



Appeal Decision

Hearing held on 12 November 2024

Site visit made on 12 November 2024

by C Masters MA (Hons) FRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2024

Appeal Ref: APP/L5240/W/24/3348192

The Windmill Public House, 224 St James's Road, Croydon, CR0 2BW

- 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 IGC Land Holdings Ltd against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 23/04018/FUL.
 - The development proposed is demolition of the existing buildings on site and redevelopment to provide a new mixed use building comprised of commercial space (sui generis (public house)/Class Eb (restaurant/café)) at part ground floor, and residential use (Class C3) at ground to fifth floor levels. Associated cycle parking, waste storage provision and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing buildings on site and redevelopment to provide a new mixed use building comprised of commercial space (sui generis (public house)/Class Eb (restaurant/café)) at part ground floor, and residential use (Class C3) at ground to fifth floor levels. Associated cycle parking, waste storage provision and landscaping at The Windmill Public House, 224 St James's Road, Croydon, CR0 2BW in accordance with the terms of the application, Ref 23/04018/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. Prior to the hearing taking place, the appellant and Council proactively engaged through and updated statement of common ground to address reasons for refusal 4, 5 and 6 which relate to servicing and delivery arrangements, cycle parking facilities and fire safety requirements. As a result, the parties tabled 3 amended drawings as well as an updated Fire Statement at the hearing which the Council confirmed would satisfactorily address these reasons for refusal. Given the minor nature of these amendments, I have had due regard to these plans and updated Fire Statement in reaching my decision below. In light of this, the Council confirmed that they would no longer be contesting these reasons for refusal.
3. Turning to the remaining reasons for refusal, a completed planning obligation has been provided which the Council confirmed would satisfactorily address the matters raised in reasons for refusals 2 and 7. I return to this matter below.
4. The parties agreed that the reference to London Plan policy H1 under reason for refusal 3 is not relevant to the main issues.

Main Issues

5. As a result of the above, the main issues in this appeal are:

- Whether the proposal would result in the loss of a community public house;
- The effect of the proposal on the character and appearance of the area.

Reasons

Whether the proposal would result in the loss of a community public house

6. The appeal site comprises the former Windmill Public House and associated car park and beer garden. The building is currently vacant and is in an extremely poor state of repair. The parties agreed that the lawful use of the premises when it was last in use was as a public house. This use ceased in 2022 when the premises were in use as a public house with an Indian food offering which also provided a takeaway service.
7. The debate between the parties relates to whether the former use of the premises could be classified as a community pub as envisaged by policy DM21 of the Croydon Local Plan (2018). This policy states that the Council will not grant planning permission for the demolition or change of use of a public house which displays the characteristics of a community pub. This policy goes on to set out a number of characteristics and although this list is not exhaustive it includes, amongst other things, space for organised social events such as pub quizzes, darts competitions and pool leagues. A number of criteria are then identified against which proposals can be assessed if they include the loss of a community pub. The supporting text to policy DM21 is clear that the Council will protect public houses as long as their benefit to the community can be justified.
8. In addition to the above policy, policy HC7 of the London Plan (2021) provides a policy framework for local planning authorities in relation to development plan policies and public houses as well as planning applications. The focus of this policy is very much on public houses which display certain characteristics such as heritage, economic, social or cultural value to local communities.
9. The Council contend that the premises portrays itself as a community building but has provided very limited evidence to substantiate this claim. There is limited information available concerning the exact facilities and activities which may have been undertaken at the public house. Whilst I acknowledge that photographs submitted to the hearing identify that the pub did indeed at one time offer sky sports and darts, there is no evidence before me to support the extent to which these facilities might have taken place at the pub or the frequency of these events. Conversely, at the hearing I was referred to other public houses within the immediate vicinity of the Windmill which have and continue to this day to display the characteristics of a community pub and make a positive contribution to the townscape and local identity as envisaged by the local plan policy. On the balance of the very limited evidence before me, I am not convinced that the appeal premises displayed the characteristics of a community pub as envisaged by policy DM21.
10. I note that Camra have submitted responses objecting to the appeal. Whilst I acknowledge this objection, there is nothing contained within their representation which would lead me to reach a different conclusion on this

main issue. Moreover, I note that there are a number of representations which relate to the appeal, very few of which express concerns regarding the loss of the former public house as a valued community pub in line with the characteristics set out within the policies I have summarised above.

11. There was debate at the hearing concerning the quantitative and qualitative nature of the replacement floorspace provided. The parties agreed that the proposal would provide some 134 sqm of replacement commercial floorspace at the ground floor level. This is less than the 180 sqm ground floor floorspace of the existing premises. Whilst the Council raised concerns regarding the viability of the replacement commercial floorspace, these assertions were not supported by any evidence in this regard. Similarly, there is no policy basis for seeking replacement commercial floorspace in this location in any event. However, I acknowledge that given the existing shopping parade located adjacent along Lansdowne Road, there would be clear benefits to the provision of a high-quality commercial unit in terms of the vitality of the ground floor parade in this location.
12. Accordingly, I conclude that the proposal would accord with policy HC7 of the London Plan (2021) as well as policy DM21 of the Croydon Local Plan (2018).

The effect of the proposal on the character and appearance of the area

13. The appeal site occupies a prominent corner plot. It is located on the junction of St James's Road and Lansdowne Road. The townscape character of the immediate area is mixed and comprises a variety of building heights and architectural styles. Whilst the retail frontage beyond the appeal site to St James's Road comprises 3 storeys and is relatively uniform, there is a clear variety and depth to the wider townscape which includes a variety of plot sizes, and larger buildings fronting both the main roads as well as within the secondary roads. This is particularly true in relation to the treatment of corner plots which often occupy a greater depth, as is the case here.
14. Section 3 of the Design and Access Statement which accompanied the proposal at the application stage provides a detailed analysis of the area in terms of a character study and considers in detail the established urban grain of the area, existing heights and plots sizes. Section 4 goes on to identify the local context. From what I saw on my site visits, I would concur with the conclusion that the study reaches in terms of the opportunity that the appeal site offers in terms of its corner plot and established urban grain of the area.
15. The Council accept that in principle, the site is an appropriate location for a taller building and that the stepping down of the building to the corner could also be acceptable in principle. Despite this acknowledgement, the Council consider that the scale, height and mass of the building as proposed would result in significant harm to the character and appearance of the area.
16. These concerns appear to relate to the position of the building relative to the site boundary as well as some general concerns regarding the public realm which the proposal would deliver. Given the sites relatively prominent position on a corner plot and taking into account the built form of the area, the established building line as well as the footpath widths in the immediate area, I do not agree that the proposal would result in any material harm in this regard. Similarly, given the variety in scale and mass of existing buildings within the immediate locality, I do not agree with the assertion that the building would fail

to respect the transition to Lansdowne Road. The stepping down of the building to this frontage would to my mind achieve precisely that objective. Overall, the scale, height and mass of the building would in my view respect and enhance the varied local character and contribute positively to the public realm of the area.

17. Specific concerns were also raised regarding the balcony treatment proposed. The position of the balconies would in my view be an appropriate contemporary design response to the building proposed providing a greater degree of legibility to the building, particularly in relation to longer range views along St James's Road. This, taken with the materials proposed which include the use of yellow bricks, provides an appropriate design response to this prominent corner plot and locality generally. Contrary to the views expressed by the Council, I am unable to agree that the balconies would dominate the front façade and appear as an alien and incongruent feature of the street scene.
18. I therefore conclude on the second main issue that the proposal would not result in harm to the character and appearance of the area. It would therefore accord with policies D3 and D4 of the London Plan (2021) as well as policies SP4 and DM10 of the Croydon Local Plan (2018). Policy D3 relates to optimising site capacity through the design led approach and seeks to, amongst other things, ensure that development proposals enhance local context by delivering buildings and spaces that positively respond to local distinctiveness. Policy D4 relates to good design and provides a number of criteria including identifying a number of processes and actions to ensure development delivers good design.
19. In terms of the Croydon Local Plan policies, policy SP4 relates to urban design and local character and policy DM10 relates to design and character. The policies set out a number of criteria, including but not limited to requiring development of a high quality which respects and enhances Croydon's varied local character and contributes to public realm, landscape and townscape to create sustainable communities.

Other Matters

20. A number of representations made reference to incidents of anti social behaviour taking place at the premises on a not infrequent basis and the associated difficulties which these incidents bring to day to day life in the area. It is clear that the premises are in a particularly poor state of repair. Furthermore, the evidence presented by the local resident who attended the hearing, although anecdotal, does give a further insight into the difficulties associated with the site in its current state. I have taken these views into account in reaching my conclusions set out above. A further representation refers to the issue of the fire at the premises. However, this is not a matter for my deliberations.

Planning Obligation

21. The appellant submitted a completed planning obligation to the hearing. I have had regard to the requirements of Regulation 122(2) of the Community Infrastructure Levy Regulation 2010 as well as paragraph 57 of the Framework.

