The Planning Inspectorate

Appeal Decision

Site visit made on 25 October 2016

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 October 2016

Appeal Ref: APP/G5180/W/16/3153211
38 Hawthorne Road, Bickley, Bromley BR1 2HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by PDL Limited against the decision of the Council of the London Borough of Bromley.
- The application Ref DC/16/00583/FULL1, dated 5 February 2016, was refused by notice dated 16 May 2016.
- The development proposed is 2 detached houses with garages.

Decision

1. I dismiss the appeal.

Main Issues

2. These are;

   - Whether the loss of the locally listed building is justified.
   - The effect of the proposed replacement buildings on the character and appearance of the Hawthorne Road area, and whether the replacement buildings are of the standard of design sought by policy.

Reasons

Policy and Planning Background

3. With regard to the future of the locally listed building, saved Policy BE10 of the Unitary Development Plan states that permission will only be granted for the replacement of such buildings where the applicants have demonstrated that all reasonable options for the retention of the building have been considered; and the proposed new building is of an exceptionally high standard of design. The replacement building is also to be tested with reference to Policy BE1 which requires development proposals to be of a high standard, not detract from the street scene, with space around buildings providing opportunities for attractive settings, among other things; and Policy H7 which states that the site layout, buildings and space about buildings are to be designed to a high quality and recognise as well as complement the qualities of the surrounding areas.

4. The Council have adopted Supplementary Planning Guidance for Locally Listed Buildings in Bromley, Policy BE10 is recited and there is much guidance on the preservation of features and the avoidance of harm. There is however little about demolition or loss; clearly, as set out in Policy BE10, this is seen as a last resort.

5. Paragraph 56 of the National Planning Policy Framework states that the Government attaches great importance to the design of the built environment; good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 65 in the same section on requiring good design states that local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design.

6. The locally listed building is a heritage asset under paragraph 135 of the Framework; the effect of an application on the significance of the heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

7. The original site of number 38 has been sub-divided following an appeal in 2012 for a detached two storey, six-bedroom dwelling including roof accommodation, double garage and access road on land to the rear of the present site, with the access road running alongside the present eastern boundary (Ref; APP/G5180/A/12/2171459).

8. The present building on the site is now little more than the shell of the original dwelling following a fire and planning permission was granted in May 2015 to re-build the first floor and roof of the fire damaged building, to add a two storey side/rear extension to the eastern side adjacent to the access road to number 38A, along with a detached garage in the rear garden to the west of the dwelling (Ref; 15/00377/FULL6). A new vehicular access was proposed from Hawthorne Road adjacent to number 36 to the west. This development has not been carried out and will be referred to later.

9. The appellant refers to a recent appeal in Bromley Borough that proceeded by way of an Inquiry and appears to have considered in some depth the matter of the Council's 5 year housing land supply, pursuant to guidance in section 6 of the Framework (Ref; APP/G5180/W/16/3144248, 2 August 2016). The appeal was nevertheless dismissed through being found to be inappropriate development on Metropolitan Open Land, with no very special circumstances sufficient to justify the grant of planning permission. The finding on the 5 year housing land supply is to be considered later in the current Decision.

The Loss of the Locally Listed Building

10. It is clear from photographs supplied that the building was once a substantial and attractive element in the street-scene, with the prominent roof-scape and careful detailing so redolent of the Arts & Crafts movement. There appears not doubt that in ordinary circumstances its loss would cause harm.

11. However, the building as now standing at the site has been severely damaged by fire and by water used to control the blaze. There may also have been some further deterioration as a result of the roof being open to the elements for a while and the appellant refers to unauthorised entry and damage. There is now a temporary roof covering and scaffolding shores to support the masonry, whilst the original roof has been substantially removed. Fire damage is evident to the masonry, with little of the ceilings and wall plaster left intact

and re-usable, added to which there is severe charring to internal joinery items.

12. The appellant's Viability Assessment appears a fair and full appraisal of the present situation, and Appendix B gives a range of five tender receipts. The assessment sets out the intention of the property being bought at auction in 2014 after the fire for repair and extension, as the subsequent May 2015 permission. Appendix D gives a development appraisal indicating a significant loss as the total of acquisition and repair and rebuilding costs is more than the anticipated market value, resulting in a loss to the developer.

13. This may well indicate acquisition costs being too high, as the reverse of this appraisal would appear now to assign the property a much value lower than the £800,000 paid. It is of note that Historic England's advice in the case of enabling development to statutory listed buildings where there is a similar conservation deficit is that acquisition costs should be ignored. But, that is a situation where the loss of even the lowest Grade II statutory listed building is described in the Framework as exceptional, whereas here the Framework and Policy BE10 set a lesser test for the loss of undesignated heritage assets such as this locally listed building.

14. The second part only of Policy BE10 is appropriate as the proposal is the removal of the building rather than its alteration, extension or change of use. In any event the grant of the May 2015 permission would have been taken with that part of the policy in mind, along with the condition of the building at that time.

15. This second part provides for the loss of a locally listed building where it can be demonstrated that *all reasonable* options for retention have been considered, and the proposed replacement building is of an exceptionally high standard of design. The supporting text does not add much to the matter of all reasonable options, stating only that retention is desirable as the building would have been deemed worthy of protection for its contribution to the townscape of character of the Borough. The text continues with the statement that if demolition should prove necessary then the Council will require that they are replaced with buildings of exceptional architectural merit.

