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# Appeal Decision

Hearing Held on 17 August 2022

Site visit made on 22 August 2022

**by D M Young JP BSc (Hons) MPlan MRTPI MIHE**

an Inspector appointed by the Secretary of State

**Decision date: 13 September 2022**

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**Appeal Ref: APP/L5240/W/22/3297231**

**1 Addington Road, Sanderstead, Croydon CR2 8RE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Luke Cadman on behalf of Addington Road (1) LLP against the Council of the London Borough of Croydon.
  - The application Ref 21/04969/FUL, is dated 10 September 2021.
  - The development proposed is the demolition of existing building and the construction of 30 retirement living apartments (C3) with a communal lounge, guest suite, lower ground floor car parking and refuse store, provision of new access onto Sanderstead Hill (closure of existing vehicle access), pedestrian access, landscaping and associated works.
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## Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing building and the construction of 30 retirement living apartments (C3) with a communal lounge, guest suite, lower ground floor car parking and refuse store, provision of new access onto Sanderstead Hill (closure of existing vehicle access), pedestrian access, landscaping and associated works at 1 Addington Road, Sanderstead, Croydon CR2 8RE in accordance with the terms of the application, Ref 21/04969/FUL, dated 10 September 2021, subject to the conditions set out in the schedule to this decision.

## Preliminary Matters

2. The appeal arises from the Council's failure to determine the application within the prescribed time limit. The Council's Appeal Statement sets out seven putative reasons for refusal. However, the Statement of Common Ground (SoCG) confirms that Reason 1 (affordable housing), Reason 5 (parking) and Reason 7 (s106 agreement) were resolved before the start of the Hearing and consequently the Council offered no evidence in respect of these matters.
3. The Council revoked its Suburban Design Guide SPD on 25 July 2022. It therefore carries no weight in my decision.
4. After the close of the Hearing there was an exchange of correspondence in relation to the Appellant's updated Daylight/Sunlight report<sup>1</sup> (DSR). I have taken the responses into account in reaching my decision.

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<sup>1</sup> Daylight & Sunlight Report by eb7 dated 22 Aug 2022

## Main Issues

5. In light of the above the main issues are:
- The effect of the development on the character and appearance of the area;
  - Whether the development would provide an acceptable standard of accommodation with particular regards to communal/private amenity space, outlook and sunlight/daylight;
  - Whether the development would harm housing choice in the borough, and
  - The effect of the development on highway safety.

## Reasons

### *Character and appearance*

6. The appeal site is a triangular plot of land some 0.3 hectares in size containing a 4-bed detached dwelling. The existing house is sited prominently at the front of the plot just to the north of the Sanderstead Hill/Addington Road/Rectory Park roundabout. The site slopes away from the house to the north-east. The northern and western portions of the site are heavily treed which provides a strong visual screen to houses on The Woodfields.
7. The character of the surrounding area was the subject of much discussion at the Hearing. While there was a degree of nuanced opinion between the witnesses, it was broadly agreed that the area has a leafy, suburban character which stems from detached dwellings and blocks of apartments of varying design. Pockets of open space, especially around the roundabout, add to a sense of spaciousness to which the undeveloped parts of the appeal site contribute.
8. As noted in the SoCG, there is a range of building heights in the area ranging from single storey dwellings to three storey apartment blocks. However, it is undoubtedly the case that two-storey dwellings are the pre-dominant form of development. Immediately adjacent to the appeal site is Sanderstead Heights which contains 27 retirement apartments arranged over three floors.
9. The Borough Character Appraisal (2015) describes Sanderstead as a residential area generally of houses of a "*neo-vernacular style, often referred to as Tudorbethan*". While I do not disagree with that description, the area did not strike me on my site visit as particularly sensitive or remarkable in either architectural or streetscape terms. The area has evidently undergone a degree of change since 2015 with retirement living developments now fairly commonplace.
10. Most, if not all, these developments are larger than the traditionally scaled housing that surrounds them. Accordingly, and notwithstanding the appeal site's prominent location, I can see nothing obviously objectionable about the principle of a larger building on the appeal site.
11. In essence, the Council argue that the Appellant is trying to fit too much onto the site arguing that the contextual analysis used to inform the design of the building particularly its massing, scale, roof form, layout and siting was

inadequate. As a result, the Council say the building would be generic, bulky and exhibit poor design, and would be an unwelcome addition to the townscape.

12. Dealing with the scheme's contextual analysis first. The application was accompanied by a Design and Access Statement (D&AS). Pages 5-21 of that document contain a detailed contextual analysis of the site and surrounding area. It covers all the topics one would normally expect to see such as scale, character, transport and movement, historical background, materials, fenestration and roof forms. The D&AS then explains how each of these has informed the layout and design of the development. Siting and form were informed by the location of the existing house, the need to maintain an active frontage to the public realm, site shape and topography and the desire to retain the dominant landscaping. The Council did not dispute that these were all valid considerations.
13. The D&AS was supplemented at the appeal stage by a Townscape and Visual Assessment<sup>2</sup> (TVA) which at Section 4 further sets out the evolution of the scheme's design. Bearing in mind that the site is not subject to any special townscape designations, it is difficult to see what more the Appellant could reasonably have submitted to support the design of the building.
14. In terms of height, the photo montages contained in the TVA and the context elevations clearly demonstrate that the height of the southern building would respect Sanderstead Heights. There are other similarly proportioned buildings in the immediate vicinity, Rectory Court being another example. Finally, the southern frontage building would be a similar height to the existing dwelling. Based on the foregoing, I consider the height of the southern building would be acceptable and would not appear out of keeping.
15. The montages and context elevations also demonstrate that the views of the bulkier northern building, which would extend into the site rather than across its frontage, would be well screened in views from both Addington Road and those areas of open space abutting the roundabout. The northern building would be more visible from Sanderstead Hill. However, the mature landscaping along the western end of the site frontage would screen this part of the development in longer distance views. In any event, I can see nothing inherently harmful about the design including bulk and mass of either building nor the smaller linking element.
16. The Council suggested the northern elevation would be overbearing when viewed from the gardens of properties on The Woodfields. However, these would be private rather than public views. Notwithstanding that there is no right to a view, I saw on my site visit that the northern building would be largely screened from the gardens and windows of these properties. Like Sanderstead Heights immediately adjacent, the building might well be seen in the winter months in gaps through the trees. However, the contextual elevations<sup>3</sup> show that the north-east elevation would sit below the height of trees contained in the intervening landscaped buffer. I am thus satisfied that the northern building would not have an unacceptable effect on the character and appearance of the area.

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<sup>2</sup> See also figures 22-25 in the Appellant's Urban Design Statement

<sup>3</sup> Plan ref 946-PL-10A

17. While there would be an inevitable increase in bulk and footprint that comes from optimising the use of any site, the Council did not dispute the Appellant's analysis of plot ratios for other similar developments nearby. As already mentioned, much of the footprint increase would not be readily apparent in public views in the immediate area given that the northern building would be recessed behind the frontage building. Finally, the Council concede that the amount of outdoor amenity space would be acceptable. These matters lead me to the conclusion that the footprint of the development would not be out of proportion with its surroundings, nor would it constitute overdevelopment of the appeal site.
18. The Council is critical of what it sees as "*poorly considered architectural design*" arguing, amongst other things, that the pitch and proportion of the roof would appear '*squat*'. I note that the design of the roof<sup>4</sup> as well as the façade of the southern building<sup>5</sup>, were amended at the pre-application stage in response to the Council's feedback. In my view, and as demonstrated by the photo montages, the design of the building would be entirely appropriate to its context. In particular the use of contrasting materials, recessive and projecting elements, dormers, gables, chimneys, balconies and symmetrical fenestration patterns would all help to provide articulation to the principal elevations of the building reflecting the '*Tudorbethan*' design elements that are common to the area. While there might be some subtle design differences between the main buildings, I find it doubtful whether these would even be perceptible to the average observer. Even if they were, they would not detract from the building's overall appearance.
19. Although the use of render is not unusual in the locality, the Council is critical of its proposed use in this instance given its high maintenance requirements<sup>6</sup>. However, perceived fears that a building might not be maintained strike me as an unreasonable basis on which to resist a development proposal. In this case, a well-known and reputable organisation has been appointed to build and indeed manage the development. There is no evidence before me nor am I aware of any, which would support concerns that the developer would not appropriately maintain the building in all respects. Putting that issue to one side, upon inspection of the plans, it is evident that the use of render on the principal elevations would be strictly limited. Accordingly, I find the Council's concerns in this regard to be overplayed.
20. The Council is also critical of the frontage parking area which it describes as "*overly urban, complicated and unsightly*". I simply do not recognise that description. The inclusion of an underground parking area has allowed the scheme to minimise the amount of hard standing. Only six parking spaces would be provided in the frontage area, most of which would be screened by boundary fences and/or new landscaping. Accordingly, only fleeting views of the frontage parking would be possible through the site access.
21. Despite being supported at the pre-application stage, the Council argue underground parking would be "*uncharacteristic of suburban areas*". I find that criticism irreconcilable with the Council's previous point about the frontage parking area. If the underground parking were to be omitted, the only logical

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<sup>4</sup> Chimney and vents added - See Minutes from the 28 May 2021 pre-application meeting.

<sup>5</sup> Changes included three gables instead of one, a semi-enclosed roof terrace, a projecting bay window at first floor level and removal of render from the ground floor of the southern block.

<sup>6</sup> This was based on statements in the SDG which has now been withdrawn.

- solution would be for the parking to be accommodated in a large, paved car park at ground level, akin to the adjacent Sanderstead Heights development.
22. The harmful effects of parking dominated development is something that has been consistently highlighted by a raft of urban design documents over a number of years. I therefore find the Council's belated opposition to the underground parking to be perplexing. Concerns regarding Secured by Design are not relevant to the Council's putative reasons for refusal. Nonetheless, there is no evidence to suggest the underground parking area would be either dark, secluded or lacking in surveillance.
23. The Council refer to a lack of information in various areas, such as the pitch of the roof, plot widths, gaps and building lines. It was also alleged that the TVA viewpoints had been carefully selected to minimise the visual impact of the development. However, in preparing for the Hearing, the Council has had some time to adduce its own evidence necessary to support its concerns but has not done so.
24. While it is commendable that the Council is seeking to raise design standards across the borough, schemes in areas with no townscape designations, should only be refused where they would cause harm. In my view, it cannot reasonably be claimed that this scheme would come close to that threshold. The fact that the design might be sub-optimal in some way or that the Council would have preferred the appellant to have taken a different approach are not valid reasons on which to resist new development.
25. There would be some inevitable change to the character and appearance of the area, however, for the reasons given above, I find that the degree of change would be modest and largely neutral in terms of its effect on the local townscape. I therefore conclude that the proposed development would not harm the character and appearance of the area. Accordingly, there would be no conflict with Policies D3 and D4 of the London Plan 2021 (the LP) or Policies SP4 and DM10 of the Croydon Local Plan 2018 (the CLP).

#### *Living conditions – External spaces*

26. The Council's fourth putative reason for refusal concerns the standard of proposed internal and external accommodation. There are several strands to the Council's case which it argues when considered collectively would result in a substandard quality of accommodation for future residents.
27. Dealing with the external amenity space first, there would be two main communal areas, the entrance 'plaza' courtyard and a wild garden to the west of the building. Despite the concerns raised by the Council in respect of these, the parties agree that the actual amount of outdoor amenity space would be acceptable.
28. In terms of sunlight and daylight, the garden area would be shaded by mature trees. However, given the trend for hotter summers, I do not necessarily see this as a disadvantage especially given the demographic of future residents. Heliophiles would be well provided for in the south-facing plaza at the front of the building. Although the Council argue this would be unwelcoming on account of its frontage location, the photos montages demonstrate it would be anything but.

29. The DSR finds that the outdoor amenity areas would achieve “*excellent levels of compliance [with the BRE Guidance<sup>7</sup>] with 95% of the amenity area achieving at least 2 hours of direct sun on March 21st, significantly exceeding the 50% target*”.
30. Planning conditions would ensure the provision of satisfactory gradients to ensure all the outdoor spaces are “*flexible, multifunctional, accessible and inclusive*” in accordance with CLP DM10.5.

#### *Living conditions – Internal spaces*

31. The Council argue that the 54m<sup>2</sup> ground floor lounge “*appears undersized for 30 units*”. Given the Council accept it has no communal space standards for retirement homes, it is not clear how the Council came to that view. For example, no examples of other recently consented/refused schemes have been provided to support its concerns<sup>8</sup>.
32. In my view, retirement living providers are probably best placed to understand the likely needs and requirements of future residents. In this case and noting that the residents lounge would also benefit from a 30m<sup>2</sup> patio area, I can see nothing objectionable about the size, layout or quality of the communal lounge.
33. From my experience informal seating areas in and around shared spaces are standard for this type of development. While I have noted the Council’s criticisms, I do not agree they would be low quality or unattractive.

#### *Living conditions – Residential units*

34. Amongst other things, LP Policy D6 states that “*Housing development should maximise the provision of dual aspect dwellings and normally avoid the provision of single aspect dwellings.*” The inclusion of the words ‘*maximise*’ and ‘*normally avoid*’ make it clear that there is no hard and fast rule against single aspect units<sup>9</sup>. The policy seeks to ensure that all reasonable steps are taken to avoid single aspect. The supporting text to the policy explains that dual aspect dwellings have many benefits including better daylight and direct sunlight, natural cross-ventilation, avoiding overheating and a choice of views.
35. There is dispute about how many of the units would be single aspect. According to the Appellant there would be five (17%) whereas the Council argue there would be eleven (37%). In my view those units that ‘*turn a corner*’<sup>10</sup> would benefit from a good standard of amenity with separate windows/balconies offering a different view. On any sensible interpretation they should be regarded as dual aspect.
36. The Council is right to say that the LP’s Housing Supplementary Planning Guidance 2016 (SPG) refers to ‘*windows*’ rather than ‘*openings*’. However, an overly rigid interpretation of policy and/or guidance can sometimes obscure its aims and objectives which is not always helpful. In this particular case, a glazed door would serve exactly the same practical purpose as a window. For example, it would provide a different outlook, help with cross ventilation and

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<sup>7</sup> Building Research Establishment’s (BRE) guidance ‘Site layout planning for daylight and sunlight: A guide to good practice’ (BRE 209 3rd edition, 2022).

<sup>8</sup> The Appellant points out that the consented Sanderson Lodge scheme of 37 dwellings contains a lounge of some 47m<sup>2</sup>.