22. In terms of affordable housing, the parties have agreed through the statement of common ground and two separate independent reviews of the financial viability assessment that no affordable housing can be delivered through the scheme. The planning obligation agreement includes for a review mechanism in this regard which accords with policy H5 of the London Plan (2021). I am satisfied that this approach is one which accords with the Framework.
23. The obligation includes for a contribution towards air quality of £2300, a carbon offset contribution of £17,442, a sustainable transport contribution of £34,500, a local training and employment opportunities contribution totalling some £25,462 as well as associated monitoring fees. The obligation also makes provision for a S278 agreement in relation to off site highways works as required by the development set out within schedule 8 of the document as well as a restriction in relation to parking permits as set out within schedule 7. The Council have provided full details in relation to how these contributions have been calculated as well as the relevant policy justification for the obligations being sought. I am satisfied that the obligations outlined above are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
24. I therefore conclude that the scheme would make adequate provision for the necessary infrastructure, and that the financial contributions sought would therefore accord with policies SP2, SP3, SP6, SP8, DM29 of the Croydon Local Plan (2018) as well as policies H5, E11, T1, SI2 and SI3 of the London Plan (2021).

Conditions

25. The parties put forward an agreed set of conditions. I have had regard to the guidance contained within the Planning Practice Guidance regarding the use of conditions as well as paragraph 56 of the Framework. Where necessary, I have amended the conditions in the interests of clarity, precision or enforceability.
26. In addition to the standard condition regarding the commencement of the development, a condition is also necessary in relation to the approved plans to provide certainty. In the interests of the character and appearance of the area, conditions are necessary to cover the materials to be used on the external surfaces of the development proposed as well as landscaping details. In order to protect the amenity of existing and future residents, I have also included conditions to require details of any ventilation necessary for the commercial use, a condition to restrict the hours of operation of the unit as well as the submission of a construction logistics plan, the submission of details necessary to assess and remediate as necessary any contaminated land within the site, to ensure the site is adequately drained as well as ensuring the development is in compliance with the submitted air quality assessment report. A condition requiring the submission of a refuse, delivery and service management plan is necessary to ensure waste from the commercial unit is appropriately addressed.
27. Conditions relating to the details of the photovoltaic panels as well as requiring the development to achieve a minimum water efficiency standard are necessary in the interests of sustainable design and construction. A condition requiring that the development is in compliance with accessible homes is

necessary and reasonable to ensure the residential units are adequately accessible.

28. In order to promote sustainable travel, conditions have also been included in relation to the provision of cycle storage facilities and to prevent future occupiers from applying for a car parking permit. Finally, a condition to ensure the development is in compliance with the submitted fire safety report is necessary to ensure the development incorporates the necessary fire safety measures.

Conclusion

29. For the reasons given above the appeal should be allowed.

C Masters

INSPECTOR

List of conditions

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The development shall be carried out entirely in accordance with the following documents and approved drawings: Site plan GHA-XX-XX-DR-A-0201 Rev P01, Floor plans GHA-XX-XX-DR-A-2013 Rev P01, Floor plans GHA-XX-XX-DR-A-2014 Rev P01, Floor plans GHA-XX-XX-DR-A-2015 Rev P01, Roof plan GHA-XX-XX-DR-A-2016 Rev P01, Location Plan GHA-XXXX-DR-A-000 Rev P01, Site plan GHAXX-XX-DR-A-0201 Rev P01, Floor plans GHA-XX-XX-DR-A-0209 Rev P01, Floor plans GHA-XXXX-DR-A-0210 Rev P02, Floor plans GHA-XX-XX-DR-A-0211 Rev P01, Floor plans GHA-XX-XX-DR-A-0212 Rev P01, Floor plans GHA-XX-XX-DR-A-021 Rev P01, Sections GHA-XX-XX-DR-A-0221 Rev P01, Elevations GHA-XX-XX-DR-A-0230 Rev P02, Elevations GHA-XX-XX-DR-A-0232 Rev P02, Other GHAXX-XX-DR-A-0213 Rev P01, Other GHA-XX-XX-DR-A-0330 Rev P01, Other GHA-XX-XX-DR-A-0332 Rev P01, Sections GHA-XXXX-DR-A-202 Rev P01, Sections GHA-XXXX-DR-A-2021 Rev P01, Elevations GHA-XX-XX-DR-A-2030 Rev P01, Elevations GHA-XX-XX-DR-A-2031 Rev P01, Elevations GHA-XX-XX-DR-A-2032 Rev P01, Elevations GHA-XX-XX-DR-A-2033 Rev P01.
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 any site hoardings;
 - f) Details of the precautions to guard against the deposit of mud and substances on the public highway;
 - g) Dust control methods.All construction phases of the development shall be carried out strictly in accordance with the details so approved.
4. Prior to the commencement of development the following shall be submitted to and approved in writing by the Local Planning Authority:
 - i) A Phase 1 Desk Study report detailing the historical uses of the site to provide an assessment into the possibility of soil contamination in line with current statutory guidance.
 - ii) If recommended by the Phase 1 report (as outlined in part 'i'), a Phase 2 intrusive site investigation and risk assessment into the possibility of soil, water and gaseous contamination.
If the site investigation (as outlined in part (ii)) indicates the presence of significant potential pollutant linkages, a strategy detailing the remedial measures required to render the site suitable for its intended use must be carried out. The remedial works which are shown to be required must be submitted to and approved in writing by the Local Planning Authority before any such works are carried out and completed prior to the occupation of any building.

Prior to the occupation of the development 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. 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 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 thereafter.
6. Notwithstanding the approved details, 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; replacement trees, including no less than two semi mature trees and maintenance
 - c) Boundary treatments
 - d) Lighting
 - e) Children's play space
 - f) Secure by design features

The details approved shall be provided and completed in accordance with this condition prior to the first occupation of the development, 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.
7. Notwithstanding the approved details, 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) External facing materials including samples of all facing materials and finishes;
 - b) Detailed drawings in plan/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 hereby permitted a Refuse, Delivery and Service Management Plan in relation to the commercial unit on the ground floor shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall specify servicing hours and the number and frequency of servicing trips and how refuse is collected. The approved plan shall be adhered to thereafter and be maintained for the lifetime of the development.
9. Prior to the commencement of above ground works details of Photovoltaics panels (including plans) as outlined in the submitted Energy Statement by Produced by XCO2 for ICG Land Holdings Ltd (dated October 2023), shall be submitted to and approved in writing by the local planning authority. The Photovoltaic panels shall take place in accordance with the details approved and maintained for the lifetime of the development. Prior to the occupation of the development hereby permitted the CO2 emission reductions, in the form of at least 35% beyond what is required to comply with Part L Building Regulations 2013, as outlined in the submitted Energy Statement by Produced by XCO2 for ICG Land Holdings Ltd. (dated October 2023) and the provision of renewable energy technologies, in the form of Photovoltaic panels as outlined in the same Energy Strategy shall have been carried out in full. Details, in the form of a Microgeneration Certification Scheme (MCS) certificate, or other verification process agreed with the Local Planning Authority, shall be provided and approved in writing, confirming that the above measures have been met prior to the occupation of the development.
9. Notwithstanding the submitted details, prior to commencement (other than demolition, site clearance and preparation), details of the long-stay cycle parking, including accessible bike provision, and refuse storage shall be submitted to and approved in writing by the local planning authority. The approved cycle and refuse storage facilities shall thereafter be provided in their entirety prior to the occupation of the relevant part of the development and shall thereafter be retained.
10. The development hereby permitted shall achieve a minimum water efficiency standard of 110/litres/person/day.
11. The applicant should follow the recommendations of the air quality assessment report by XCO2 for ICG Land Holdings Ltd dated October 2023.
12. All of the residential units within the development hereby approved shall be constructed and fitted out to comply with the Building Regulations 2010 (as amended) optional requirement M4(2) 'accessible and adaptable', save for at least 10% of the units which shall comply with either the optional requirement M4(3)(2)(a) 'wheelchair adaptable', or the optional requirement M4(3)(2)(b) 'wheelchair accessible'. Such provision shall be reasonably maintained for the lifetime of the development.
13. The development must be carried out in accordance with the provision of the Fire Statement by MU.Studio dated 16th April 2024 (reference MUK10165-Issue 03) including the requirements for the means of escape for disabled persons, as set out within section 3.8 of the Fire Statement (MU.Studio) dated

16th April 2024 (MUK10165- Issue 3), and details of the assembly point (which is shown within the statement from MU.Studio (MUK10165 Issue 1 dated 14th October 2024), unless otherwise approved in writing by the Local Planning Authority.

14. The commercial use hereby approved on the ground floor shall only take place between the following hours 0700-2300.
15. Before the ground floor commercial use hereby permitted commences, measures to control the emission of fumes and smell from the premises shall be installed in accordance with a scheme which will first have been submitted and approved in writing by the local planning authority. All equipment installed thereafter shall be operated and maintained in accordance with the approved scheme and retained for so long as the use continues.

APPEARANCES

FOR THE APPELLANT:

Simon Wallis BA Hons MA MRTPI	Director, Savills
Joe Oakden MPLAN MRTPI	Associate, Savills
Giles Heather MA (Oxon) BSc (Hons) DipArch ARB	Director, Goldstein Heather
George Steele	Director Caneparo Associates
Robert Williams	Cornerstone Barristers

FOR THE LOCAL PLANNING AUTHORITY:

Greg Chapman Senior Planning Officer	London Borough of Croydon
Mary Toffi Principal Transport Planner	London Borough of Croydon

INTERESTED PARTIES:

Mr David Goodwin	Local Resident
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