The Planning Inspectorate

Appeal Decision

Site visit made on 28 February 2017

by Kevin Gleeson BA MCD MRTPI

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

Decision date: 22 May 2017

Appeal Ref: APP/L5810/W/16/3163450
St Michaels Church Hall, Elm Bank Gardens, Barnes, London SW13 0NX

- 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 the Church Wardens and PCC of St Michael and All Angels Church, Barnes against the Council of the London Borough of Richmond upon Thames.
- The application Ref 16/0929/FUL, is dated 9 March 2016.
- The development proposed is described as 'demolition of existing hall; erection of replacement hall and one x detached dwelling, parking and associated works'.

Decision

1. The appeal is dismissed and planning permission refused.

Application for Costs

2. An application for costs was made by the Church Wardens and Parochial Church Council of St Michael and All Angels Church, Barnes against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. The appeal was made on the basis of the Council's failure to determine the application within the prescribed period. Following the lodging of the appeal the Council indicated that they would have refused the scheme had they been in a position to determine the application.

4. The Council accepted that the demolition of the existing building and the redevelopment of the site were acceptable in principle, subject to a suitable replacement, as set out in the description of development. I have determined the appeal on this basis.

Main Issues

5. Based on the putative reasons for refusal which the Council identified the main issues are:

   - the effect of the proposed development on the character and appearance of the surrounding area;

   - the effect of the proposed parking and access arrangements on highway safety in Elm Bank Gardens;

- the effect of the proposed development on the living conditions of neighbouring occupiers with particular reference to outlook, noise and disturbance;
- whether the proposed development would provide acceptable replacement social infrastructure, and
- whether appropriate provision is made for affordable housing.

Reasons

Character and Appearance

6. The appeal site is located on the southern side of Elm Bank Gardens. It is occupied by the church hall of the Church of St Michael and All Angels. The proposal is to demolish the existing hall and to replace it, together with one detached dwelling along with parking and associated works. The replacement hall would be behind the proposed dwelling.

7. In the vicinity of the appeal site Elm Bank Gardens demonstrates a variety of building forms. To the west the Church dominates the locality as a result of its bulk and scale. Between the Church and the appeal site is a terrace of residential properties which are tall and prominent. Terraces of residential properties on the northern side of Elm Bank Gardens have a similar form to those to the west of the appeal site.

8. The existing hall is set back from the frontage and the neighbouring building line and reflects the change in the alignment of the road towards the end of the cul-de-sac. Consequently, the front boundaries to the hall and the neighbouring 43 Elm Bank Gardens are at an angle to the property frontages with the latter property set back some distance from the frontage. To the south east of the appeal site the buildings are much lower in height than buildings to the west with a less formal layout and a more open and spacious character.

9. Whilst a modern response, the proposed dwelling would reflect the form and prominence of the terrace to the west in terms of eaves and ridge height, pitched roof and a front gable. The proposed palette of materials would also reflect the materials of neighbouring properties.

10. The proposed dwelling would follow the strong building line formed by 59-69 Elm Bank Gardens. However, because of the curve of the road it would be pushed further to the front of the site than the neighbouring terrace. As a result the front garden of the proposed dwelling would be cut back to the east resulting in a lack of spaciousness. Whilst this would not be unlike the situation at 29 Elm Bank Gardens I find that the siting would nevertheless appear cramped. Moreover, in reflecting the form of the neighbouring residential terrace, the proposed dwelling would fail to acknowledge the smaller scale and more spacious properties to the south east notwithstanding the limited views from the end of the cul-de-sac and the intention to create a gap between the proposed dwelling and no. 43.

11. The vertical emphasis of the proposed design would also serve to highlight the differences in scale between the properties on either side of the appeal site. When viewed from the south east, as a result of its siting and height the development would be very prominent in the streetscene. Moreover, the blank

flank wall of the proposed dwelling would be more prominent than existing views of the flank wall of no.61 which is viewed in the context of the pitched roof of the existing hall.

12. The replacement hall would be located behind the proposed dwelling. It would be single storey with a sloping roof and would not be as tall as the existing hall. The front wall of the hall would step back around the garden of the proposed dwelling but the relationship between the two buildings would be awkward as the replacement hall would appear to be within the rear garden of the proposed dwelling. Moreover, the combination of the blank walls of the hall, the off-street parking, cycle store and bin stores together with the side entrance to the hall would mean that the replacement hall lacked presence in the streetscene and would appear cramped. This would be in contrast to the existing hall which has a frontage to the street and a prominent entrance, notwithstanding the fact that the entrance is not principally used.

