidance 2016, in this regard.

Living conditions of future occupiers - outlook and privacy

23. At first floor level on the rear elevation of the proposed dwellings, the windows would be obscure glazed. This is intended to prevent harmful overlooking of the properties on Stanger Road, including the dwellings and the rear gardens.
24. Nevertheless, the inevitable consequence of this is that these first floor windows would have severely limited or no outlook at all. The absence of an outlook from halls or stairwells would not cause unacceptable harm to the living conditions of future occupiers.
25. However, the proposed obscure glazed oriel window to a rear bedroom in Duplex 2 would severely limit the outlook from this room. There would be some outlook above and to the sides of the obscure glazing. However, notwithstanding this is a constrained backland site, I do not consider this would be adequate for a habitable room.
26. In residential areas some degree of reciprocal overlooking of gardens is to be expected. However, the terrain of the area, and especially the higher elevation of the dwellings on Stanger Road above the appeal site, makes it a particular issue in this case.
27. The appellant has shown an aerial photograph of the area said to show a separation distance of some 8 metres from a first floor rear elevation window of 48 Stanger Road. This window is obscure glazed and so would not result in harmful overlooking of the rear garden of Duplex 2.
28. The other first floor rear window at No 48 is not obscure glazed and is significantly closer to the boundary with the appeal site. Even with a timber fence and boundary vegetation, and a rear outrigger, the limited separation distance and the higher elevation of the dwelling, means there would be harmful overlooking of the rear garden of Duplex 2 from this window.
29. Surprisingly, the Council raised no concerns with overlooking of the rear garden of Duplex 1 in its officer report or on its Decision Notice. This garden is significantly closer to the rear elevation of 48 Stanger Road than the garden of Duplex 2. Had I found there to be no harmful overlooking of the rear garden of Duplex 2, I would have needed to raise this matter with the parties. However, as I have found there would be harmful overlooking, no further action is needed.
30. For these reasons, the proposed development would adversely affect the living conditions of future occupiers of Duplex 2, with particular regard to outlook and privacy. It would, therefore, conflict with Policies D3 and D6 of the London Plan and with Policy DM10 of the CLP, in this regard.

Parking provision and highway safety

31. The appellant is not proposing to provide any dedicated parking spaces within the site, which is located within a Controlled Parking Zone (CPZ). The Council considers that a car-free development would be acceptable, given the good public transport accessibility of the site (PTAL 4) and its location within a CPZ. However, in order to avoid increasing on-street parking stress in the area, the Council considers this would need to be secured by a suitable legal agreement, effectively preventing future occupiers from obtaining car parking permits.

32. The appellant's evidence is somewhat contradictory: they do not consider this to be an area of particular on-street parking stress and do not consider that a legal agreement is therefore necessary or consistent with Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010. However, their Transport Assessment states that car-free development would need to be controlled by planning conditions or a legal agreement, and a Unilateral Undertaking has been provided.
33. From the evidence and my observations on site, this is an area with a significant level of on-street parking. Whilst the appellant's survey shows there would be spare on-street parking capacity, and notwithstanding the good accessibility of the site by public transport, the proposal would be likely to increase demand for on-street parking in the area, to the detriment of public safety and convenience.
34. The appellant has provided a Unilateral Undertaking (UU) which seeks to prevent future occupiers of the site from holding an on-street parking permit within the London Borough of Croydon, unless they are, or become entitled to be, a holder of a disabled persons badge pursuant to s21 of the Chronically Sick and Disabled Persons Act 1970.
35. I am satisfied that in this case such an Undertaking would be necessary to make the development acceptable in planning terms; would be directly related to the development; and, would be fairly and reasonably related in scale and kind to the development.
36. However, no evidence of title for the appeal site has been provided with the UU. Furthermore, with reference to Certificate B on the application form and the appeal form, it is not clear that every person with an interest in the land has entered into the UU. Consequently, with reference to Government guidance⁴ I am not satisfied the UU is legally sound or complete. It therefore carries no weight in my determination.
37. For these reasons, the proposed development would adversely affect parking provision and highway safety. It would, therefore, conflict with Policy T6 (car parking) of the London Plan; with Policies SP8 (transport and communication), DM29 (promoting sustainable travel and reducing congestion), and DM30 (car and cycle parking in new development) of the CLP, in this regard.

Fire safety

38. The appellant has provided a Fire Strategy document dated 3 March 2023, which is said to have been submitted with the planning application. However, the Council claims that this document was not provided with the planning application, hence its fifth reason for refusal.
39. The Fire Strategy document is comprehensive but includes various references to the need for the approach and measures to be agreed by the Fire Brigade. This is particularly important given the backland location of the site, where the access is said to be unsuitable for Fire Appliances, and so there would be a need for suitable water mains nearby.
40. The views of the London Fire Brigade (LFB) on the Fire Strategy are not in the evidence before me. It has not been demonstrated that the proposal would

⁴ [Planning obligations: good practice advice - GOV.UK \(www.gov.uk\)](https://www.gov.uk/planning-obligations)

allow the LFB to safely and effectively tackle any fires that may occur at the appeal site, given the absence of suitable access to the site for Fire Appliances.

41. For these reasons it has not been shown that the proposed development would achieve satisfactory levels of fire safety. It would, therefore, conflict with Policy D12 (fire safety) of the London Plan.

Conclusion

42. The proposed development would not cause unacceptable harm to the living conditions of nearby occupiers. However, this would be outweighed by the harm that would be caused to employment land provision, the living conditions of future occupiers, to parking provision and highway safety and to fire safety.
43. For the reasons given above, I conclude the appeal is dismissed.

Andrew Parkin

INSPECTOR