16. The appellant has referred to the appeal decision at nearby Oldfield Road, where the Inspector was critical of the merit of the locally listed building as it then stood (Ref; APP/G5180/W/15/3134207, 10 February 2016). It is clear that between Policy BE10 and paragraph 135 of the Framework there is need to compare the merits of that which would be lost with those of the replacement. Paragraph 136 of the Framework makes clear that the loss of whole or part of a heritage asset should not be permitted without taking all reasonable steps to ensure the new development will proceed after the loss has occurred. Nevertheless, the requirement of Policy BE10 is clearly for exceptional merit in the replacement building.

17. Having taken the various matters into consideration, it appears that the appellant has endeavoured to halt the deterioration of the building and has clearly spent sums of money on the temporary roof and shoring, as well as having protected the site from intrusion and the possibility of further damage or personal injury. This is not a case of a developer avoiding abortive costs in the hope of demolition when the building is too far gone to permit repair, but

rather of reasonable efforts having been made to hold the position pending decisions on the future.

18. Similarly the receipt of five tenders would have involved work and expense to the developer and it would not be usual to seek that many if the intention was only to test the market. On the evidence it can be concluded that the appellant has not only considered, but has investigated, *all reasonable* options for the retention of the building, as required by paragraph (iii) of Policy BE10. Subject to compliance with paragraph (iv) on the quality of the replacement, it is concluded that the building may be replaced as the loss of the locally listed building is justified in this case.

The Replacement Buildings

19. The Council's reasons for refusal concern first, the loss of the building, which has been found in the previous main issue to be justified by circumstances; second, the adverse effect of further subdivision of the plot on the character and appearance, and spatial standards of the area; and third, the adverse effect on the street-scene of the bulk and mass of the replacement buildings, appearing as overdevelopment. There does not appear to be a concern about the detailed design of the proposed dwellings, but the Council's conclusion from the failings that have been identified is that the design does not reach the standard required under Policy BE10 as well as BE1 and H7.

20. Hawthorne Road has a mixed character and appearance, but predominantly that relates to large dwellings on varied plot widths and there is evidence of later extension further closing gaps at the side. The rooflines are similarly varied but with limited examples of obvious rooms in the roof spaces, some rooflights were seen as well as more limited examples of front dormer windows.

21. In the immediate vicinity of the site number 36 is a low building with an asymmetrical roof sweeping down to ground floor eaves adjacent to the site, and beyond that is the well-mannered elevation of number 34 *The Farm House*. On the other side of the site there is the attractive timber and infill treatment of number 40 on the corner to Albyfield, beyond which there is a marked change in the character and appearance due to the presence of flats and modern houses.

22. The proposed houses would occupy a significant ground area, being largely square in plan form and this plan form is continued at first floor level and up into the roof space, reduced there by the slope of the roofs. As a result, the roofs would be quite steep and prominent features of the dwellings. Whilst there would be a projecting porch and gable end to the front in each case and a flat roofed projection of the kitchen to the rear, the appearance from the street would be of a pair of blocky, high-roofed buildings and this appearance would be exacerbated by the device of covering the large square plan form with perimeter roof slopes and a central flat area.

23. The Council have referred to space around buildings on various plots and the appellant has produced a useful comparison of plot widths and building widths, with the space to the boundary marked. It is the fact that there are examples nearby of sizeable buildings built on or very close to the boundary, but often with some stepping down in height or the use of roof slopes to control bulk, as evidenced next door at number 36. A feature of many of the older buildings in

the area is a varied roofline which, again, serves to disguise a large plan form and adds articulation to the elevations seen from the street.

24. A feature of particular concern is the juxtaposition of the two gable projections together with the stated 3m separation and the length of the roof and wall extending back from the gable end to the rear. This would appear a significant length of masonry wall and roof, and would often be seen in oblique, rather than straight-ahead, views from the street, further reducing the appearance of a gap. The result would be a cramped appearance of development in depth, which would appear out of place and a discordant feature of the street-scene.

25. It is true that the original building on the site, the locally listed building, had a prominent roofline, with a ridge higher than any now proposed, with rooms in the roof, as seen at the site inspection where there were the remains of a full staircase to the top floor. It is true also that it was a single wide building so that there never was a gap where one in now proposed. However, that building as shown in photographs supplied to the appeal, had a harmonious arrangement of roof slopes, from the low central section as one slope right up to the high ridge, and the balancing side hip projections provide interest and modulation to the ensemble. That level of design is not replicated nor acceptably approached in the replacement scheme.

26. Policy BE10 and the balance in paragraph 135 of the Framework appear predicated on the fact of a locally listed building being in place and the comparison being made between that and the replacement. In this case the loss has been accepted on the facts, but it is reasonable to seek a replacement that is of the standard sought in that policy and in Policies BE1 and H7. For the reasons set out above, the replacement fails to reach the standard of design required.

Conclusions

27. It is accepted that the site is in an accessible location, close to railway stations and bus routes, and that the proposal would make good use of land in an area that another Inspector recently concluded was unable to demonstrate a five year supply of housing land. However, high quality design is a core planning principle stated in the Framework and the proposal scores poorly in relation to the environmental role of sustainable development. In the balance, the adverse impacts of permitting the proposed development would significantly and demonstrably outweigh the benefits. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR