



Appeal Decision

Site visit made on 23 January 2017

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 7th February 2017

Appeal Ref: APP/G5180/W/16/3161647
10 Chelsfield Road, Orpington BR5 4DN

- 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 Mr Dan Lautier, ICG Construction Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/02737/FULL1, dated 7 June 2016, was refused by notice dated 14 September 2016.
 - The development proposed is erection of 2 no three bedroom dwelling and associated works.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the proposal on the character and appearance of the host property and St Mary Cray Conservation Area.

Reasons

3. The appeal site comprises a two-storey red brick Victorian villa which is sited in a spacious plot with mature vegetation. The proposal seeks planning permission for 2 dwellings in the rear garden together with a new access and associated landscaping. An appeal¹ for a proposal for 2 new dwellings and 2 maisonettes to the rear of the site, minor demolitions to the existing building and extensions to the existing building to form 5 apartments was dismissed at appeal on 17 August 2015 on the grounds of the effect on the character and appearance of the St Mary Cray Conservation Area.
4. The host property is a distinctive building with attractive detailing, including brick banding, decorative barge boarding and pointed arched windows to the first floor. To the west lies the locally listed terrace comprised of 1-19 Anglesea Road and to the east by a two storey residential development at Audley Walk. A large Victorian property, Rosecroft Hall, lies to the north.
5. The site lies within the St Mary Cray Conservation Area (Conservation Area) and, therefore, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of that area in accordance with the statutory duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1971.

¹ Appeal reference: APP/G5180/W/15/3011359

6. The Inspector who considered the previous proposal described the Conservation Area as containing a mix of building types, ages, sizes, shapes and tenures. He went on to say that *'terraced properties are the predominant form of development but there are detached properties set in spacious plots, such as the appeal dwelling. These buildings contrast with some of the denser development, but still add significantly to the visual interest of it by reason of their different form and design. In the case of the appeal dwelling, its size, attractive detailing, spacious plot and sylvan setting gives rise to a larger villa style of development which contributes positively to the character and appearance of the Conservation Area'*. He concluded that *'the Victorian Villa including its setting is a significant visual feature within the Conservation Area'*.
7. The appeal site lies at the southern edge of the Conservation Area and away from the high street and is not indicated as a building of particular interest within the Conservation Area. Nonetheless, I agree with the previous Inspectors conclusions that the Victorian Villa and spacious grounds do contribute to the character of the Conservation Area.
8. The Council's Supplementary Planning Guidance (SPG) for St Mary Cray Conservation Area states that all proposals for new development will be expected to conform to the character and appearance of the Conservation Area, especially in regard to the scale and height of construction, location within a plot, design and materials. In terms of layout and new development, the SPG further states that the spacing between the houses and their relationship with their landscape setting are both of great importance to the character of the area. It further states that the Council will pay special attention to plot widths, the scale and bulk of proposed dwellings and their relationship with adjacent dwellings.
9. The previous inspector considered that the mews style building and hard surfaced areas for car parking and access of the earlier proposal would dominate the original grounds of the villa which contribute greatly to its setting. Consequently, the appellant has undertaken an assessment of the extent of hardstanding in relation to the existing site, the current appeal proposal and a scheme which was refused planning permission (15/03965). There are no figures relating to the previous appeal proposal.
10. The assessment shows that the proposal would result in an increase of 129sqm of hardstanding compared to the existing. This takes into account of the existing and new dwellings, the hard landscaping, the outbuildings and garage and parking spaces. Unlike the previous appeal proposal, the existing building would be retained in its current form and I note that the existing driveway to the front of the property would be landscaped.
11. The previous appeal included a parking area for 8 spaces which was to be situated to the rear of the host property. This is to be replaced by four spaces situated in between the two dwellings to the rear. The three spaces proposed to serve the host property would be reduced to two spaces to be located to the rear. This would assist in breaking up the large expanse of hardstanding associated with the previously proposed parking area. Consequently, as the figures demonstrate there would only be a small increase in the extent of hard landscaping and car parking as a result of the proposal. These factors of the scheme represent an improvement on the previous appeal proposal.
12. Nonetheless, the analysis demonstrates that the floor area covered by dwellings would more than double compared to the existing situation. Although the number

of residential units has been reduced by two the location and site coverage of the proposed dwellings would be very similar, albeit with a gap in between for parking. The relationship of the properties with the eastern and western boundaries of the site would also be very similar. The height of the proposed dwellings would be lower than that of the host property; however, they would be similar in height to the previous appeal proposal.