<sup>9</sup> SPG Standard 29 contains similar wording.

<sup>10</sup> Units 2, 11 and 22.

sunlight/daylight levels. Therefore, while units 8, 19 and 29 might not be dual aspect in the exact terms set out in the SPG, they would nonetheless offer future residents a good standard of amenity. I am satisfied that none of the units would be 'north facing' in the terms set out in the SPG<sup>11</sup>.

37. Irrespective of whose interpretation of the guidance is to be preferred, I consider the number of single aspect dwellings has been minimised as far as possible. Accordingly, I am satisfied the scheme complies with the overall thrust of Policy D6 and the SPG to maximise the provision of dual aspect dwellings.
38. Those units that are agreed as being single aspect would all benefit from a balcony or terrace with an outlook towards the landscaped buffer along the north-eastern site boundary with Sanderstead Heights. While the outlook from these units might not be expansive, that is not unusual in Greater London and would not make it unpleasant. Overall, an appropriate balance between outlook and privacy would be struck.
39. In terms of daylight, the original DSR found 100% compliance with the BRE 'Average Daylight Factor' target for each internal space. The updated DSR<sup>12</sup> found that 97% of habitable rooms assessed met the new BRE criteria<sup>13</sup>. The three rooms that do not meet the standard are LKDs at upper ground floor level. However, the shortfall would only be material in one unit<sup>14</sup>. This would have a 'deeper plan' LKD with a self-contained kitchen set back from the window and balcony. As a result, the 'living space' would experience good levels of daylight.
40. In terms of direct sunlight, 90% of the units would meet the 1.5 hours sunlight criteria. Although the standard would not be met in every room of every flat, that would be an unreasonable expectation particularly as BRE guidelines acknowledge that site layout constraints may mean that not every unit can have a southerly aspect. In some cases, the shortfall is negligible or would be offset by direct sunlight to bedroom windows.
41. Only two units<sup>15</sup> would experience a material shortfall in sunlight. However, I cannot agree they would necessarily be unattractive or provide a poor standard of amenity as a result. Even in the alternative, there would be various other internal and external communal spaces which would afford residents with ample levels of sunlight/daylight as well as an attractive outlook.
42. The Council have raised concerns about a lack of ventilation and a propensity for overheating in the single aspect units. In response, the Appellant submitted an Overheating Assessment, which concluded that all the units would meet the required standard. Given the assessment has not been challenged by the Council, I consider it has been demonstrated that the units would not be prone to overheating.
43. Although all the units would benefit from access to private outdoor amenity space in the form of a terrace or balcony, the Council highlight that a number of these would be undersized when assessed against the requirements of CLP

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<sup>11</sup> See Footnote 143: North facing' is usually defined as an orientation less than 45° either side of due north. In this case the north-east elevation would have an orientation of 53° degrees.

<sup>12</sup> The DSR was updated to reflect the 2022 BRE guide published 9th June 2022.

<sup>13</sup> 50% of the assessment grid area of a room to achieve a target lux level across the year.

<sup>14</sup> There would be a 33% shortfall for Unit 4.

<sup>15</sup> Units 16 & 17.

Policy DM10.4 and LP Policy D6<sup>16</sup>. These require provision of 5m<sup>2</sup> of private amenity space per 1–2-person unit. In most cases the shortfalls would be modest. For example, the smallest area would be 3.91m<sup>2</sup> which equates to a shortfall of 21.8%.

44. In response, the Appellant has calculated the development would provide a total of 189m<sup>2</sup> of private amenity space within balconies or terraces against an overall SPG requirement of 176m<sup>2</sup>. In addition, there would be another 30m<sup>2</sup> available within the private patio adjacent to the communal lounge as well as the other areas of private outdoor amenity space<sup>17</sup>. I am also mindful of the fact that the internal space standards set out in Policy D6 would be met and in all but one unit, exceeded<sup>18</sup>.

#### *Conclusions on living conditions*

45. There would be some conflict with CLP Policies SP2.8, DM10.4 and LP Policy D6 in respect of balcony sizes. However, when viewed holistically I consider the development would provide a good standard of living which would be commensurate with the likely needs and expectations of future residents. Consequently, there would be no conflict with the overarching aims of the development plan in terms of ensuring new development is of a high quality with adequately sized rooms and functional, accessible layouts that are fit for purpose and meet the needs of residents.

#### *Housing mix*

46. The dispute between the parties is whether the net loss of a 3-bedroom home would result in a loss of housing choice in the borough. The Council point to conflict with CLP Policies DM1.1 and DM1.2 and by extension, Policy SP2.
47. Policy DM1.2 seeks to permit the redevelopment of residential sites provided it does not result in the loss of three-bedroom homes (as originally built). As the existing detached property has four bedrooms, it falls outside the scope of the policy. Accordingly, there would be no conflict with Policy DM1.2.
48. Policy DM 1.1 requires major housing developments to provide 70% of new homes as 3-bedroom or larger homes. While I have reservations about whether the policy was ever intended to apply to proposals for retirement housing, the Appellant does not dispute there would be *prima facie* conflict with the policy, and I see no reason to disagree. However, the weight I attached to this conflict is reduced for a number of reasons.
49. Firstly, while the Council is right to be concerned about a reduction in the number of family dwellings, the aim of Policy DM1.1 is to ensure a suitable level of housing choice in the borough. It is common ground the scheme would help to meet an identified need for older persons housing in Croydon<sup>19</sup> in accordance with CLP Policy SP2.2. In that context, the argument that a development which would deliver a net increase of 29 dwellings would harm

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<sup>16</sup> Balconies to units 17, 18 and 20 would be 4.35m<sup>2</sup>.

<sup>17</sup> Policies DM10.4 and D6 do not require the private amenity floorspace to be provided specifically within a balcony or terrace.

<sup>18</sup> Paragraph 2.3.32 of the London Housing SPG states: "In exceptional circumstances, where site constraints make it impossible to provide private open space for all dwellings, a proportion of dwellings may instead be provided with additional internal living space equivalent to the area of the private open space requirement".

<sup>19</sup> See the Specialist Elderly Housing Need Briefing Note – Appendix 1 to the Appellant's Statement of Case. See also paragraph 6.7-6.11 of the SoCG.

housing choice, strikes me as somewhat counterintuitive. The proposed dwellings here are likely to be occupied by people looking to downsize. It is therefore inevitable that the development would free up larger, family-sized houses elsewhere in the borough<sup>20</sup>. It therefore follows, largely as a matter of logic, that retirement living developments would have a positive rather than negative effect on housing choice in the borough.

50. Second, the Appellant highlights that the Council has previously taken a more proportional approach to the issue of housing mix for other retirement living schemes. For example, the Officer Report for the Ormesby Court scheme<sup>21</sup> stated "*The development includes no larger (three bed plus) family units. However, given the target market for the development, it is considered acceptable in this instance for no larger family units to be provided*". The above, is in keeping with LP Policy H10, which allows for variations to the prescribed housing mix where this can be justified on the basis of the need to deliver mixed and inclusive neighbourhoods. The Council has not provided a cogent explanation as to why it adopted a different approach to the issue of housing mix in other cases.
51. Finally, other than point to the local plan evidence base, the Council has not adduced any specific evidence to demonstrate a demand/need for three-bedroom retirement units. If such a demand did exist, I can see no obvious reason why a developer would not respond to that need. The Council argued that three-bed units were potentially less profitable than one and two-bed units but again no evidence was offered to support that position.
52. In my view, the above considerations are sufficient to outweigh the identified conflict with Policy DM1.1. The development would not therefore harm housing choice in the borough.

#### *Highway safety*

53. The dispute between the parties is fairly narrow and concerns whether there should be a ban on right-turns out of the development onto Sanderstead Hill, something the Council argues could lead to collisions.
54. Before I address those concerns, it is germane that there was no objection from the Highway Authority to the 2019 application<sup>22</sup> which proposed a very similar access arrangement. It was agreed that the trip rates from this development would not be materially different to those proposed here<sup>23</sup>. On that basis alone it is surprising that the Highway Authority opted to take a different view to the appeal proposal.
55. Putting that point to one side, the Council's highway witness agreed at the Hearing that the visibility splays at the proposed access point including forward visibility exiting the roundabout, would be appropriate and in accordance with accepted standards in Manual for Streets. In light of that, the matter does not really need to go any further. An access that complies with national highway guidance should not be deemed unsafe particularly where; driven speeds are

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<sup>20</sup> This is reflected in the wording of LP Policy H10(A)(9).

<sup>21</sup> LPA ref: 17/01485/FUL

<sup>22</sup> LPA ref: 18/00144/FUL

<sup>23</sup> 4vehicles 2-way in the morning network peak hour (0800-0900) and 3 vehicles 2-way during the evening network peak hour (1700-1800) versus

- low, there is no pattern of accidents and the number of turning movements would not be significant.
56. The Council's road safety concerns appear based almost entirely on the findings of a Road Safety Audit submitted with the previous application for a 60-bed retirement home<sup>24</sup>. Within that RSA, the Highway Officer seems to have given particular credence to the statement "*restricted visibility does not raise significant road safety concerns at present as vehicles are highly unlikely to stop within the Sanderstead Hill carriageway*". Notwithstanding that the RSA was carried out on a scheme twice the size of the current proposal, the above statement is wrong on two counts.
57. Firstly, while the embankment might temporarily impede forward visibility for vehicles on the roundabout (notably the area around the Rectory Park junction) there is an adequate line of sight upon exiting the roundabout onto Sanderstead Hill. As already stated, there would also be adequate sightlines for vehicles exiting the development whether turning left or right. Secondly, on the basis there is an existing pedestrian crossing a few metres to the east of the proposed access, I disagree that vehicles are currently '*highly unlikely to stop*'. At the time of my visit, I observed the crossing was well used and there appeared to be no issues in terms of vehicles stopping.
58. I also take issue with the statement; "*a vehicle may attempt to exit the proposed access when it is not safe to do so into the path of an approaching vehicle*". Statements such as this are perhaps not surprising given an RSA is a risk-based assessment. However, the same argument could be applied to any access anywhere on the road network and if adopted more widely, that approach would effectively represent a moratorium on all new road accesses. When assessing development proposals and weighing probability against risk, one has to assume that drivers will behave rationally and obey the rules of the road. To that end, an RSA, to the extent it is needed, should inform not dictate the Council's decision making.
59. The Council's highway witness expressed concern that vehicles queuing back from the roundabout would interfere with visibility to the east. Notwithstanding the very small number of peak-hour movements generated by the development (not all of which would be turning right) I find such concerns misplaced. Queuing traffic, particularly at peak hours, is an inherent feature of the highway network. The number of priority accesses just in the borough of Croydon where queuing traffic extends across the junction in peak hours is likely to be incalculable.
60. While in theory queuing cars could be considered an '*obstacle to visibility*', my experience suggests this does not lead to significant problems in practice. On the contrary, in many ways it is beneficial as slow moving or stationary vehicles are much more likely to let a vehicle pull out. In this instance, right-turners would have the benefit of the ghost island where, if necessary, they could wait until there was a safe opportunity to complete their manoeuvre<sup>25</sup>. Much of the above is reflected in section 10.7 of Manual for Streets 2. Accordingly, I find that a ban on right-turns from the site would be unnecessary.

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<sup>24</sup> LPA ref: 19/05428/FUL

<sup>25</sup> The approved access drawing to 18/00144/FUL demonstrates that a vehicle waiting in the ghost island would have an adequate line of sight to the east.

61. Finally, reference was made at the Hearing to the accident record at the staggered crossroads of Sanderstead Hill and Sundown Ave/Purley Downs Road. However, the layout and number of traffic movements at this junction are materially different to the appeal scheme. The accident record is therefore of little assistance.
62. Based on the above, I conclude that the proposed vehicle access arrangements would not represent a threat to highway safety. As a result, there would be no conflict with Policies T4 and T6 of the LP or Policies SP8, DM29 and DM30 of the CLP.

### **Other Matters**

63. The development includes the provision of 17 parking spaces (four of which would be accessible and have EV charging facilities). Moreover, future residents of the development would be barred from applying for on-street parking permits. The parties agree that the level of car and cycle parking proposed is acceptable and despite parking problems in the wider area, I see no reason to take a contrary view.

### **Planning Obligations**

64. The Framework sets out policy tests for planning obligations; obligations must be 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. The same tests are enshrined in the statutory tests set out in the regulation 122 of the Community Infrastructure Levy (CIL) regulations.
65. A signed and dated s106 Agreement was provided before the start of the Hearing. This would secure the following obligations:
- 1) A restriction on occupancy to residents aged 55+.
  - 2) An affordable housing contribution payment in lieu of £143,548 plus review mechanisms (both early and late stage) to reassess viability upon substantial implementation and upon completion.
  - 3) An air quality contribution of £3,000 to fund initiatives in the Council's Air Quality Action Plan.
  - 4) A carbon offset contribution of £54,250 as a contribution in lieu to achieving zero carbon on site.
  - 5) A sustainable transport contribution of £45,000 or the provision of a car club bay.
  - 6) A restriction on parking permits to new residents.
  - 7) The provision of a section 278 agreement under the Highways Act to secure off-site highway works.
  - 8) Contributions to local employment and training (construction phase) of £16,250 plus Local Employment and Training Strategy, and
  - 9) Monitoring fees (£7,500 in total).

66. In all cases I am satisfied that the obligations meet the legal tests and would secure compliance with the relevant development plan policies set out in the Council's CIL Compliance Statement.

### **Conditions**

67. The parties have suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance (PPG). In some instances I have amended the conditions in the interests of brevity or to ensure compliance with the PPG.
68. Conditions 1 and 2 are standard conditions for planning permissions and are necessary to provide certainty. Demolition and construction management plans as well as an emissions strategy are necessary to protect the living conditions of local residents. In some cases, I have omitted requirements that are covered by other legislation.
69. A drainage condition is necessary in the interests of flood prevention. A contaminated land condition is necessary to ensure the land is suitable for a residential use. Materials and landscaping conditions are necessary to ensure the appearance of the development is acceptable. A tree protection condition is necessary to protect trees on the site from construction activity. Ecology conditions are necessary to protect and enhance habitats on the site.
70. Conditions covering CO<sub>2</sub> emission reductions, cycle and bin storage, car parking, water efficiency, public art and accessible and adaptable building standards are all necessary to comply with development plan policies in these areas. Noise mitigation measures are necessary to protect the living conditions of future residents.
71. I have omitted the condition restricting occupation to persons aged over 55 as this is covered in the s106 Agreement. I have omitted the condition requiring a Delivery and Service Management Plan, as there is no specific evidence that delivery vehicles would represent an unacceptable highway safety risk. Moreover, I do not consider that the developer would be in a position to restrict the number or times of deliveries.
72. Conditions 3, 4, 5 and 6 are 'pre-commencement' form conditions and require certain actions before the commencement of development. In all cases the conditions address matters that are of an importance or effect and need to be resolved before construction begins.

