

Appeal Decision

Site visit made on 22 August 2024

by R Lawrence BSc (Hons), PGDip (TP), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 OCTOBER 2024

Appeal Ref: APP/L5240/W/23/3331137

Red Gables, 2 Beech Avenue, South Croydon CR2 0NL

- 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 Ms Caroline Botsford of Cordage 27 Limited against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 21/06145/FUL.
 - The development proposed is erection of two buildings comprising 31 residential apartments (use class C3) following demolition of existing residential dwelling (use class C3), utilising existing access off Beech Avenue including associated hard and soft landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing building and erection of two buildings comprising 31 residential apartments (use class C3) following demolition of existing residential dwelling (use class C3), utilising existing access off Beech Avenue including associated hard and soft landscaping at 2 Beech Avenue, South Croydon CR2 0NL in accordance with the terms of the application, Ref 21/06145/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. A completed 'Deed of Agreement' dated 24 April 2024 made under s106 of the Town and Country Planning Act 1990 is before me (the s106 agreement). The Council has confirmed in an email dated 3 September 2024 that the provisions within the s106 agreement have been agreed. The Council's statement of case also confirms that in the event that a legal agreement is fully agreed, the third reason of refusal on its decision notice would be overcome. I have therefore defined the main issue on this basis of the remaining matters of dispute. I have also considered whether the obligations and provisions secured by the agreement meet the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010 as part of my decision.
3. The first two reasons for refusal both relate to character and appearance. The main parties have both considered these together, and I have adopted the same approach.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. The appeal site is a substantial corner plot with boundaries onto Beech Avenue and Purley Downs Road. Whilst the area is characterised by detached houses set within large plots, the appeal site stands out for its particularly large size. The site has a strong verdant character, containing a significant number of mature trees all of which are covered by a Tree Preservation Order. Planting on the site boundaries makes a strong contribution in this regard and positively influences the character of the area. The existing building, whilst not unattractive, is not of any significant architectural merit and is substantively screened from public vantage points, thereby having limited influence on the character of the area. There are blocks of flats on either side of the site.
6. The footprint and extent of built form would both significantly increase compared with the existing situation on the site. Nonetheless, the significant size of the plot and the layout of the proposed blocks of flats within it would ensure that a generous degree of spacing and separation to the site boundaries would be provided. Furthermore, the footprint of the individual blocks would be comparable with the adjacent built form at Barrards Hall and 14-25 Purley Downs Road and would sit comfortably within the spacious plot. The siting of the car parking towards the rear boundaries of the site, would enable retention of a high proportion of existing trees, particularly towards the boundaries with the street and this would be supplemented by additional planting. This would in turn ensure that the verdant character of the site would remain prevalent.
7. The height of the proposed buildings would be significant in contrast to the detached houses in the immediate surroundings. It would also exceed that of the nearby Barrards Hall. However, due to the retention of a significant amount of space around the buildings, and the set-back from the two roads, they would not appear unduly prominent, instead they would sit comfortably next to the not inconsiderable scale of the adjacent flats.
8. The simple rectangular form and the minimal proportions of the window fenestration, the brick detailing at ground floor and the dentil course at eaves level and the balconies incorporated would provide suitable articulation and visual interest. The traditional materials proposed would also complement the traditional characteristics of the local vernacular. The roof forms are shown to be shallow and modest in scale relative to the proportions of the elevations. However, I find this to be reflective of some of those in the wider roofscape of the area, which whilst varied, includes several examples of modest, shallow pitched roof forms. Moreover, the proposed design would be viewed within the backdrop of the site's significant level of vegetation and trees and would sit comfortably within its immediate context.
9. The main parties have each made comparisons between the proposed scheme and a flatted development that was previously proposed for the site but dismissed on appeal¹. From the limited details which are before me, I note

¹ APP/L5240/W/21/3289280, LPA Ref 21/02056/FUL

that the dismissed scheme was for 34 flats within a single 4-storey building, with a high proportion of the hard standing parallel to the boundary with Beech Avenue behind a narrowed tree buffer. That inspector identified harm to the character and appearance of the area including from the dominance of the hardstanding, tree removal and the limited space between the building and the road boundaries.

10. In contrast, the scheme before me is split between two buildings and the majority of the hardstanding proposed is more discreetly positioned to the side and rear of the site. A more substantial vegetated buffer would sit between the buildings and the adjoining streets. Consequently, the layout of the buildings and ratio of hard and soft landscaping would convey a suitable degree of greenery and spaciousness, and the extent to which trees would be retained would be such that the verdant character of the area would remain prevalent.
11. My attention has also been drawn to an allowed appeal scheme on the site, for the erection of a block of 34 flats². As with the dismissed scheme, limited details are before me albeit I understand that proposal was for a single block of development and included basement car parking. In any case, neither of the previous appeals alters my finding that considered on its own merits the appeal proposal would appropriately respond to its surroundings.
12. In light of the above, the proposal would be acceptable in terms of its effect on the character and appearance of the area. Insofar as relevant to this main issue, the proposal would comply with Policies SP4, SP7 and DM10 of the Croydon Local Plan 2018 (CLP) as well as Policies D3 and G5 of the London Plan 2021 (LP). These policies require, amongst other matters, that development is of a high quality that respects and enhances Croydon's varied local character, including existing built form, soft landscaping and protected trees. In addition, there is a requirement to determine the most appropriate form of development that responds to the site's context and capacity for growth.

Other Matters

13. Interested parties have raised additional concerns with the proposal that sit outside the main issue, including in relation to highway safety, flood risk, ecology, and impacts on existing trees. However, these matters have been subject to consultation with independent professionals, none of whom has raised objection (subject to conditions) and I have no substantive evidence to justify finding differently.
14. Other matters raised by interested parties include the effect of the proposal on neighbouring occupiers, the location of the play area, the standard of accommodation and whether the housing mix proposed meets local needs.
15. Some of the matters raised, such as in relation to boundary treatments and potential noise effects for example, can be effectively dealt with through appropriate conditions.
16. Windows are positioned on each of the proposed elevations, some of which would face towards neighbouring gardens and properties. Whilst some

² APP/L5240/W/20/3257791, LPA Ref 20/00558/FUL

intervisibility may be possible, the separation distances are generous and there would be intervening soft landscaping. Daylight and sunlight reports have been submitted which find the effect on light to neighbouring properties would be acceptable. These factors do not lead me to find differently to the Council, namely that the proposal would be acceptable in terms of the effect on the amenities of neighbouring occupiers.

17. The play areas would be positioned centrally within the site, whilst there are access roads within close proximity, speeds in this area are likely to be low and there would be good visibility of the play areas. Further details of the play areas would be secured by condition in the event of me allowing the appeal.
18. In terms of the standard of accommodation for future occupiers, the units would meet the nationally described space standards, including in terms of storage space. Units are dual aspect with either a private balcony or other outdoor space. The separation proposed between blocks 1 and 2 would allow for some intervisibility, consistent with that which is typical of a built-up residential area. Given this, I find that the proposed standard of accommodation would be acceptable.

Planning Obligations

19. The completed s106 agreement would secure a number of obligations which would come into effect if planning permission were to be granted. These include both on and off-site infrastructure and the provision of six first homes on site. The infrastructure would include the provision of an on-site car club bay, sustainable transport contributions of £31,500, submission of a travel plan, an air quality contribution of £3,100, a carbon offset contribution of £23,940, a local employment and training contribution of £15,000 and a requirement to report energy performance to the GLA.
20. The provision of six first homes on site, reflects the findings of the viability exercise and is required to satisfy the affordable homes requirements of Local Plan Policy SP2 and LP Policies H4 and H5.
21. Policies SP6 of the CLP and SI2 of the LP require new residential buildings to offset their carbon dioxide emissions. Where this cannot be fully achieved on site, as with the current scheme, a cash in lieu contribution towards the Borough's offset fund is required. Reporting of energy performance is required to monitor and manage energy performance across London.
22. The sustainable transport contribution, as well as the car club bay and travel plan would each contribute towards sustainable travel improvements. These would also include the expansion of car club provision and improvements to pedestrian routes to local bus stops. I have had regard to the High Court decision³ which accepted the reasoning of the Council in respect of how the £1,500 per unit figure was arrived at. The decision acknowledges that whilst it was based on a transport study commissioned for the Kenley Ward, the figure was calculated on the basis that it would be applied across the whole borough. I therefore find that the contributions are necessary in order to comply with the parking requirements in Policies SP8.15, SP8.17, DM30 of the CLP and LP Policy T4.

³ Case No: CO/1225/2022

23. The air quality contribution would fund initiatives in the Council's Air Quality Action Plan and is necessary to reduce the impact of pollution and to accord with CLP Policy DM23 and LP Policy SI2.
24. The obligation would secure a contribution and a local employment and training strategy, in line with the requirements of CLP policy SP3 and LP Policy E11. The provision of jobs and skills for local people is a benefit of the proposed development.
25. The completed planning obligation includes a restriction on parking permits for future occupiers in the event that a Controlled Parking Zone is introduced in the area. In relation to the previous appeal on site⁴, the Inspector found that this particular obligation was not justified, as sufficient parking would be provided on site and there was no policy requirement for it. In the case of the current appeal, there is no new information to indicate any parking stress in the area, and the Council has indicated that the proposal would make sufficient provision for car parking on site. As such, there is no substantive evidence before me to justify a different finding in terms of such an obligation. Therefore, a restriction on parking permits is not justified and would fail to meet the relevant tests.
26. I have considered whether the completed agreement meets the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010. In light of the above findings, I am unable to take the obligation in respect of restricting parking permits into account. However, on the basis of the evidence before me and my conclusions above, I am satisfied that the remaining aspects of the s106 agreement are necessary to make the development acceptable in planning terms, directly related to the development and fairly related in scale and kind.

Conditions

27. The Council has suggested a number of conditions in the event of my allowing the appeal, I have considered these in accordance with the Planning Practice Guidance and the Framework. I have edited some of the suggested conditions for clarity and enforceability. Such edits have included amending the triggers for particular conditions, in order to minimise the need for pre-commencement conditions.
28. Time limit for implementation of the proposed development and plan numbers conditions are required in the interest of certainty that the development is carried out in accordance with the approved plans.
29. I have imposed several conditions which due to their nature require the submission of details prior to the commencement of development. These relate to construction and environmental management plans and contaminated land. The imposition of these conditions has been agreed by the appellants and they are in the interests of highway safety, the amenities of neighbouring occupiers, biodiversity and to ensure the land is suitable for residential use. It is necessary for these conditions to be pre-commencement because they relate to the construction process and will help to avoid any abortive works being undertaken.

⁴ Appeal decision 3257791

30. An updated fire statement is required to reflect the updated plans and to ensure the safety of the proposed buildings. Details of external materials, compliance with detailed window section plans, cycle and refuse storage, landscaping and tree protection are necessary to ensure the development is of a high quality and preserves the character and appearance of the area.
31. In the interest of protecting species and habitats and to protect and enhance biodiversity, conditions requiring a biodiversity and enhancement strategy, lighting details and for the mitigation and enhancement measures identified in the submitted ecology reports are necessary.
32. Sustainable drainage details as well information on any piling are required to protect existing infrastructure and to ensure appropriate infrastructure is provided. Surface water information would also minimise any surface water run-off. Details of security measures are required to promote a safe environment and to ensure that the development contributes positively to the public realm. However, I have not been provided with justification to require adherence to 'secure by design' standards, I have adjusted the condition requirements accordingly.
33. Details of the car parking layout are necessary to ensure sufficient on-site car parking and in the interests of highway safety. The delivery of M4(3) units and M4(2) units are required to ensure the provision of accessible and adaptable dwellings and to accord with policy D7 of the LP.
34. In the interests of minimising energy and water usage, conditions are necessary to restrict water usage and to secure compliance with energy and water recommendations. Compliance conditions are also necessary in the interests of air quality and to ensure any noise from mechanical plant is mitigated to an acceptable level in terms of residential amenity.
35. Although the Council has also recommended conditions in respect of a bat licence and the acoustic qualities of the proposed dwellings, I have found their imposition is not necessary. The licence requirement is covered by other legislation, and as the decision maker, I note information has been submitted to establish the presence of protected species and that necessary measures to protect those species have been identified. Those mitigation measures are secured by other conditions. In respect of the acoustic qualities of the proposed flats, there is no substantive evidence before me to justify why such a condition would be necessary. There is sufficient detail within the submitted plans, and required through other conditions, such that a 1:5 section plan is not necessary. Similarly, a condition relating to signage does not appear to be relevant to the scheme before me and so I have not imposed it.

Conclusion

36. For the reasons given above, the proposed development would accord with the development plan and material considerations do not indicate that a decision should be made other than in accordance with it. Therefore, the appeal is allowed.

R Lawrence

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos 22.3367.001-P1; 22.3367.100-P7; 22.3367.101-P7; 22.3367.102-P4; 22.3367.103-P3; 22.3367.104-P10; 22.3367.105-P9; 22.3367.106-P9; 22.3367.107-P9; 22.3367.108-P2; 22.3367.109-P4; 22.3367.111-P2, 22.3367.112-P2.
- 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. This 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 proposed security arrangements for the site;
 - h) Details of 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 in strict accordance with the approved details.
- 4) Prior to the commencement of development (including demolition), a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
 - a) Risk assessment of potentially damaging construction activities, i.e. to foraging and commuting bats, nesting birds, hedgehogs and invertebrates.
 - b) Identification of "biodiversity protection zones"

- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs, and
- i) Containment, control and removal of any Invasive non-native species present on site.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

- 5)
 - a) Prior to the commencement of development, an intrusive site investigation and assessment into the possibility of soil, water and gaseous contamination must be carried out and submitted to and approved in writing by the Local Planning Authority. The investigation report shall include a risk assessment and details of remediation if required.
 - b) Remedial measures shown to be required must be submitted to and approved in writing by the Local Planning Authority before any such works are carried out on site. The approved remedial works must be completed prior to the first occupation of any dwelling.
 - c) Prior to the first occupation of any dwelling hereby permitted, a validation report detailing evidence of all remedial work carried out shall be submitted to and approved in writing by the Local Planning Authority.
 - d) 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.
- 6) Prior to any works above slab level, an updated Fire Statement shall be submitted to and approved in writing by the Local Planning Authority. The statement shall include and reflect the approved drawings set out in condition 2. No dwelling shall be first occupied until the measures contained in the approved Fire Statement have been implemented in full, and thereafter these shall be maintained in perpetuity.
- 7) Prior to any works above slab level, full details of the external facing materials and finishes, including windows, doors, balustrades, and rainwater goods shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter maintained in perpetuity.

- 8) Prior to any works above slab level 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 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 maps/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 the first occupation of any dwelling and shall be thereafter maintained in perpetuity.

- 9) Prior to any works above slab level, a detailed surface water drainage scheme, in line with submitted drainage details, incorporating the following additional information shall be submitted to and approved in writing by the Local Planning Authority:
- a) Provision of a final Drainage Layout Plan, confirming the final SuDS strategy for the site, supported by appropriate hydraulic modelling calculations;
 - b) Confirmation of existing runoff rates during 1 in 1 year, 1 in 30 year, 1 in 100-year storm events and post development discharge rates during 1 in 1 year, 1 in 30 year, 1 in 100 year, 1 in 100 year + Climate change storm events;
 - c) Further infiltration test data, in accordance with BRE365, to be provided to suit the proposed location and depth of all infiltration features.

The approved scheme shall be implemented prior to the first occupation of any dwelling hereby permitted of the development and maintained thereafter.

- 10) Should piling be required, a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) shall be submitted to and approved in writing by the Local Planning Authority, prior to any piling works taking place. Any piling must be undertaken in accordance with the terms of the approved piling method statement.
- 11) Prior to the first occupation of any dwelling hereby permitted, full details of the following shall be submitted to and approved in writing by the Local Planning Authority:

- a) Full details of the refuse stores (including location, number of bins, collection point store, appearance, materials)
- b) Full details of the appearance of the cycle stores shown on 22.3367.100 P7

The development shall be implemented in accordance with the approved details including approved plan 22.3367.100 P7 prior to the first occupation of any dwelling hereby permitted and thereafter these facilities shall be maintained in perpetuity.

- 12) 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;
- 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) Details of child play space, including details of proposed play equipment;
- e) Details of communal amenity space, including details of any fixed external furniture;
- f) A maintenance/management plan for all aspects of the hard and soft landscaping, including the child play and communal amenity spaces.

The details approved shall be provided and completed in accordance with this condition prior to the first occupation of any dwelling hereby permitted, 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.

- 13) Prior to the first occupation of any dwelling hereby permitted, details of security measures to be incorporated into the development shall be submitted to and approved in writing by the Local Planning Authority. The security measures shall be in line with the principle set out by 'Secured by Design', as far as is practicable. The approved details shall be implemented prior to the first occupation of any dwelling and shall be thereafter maintained in perpetuity.
- 14) Prior to the first occupation of any dwelling hereby permitted, an external lighting scheme shall be submitted to and approved by the Local Planning Authority. The scheme shall include:
- a) Identification of areas that are particularly sensitive to bats/nocturnal animals and likely to cause disturbance to bats/nocturnal animals whilst foraging; and

- b) The position of external lighting fixtures, lighting plans, details of lux levels, lighting plans and technical specifications.

The external lighting scheme shall be installed in accordance with the approved details and shall be thereafter maintained in perpetuity. No other external lighting shall be installed without the prior consent of the Local Planning Authority.

- 15) The windows/openings hereby permitted shall be constructed in accordance with the details provided on Drawing 'Proposed Window Section A-A drawing 22.3367.108 P2' and thereafter maintained in perpetuity.
- 16) All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Bat Survey Report dated October 2021 and Preliminary Ecological Assessment dated December 2021 both produced by Hampshire Ecological Services and Ecology Update produced by Ecology Kingdom dated June 2023. This shall include the appointment of an appropriately competent person to act as an 'ecological clerk of works' and provide on-site ecological expertise during construction.
- 17) The development hereby approved shall be undertaken in strict accordance with the Arboricultural Implications Assessment and Method Statement and the Tree Protection Plan by Eco Urban Arboricultural, dated 26 October 2022. The approved protection measures shall be implemented on site prior to the commencement of development and retained for the duration of the works.
- 18) The car parking layout/provision hereby approved, including the provision of Electric Vehicle Charging Points shall be implemented prior to the first occupation of any dwelling hereby permitted and shall be thereafter maintained in perpetuity. Boundary treatments and landscaping within vehicular and pedestrian visibility splays either side of the access shall be maintained in perpetuity at a height not exceeding 0.6m .
- 19) Prior to the first occupation of any dwelling hereby permitted, three of the units in the development hereby approved shall have been constructed to comply with either the requirement M4(3)(2)(a) 'wheelchair adaptable', or the requirement M4(3)(2)(b) 'wheelchair accessible' of the Building Regulations 2010 (as amended). All other units shall be constructed and fitted out to comply with the Building Regulations 2010 (as amended) requirement M4(2) 'accessible and adaptable'. Such provision shall be maintained for the lifetime of the development.
- 20) The development shall be completed and subsequently maintained in accordance with the recommendation, proposals and specifications of the Energy and Sustainability Statement by Cordage 27 Limited Version 4A dated 11th November 2022.
- 21) Prior to the first occupation of any dwelling hereby permitted, the development shall achieve a minimum water efficiency standard of 110 litres/person/day.

- 22) The development shall be completed and thereafter maintained in accordance with the approved Indoor Air Quality Plan and Air Quality Report by Cordage 27 Limited, Version 3A, dated 3rd November 2022 for the lifetime of the development.
- 23) The noise level from any air handling units, mechanical plant, or other fixed external machinery shall be at least 10db below the lowest measured background noise (LA90, 15 minutes) as measured one metre from the nearest affected window of the nearest affected residential property.
- 24) As part of the development hereby permitted, it shall be ensured that any hot water boilers achieve or improve upon Class 6 of the Energy related Products Directive. For gas and LPG boilers this requires maximum NOx emissions of 56 mg/kWh.