13. It is suggested that there would only be a marginal increase in built development taking into account the demolition of the accumulated outbuildings on the site. The appellant contends that these outbuildings are of poor architectural merit and rudimentary in design. However, although some of the buildings are 1½ to 2 storeys, they have a simple design and some have a temporary appearance. Consequently, they appear subsidiary to the host property and appropriate to their function and purpose as ancillary buildings. Furthermore, they are situated along the western boundary and are set behind the single storey extension to the house and fence/gate and are not, therefore, visible from the street.
14. These simple, ancillary buildings would be replaced by modern two storey dwellings set in their own plots and situated within the main garden area. Contrary to the assertion that the spacious plot would be wholly unaffected as experienced from the public realm; the host property would be viewed against the back drop of the two new dwellings situated to the rear which would be highly visible from the street as the new access would open up views of the site. Consequently, the perception of the host property and site from the public realm would be significantly altered.
15. Contrary to the assertion that the rear garden makes little or no contribution to the character and appearance of the Conservation Area, the previous Inspector considered that the character and appearance of the Conservation Area derives not only from the street scene but also views from some adjacent properties in Anglesea Road.
16. Although the gable of the new dwelling would be slightly further away from the western boundary of the site, the broad positioning, mass and bulk of the western gable elevation of the development would be very similar when viewed from properties in Anglesea Road. Furthermore, the development will alter the perception of the spacious and verdant rear garden from Audley Court to the east.
17. It is proposed to retain more landscaping on the western boundary than previously and also plant additional landscaping. However, I note the previous Inspectors comments that there can be no guarantee even in a Conservation Area that screening vegetation would remain in perpetuity. Trees and hedges may need to be removed and replacement planting inevitably takes time to establish. He went onto say that '*I only place only limited weight on the value of vegetation in screening the development during its lifetime*'. I agree with this view.
18. The appellant also points to the majority of the trees being retained on the southern and eastern boundaries. However, it is clear from the tree protection plan that there would be a group of trees removed from the north east corner of the site to enable access which would open up views of the plot. A large group of trees is also to be removed from the south east corner in order to enable the development. The trees to be removed vary in age and condition, but would include the removal of a mature yew tree and two mature cypresses. This would open up views of the site when viewed from Audley Walk. The perception of the

site and Conservation Area from Audley Walk would be altered from a spacious, verdant garden to a developed suburban plot.

19. A garden area has been retained to the rear for the host property. However, I consider by virtue of the subdivision of the garden, the introduction of two new dwellings in the main garden area, together with the associated access road, parking and domestic paraphernalia, that the spacious character of the site would be very significantly reduced.
20. Furthermore, the loss of significant mature vegetation in the north east and south east corner of the site would detract from the sylvan setting of the spacious grounds which contribute to the Conservation Area. Consequently, whilst I recognise that attempts have been made to lessen the impact of the proposal compared to previous iterations of the scheme, I consider that the attractive character and appearance of the Victorian Villa would be adversely affected and its contribution to the character and appearance of the Conservation Area diminished substantially.
21. Whilst the density of the development may be consistent with that of the London Plan, such a quantitative assessment cannot be the only factor in assessing the effect of the proposal on the character and appearance of the Conservation Area. In this case I consider that a simple density calculation does not take into account the effect of the proposal on the spacious and verdant grounds of this Victorian Villa.
22. Attention is drawn to the residential development at Audley Walk and the terraced properties at Anglesea Road. However, I note that Audley Walk lies outside of the Conservation Area and spaciousness and verdant settings are not characteristic features of their design. These cases are not, therefore, directly comparable to the appeal proposal which limits the weight which can be attached to them in my Decision.
23. Paragraph 134 of the National Planning Policy Framework (the Framework) confirms that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimal viable use.
24. The appellant advances a number of public benefits of the proposal including the provision of new housing, an improvement to the visual amenity of the site; creation of a landscaping scheme and the improvement of the existing vehicular access.
25. Whilst there is no evidence before me relating to housing land supply the Council acknowledges that it does not have a five year supply. Paragraph 49 of the National Planning Policy Framework (the Framework) states that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of housing sites.
26. Policy BE1 relates to the design of new development and Policy BE11 seeks to preserve the character or appearance of Conservation Areas. Neither policies relate to the supply of housing and are not, therefore, automatically out of date by virtue of paragraph 49 of the Framework. I can see no conflict of the policy with the Framework and consequently significant weight can be attached to them in my Decision.

27. There is very limited evidence before me as to whether Policy H7 relating to housing density and design is a policy for the supply of housing in the context of paragraph 49 of the Framework. However, whilst the proposal would make a contribution, albeit limited, to housing supply, I have identified that the proposal would fail to preserve or enhance the character and appearance of the Conservation Area. Whilst the harm to the significance of the Conservation Area would be less than substantial the public benefits would not be sufficient to outweigh the harm which I have identified. The proposal does not, therefore, represent sustainable development.
28. For the reasons stated I, therefore, conclude that the proposal would have a harmful effect on the character and appearance of the host property and would fail to preserve or enhance the character or appearance of the St Mary Cray Conservation Area. The proposal would, therefore, be contrary to criteria iii of saved Policy H7 of the Bromley Unitary Development Plan (UDP) 2006 which states that the site layout, buildings and space about buildings are designed to a high quality and recognise as well as complement the qualities of the surrounding areas.
29. In addition, conflict arises with saved Policy BE1 of the UDP which expects all development proposals to be of a high standard of design and layout and complement the scale, form, layout and materials of adjacent buildings and areas. Furthermore, there would be conflict with saved Policy BE11 of the UDP which seeks to preserve or enhance the character or appearance of Conservation Areas and expects proposals for new development to respect or complement the layout, scale, form and materials of existing buildings and spaces. In addition, conflict arises with the objectives of the SPG. Finally conflict arises with paragraphs 132 and 134 of the Framework.

Conclusion

30. For the reasons stated and taking all other matters into consideration the appeal should be dismissed.

Caroline Mulloy

Inspector