### **Conclusion and Planning Balance**

73. I am required to determine this proposal in accordance with the development plan, unless material considerations indicate otherwise. The starting point is therefore the development plan. I have identified conflict with Policy DM1.1 in relation to housing mix and limited conflict with SP2.8, DM10.4 and D6 in respect of housing standards. However, for the reasons set out above, I do not consider any material planning harm would arise from these conflicts and the scheme would accord with the relevant aims and objectives of the policies.
74. Agreed benefits of the scheme are set out at paragraph 6.5 of the SoCG and include the provision of 29 net additional dwellings which would meet an identified local housing need, the re-use of a largely vacant brownfield site, the creation of new/enhanced habitats and economic benefits. Collectively these

carry substantial weight. There would be no harm to the character and appearance of the area, highway safety or the living conditions of future occupiers of the development. These are all neutral considerations.

75. The Courts have previously recognised that it is not unusual for development plan policies to sometimes pull in different directions, and that there may be some points in a plan which support a proposal but there may be some considerations pointing in the opposite direction. It does not follow that if there is a breach of any one policy a proposal cannot be said to accord with the development plan. Given the numerous conflicting interests that development plans seek to reconcile, it would be difficult to find any large project that was wholly in accord with every relevant policy.
76. Notwithstanding the policy conflicts I have identified above, I find the preponderance of development plan policy, and indeed relevant material considerations, to be in support of the appeal scheme. It would therefore be sustainable development benefitting from the '*presumption in favour*' contained in Policy SP1 of the CLP and the Framework.
77. I therefore conclude that the appeal should succeed, subject to the imposition of a number of conditions, as discussed at the Hearing and set out in the Schedule below.

*D. M. Young*

Inspector

## **APPEARANCES**

### Appellant

Robert Walton KC

Advocate

Colin Pullan

Lambert Smith Hampton

Matt Twinberrow

Bellamy Roberts

Jennifer Woods

Lichfields

### Croydon Council

Luke Downend

Principal Planning Officer

Jan Slominski

Applications Team Leader

Alicia Marsac

Senior Placemaking Officer

Mary Toffi

Transport Planner

### Interested Persons

Margaret Quiney

Local Resident

Monica Carly

Local Resident

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall be begun three years of the date of this permission.
- 2) The development shall be carried out in accordance with the following approved drawings: 946-PL-01, 02B, 03C, 04C, 05C, 06C, 07C, 08A, 09A, 10A, 13, 21.054-BOSK-XX-00-DRL-1001 P02 and 1000 P05.
- 3) Prior to any demolition, a Demolition Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include the following information for all demolition activity:
  - a) Hours of working;
  - b) Hours of vehicular movements;
  - 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 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, and
  - j) Method and details of demolition including disposal and recycling of materials

The demolition phases of the development shall be carried out strictly in accordance with the details so approved.

- 4) Prior to the commencement of development (excluding demolition) a Construction Management Plan (CMP) and Construction Logistics Plan (CLP) shall be submitted to and approved in writing by the Local Planning Authority. These 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 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, and
- i) Details outlining the proposed range of dust control methods and noise mitigation measures;

All construction phases of the development shall be carried out strictly in accordance with the details so approved.

- 5) Prior to the commencement of development, excluding demolition, an intrusive site investigation and assessment into the possibility of soil, water and gaseous contamination must be carried out to the approval of the Local Planning Authority. The investigation report shall include a risk assessment and details of remediation if required.

Remedial works which are shown to be required must be approved by the Local Planning Authority before any such works are carried out and completed prior to the occupation of any building.

A validation report detailing evidence of all remedial work carried out must 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.

- 6) Prior to the commencement of development, excluding demolition, results of the airspading investigations around T22 and T18 and details of the necessary precautionary measures to ensure protection of these trees shall be submitted to and approved in writing by the Local Planning Authority.

All other works will be undertaken in accordance with the Arboricultural Impact Assessment & Method Statement Rev A, 10/09/21 and the Tree Protection Plan PRI23206- 03, 13/07/21, ACD Environmental.

- 7) Prior to the commencement of above ground works, a final detailed surface water drainage scheme incorporating the following outstanding points shall be submitted to and approved in writing by the Local Planning Authority:
- a) Greenfield runoff rates to be reviewed for reduced area of site;
  - b) Proposed runoff rates to be reviewed following the above;
  - c) Comments on section to be addressed with revised calculations to be submitted;
  - d) The maximum proposed runoff rates from the site to the sewer are to be reviewed and compared to the greenfield runoff rates. If proposed discharge rates are higher than greenfield runoff, a robust justification must be provided;
  - e) More details on green roof to be provided, and

f) Correspondence with Thames Water to be provided

The approved scheme shall be implemented in accordance with the details above and the Flood Risk Assessment and Drainage Strategy Report, Ward Associates (Consulting Engineers) Ltd, September 2021 prior to the first occupation of the development and maintained thereafter.

- 8) Prior to the commencement of above ground works, the Planning Fire Statement (Ref: F10489), 10 09 2021, prepared by Clarke Bank, shall be re-submitted and approved in writing by the Local Planning Authority.
- 9) 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) Details of all external facing materials including samples of the proposed external window, door, wall and roof materials;
  - 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 approved details.

- 10) Prior to the commencement of above ground works, in accordance with drawings 21.054- BOSK-XX-00-DR-L-1001 P01 & 1000 P08 & The Landscape Strategy, Studio Bosk, June 2021, final 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 including between private amenity space and communal areas;
  - d) Retaining walls;
  - e) The boardwalk including gradients;
  - f) A maintenance/management plan for all aspects of the hard and soft landscaping, including the biodiverse green roof and communal amenity spaces, and
  - g) A strategy demonstrating how amenity areas will be accessed.

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.

- 11) Prior to the commencement of above ground works a low emission strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include the following:
- a) Details of remedial action and mitigation measures that will be implemented to protect receptors (e.g. abatement technology for energy plant, design solutions);
  - b) A commitment to implement the mitigation measures (including NO<sub>x</sub> emissions standards for the chosen energy plant) that are required to reduce the exposure of onsite and local receptors to poor air quality and to help mitigate the development's air pollution impacts, in particular the emissions of NO<sub>x</sub> and particulates from on-site transport and energy generation sources;

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.

- 12) Prior to occupation, a Biodiversity Enhancement and Management 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, orientations and heights of proposed enhancement measures by appropriate maps and plans (where applicable); persons responsible for implementing the enhancement measures; and
  - d) details of initial aftercare and long-term management including the retained woodland, new native species hedgerow, biodiverse green roof, species rich meadow and wildlife pond.

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

- 13) Prior to occupation, a lighting scheme for biodiversity, with input from a suitably qualified ecologist to ensure it is sensitive to wildlife, 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, Isolux drawings 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 scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

- 14) Prior to occupation of the development hereby permitted the following details shall be submitted to and approved in writing by the Local Planning Authority:
- a) A car park management plan detailing the allocation and management of spaces for residents and visitors
  - b) Drawings showing swept path manoeuvres and pedestrian sightlines

The operation of the car park shall take place in accordance with the details approved and maintained for the lifetime of the development.

- 15) Prior to the occupation of the development hereby approved, full details of the following shall be submitted to and approved in writing by the Local Planning Authority:
- a) Full details of cycle parking provision (long stay and short stay spaces), including the location and type of cycle stands.
  - b) Full details of the refuse stores, including the location, size and number of bins, as well as a dedicated area for the storage of bulky waste.

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.

- 16) Prior to the occupation of the development hereby permitted the CO<sub>2</sub> emission reductions and renewable energy technologies as outlined in the Energy and Sustainability Statement by JAW Sustainability, 09/09/21 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.

- 17) Prior to occupation, the following details shall be submitted to and approved in writing by the Local Planning Authority:
- a) evidence that the 'good' standard for acoustic design criteria under the British Standards
  - b) Institute BS8233:2014 "Guidance on sound insulation and noise reduction for buildings" is achieved in living rooms and bedrooms;
  - c) an assessment of environmental noise showing:
    - i. Hourly LAeq noise levels recorded during the survey, with times when measurements were taken;
    - ii. Hourly Lmax, noise levels;
    - iii. The LAeq for daytime and night-time noise;
    - iv. A location plan showing where the measurements were taken;
    - v. Details of weather conditions and wind speed at the time of the survey;
    - vi. Details of the noise meter used for the survey and results of calibration prior to and following monitoring

- 18) Prior to occupation, a Public Art strategy shall be submitted to and approved in writing by the Local Planning Authority. The Public Art strategy shall include details of the procurement, local engagement, and sustainability considerations of the commissioning of public art for the site, and the details of the public art to be installed within the site. The proposed public art shall be implemented in accordance with the approved details prior to the first occupation of the development and shall be retained in that manner thereafter.
- 19) 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.
- 20) All mitigation measures and/or works shall be carried out in accordance with the details contained in the Update Ecological Appraisal and Bat Survey Report (September 2021), the Tech Ecology Addendum letter (February 2022) and the Reptile and Update Desk Study Report (08/06/22).
- 21) The development hereby permitted shall be designed to achieve a minimum water efficiency standard of 110/litres/person/day.