13. The development would therefore be contrary to Policy CP7 of the London Borough of Richmond upon Thames Core Strategy, 2009 (the CS) in failing to respond appropriately to local character and Policies DM DC1 and DM SI1 of the Council's Development Management Plan, 2011 (the DMP) which require development of a high architectural and urban design quality. It would also be contrary to Supplementary Planning Document (SPD) 'Design Quality' in failing to demonstrate a clear understanding of local character.

14. The Thorne Passage Mortlake Conservation Area is located to the south of the appeal site and derives its character from small scale terraced cottages and narrow pedestrian passageways. A number of Buildings of Townscape Merit (BTM) including the wall which forms the southern elevation of the existing church hall are also found locally.

15. Whilst I have concerns about the form and bulk of the proposed dwelling, given its distance from the conservation area, it would not be harmful to the significance of the conservation area or the BTM. Furthermore, the redevelopment of the hall would have a positive impact on the conservation area and the Thorne Passage wall in terms of the reduction in height and the separation of the building from the wall. Consequently I find that the proposal would be consistent with Policy DM HD1 of the DMP which requires new development to conserve and enhance the character, appearance and setting of conservation areas and Policy DM HD3 which seeks to encourage the preservation and enhancement of BTM.

Parking and Access

16. The proposal includes the construction of a new vehicle crossover to provide off-street parking for one car parked parallel to the new dwelling. The 'Front Garden and Other Off-Street Parking Standards SPD' (the Parking SPD) sets out a requirement that in this situation the car-standing area must be a minimum size of 2.4 metres wide and 4.8 metres long. Moreover the crossover needs to be a minimum of 2.4m wide. Based on the evidence before me I consider that the proposed parking area and the crossover would meet these requirements.

17. However, the proposed development would fail to meet the requirement of the Parking SPD that front garden parking must be able to accommodate a car parked at 90 degrees to the footway. I acknowledge the location of the appeal

site towards the end of a cul-de-sac and the low usage of the parking space the church hall would be used by vulnerable groups including small children. The Manual for Streets indicates that the amount of pedestrian activity should be taken into account when looking at visibility along the street edge for vehicles emerging onto the footway. I have also had regard to the appellants' swept path analysis demonstrating how vehicles could access the on-site parking space. Nevertheless, I am not convinced that access to, and egress from the parking space could not be achieved without giving rise to issues of highway safety.

18. The proposed crossover would traverse an area of designated on-street parking in front of the appeal site. Although parking bays are not individually parked out, given the size and configuration of the area designated for on-street parking and the pressure for parking locally I consider that it is likely that the on-street parking capacity would be reduced by the introduction of the crossover.

19. The Council has sought to secure the removal of rights to parking permits for prospective occupants on the basis that the scheme would have an adverse impact on local parking and road safety conditions on surrounding roads. The appellants confirmed that they would be willing to enter into a legal agreement to remove rights to parking permits if there was found to be an under-provision of parking spaces. As I am dismissing the appeal for other reasons I have not pursued the matter of an obligation to secure this purpose with the appellants.

20. Notwithstanding the accessibility of the site to public transport, the provision of one off-street parking space would be an under provision in an area where on-street parking stress is high and would be likely to give rise to pressure for on-street parking. On this basis the proposal would fail to appropriately address access issues contrary to Policy DM DC1 of the DMP or demonstrate an appropriate level of off-street parking contrary to Policy DM TP8 of the DMP and Policy DM TP9 in respect of highway and pedestrian safety. It would also be contrary to Policy DM SI1 of the DMP which requires social infrastructure proposals in respect of car parking, traffic and highway safety to be in accordance with Policy DM TP8. There would also be conflict with Policy CP5 of the CS, the National Planning Policy Framework (the Framework) and the London Plan which seek to promote sustainable travel and the Council's SPD on Planning Obligations.

Living Conditions

21. As the appellants have demonstrated, the siting of the proposed dwelling would not result in any greater impact than the existing hall in terms of the sightline when viewed from the front of no. 43. However, the scale and height of the new dwelling would be much greater than the existing structure. I therefore find that this would result in a visually prominent and unneighbourly form of development causing an overbearing effect for the occupiers of no. 43 and the wider streetscene.

22. In reaching this view I have had regard to the relationship of the properties at 29 and 31 Elm Bank Gardens where no. 31 is set back considerably from no.29. In addition, the properties are closer together than the proposed dwelling would be to no. 43. However, I have reached my view based on the planning merits of the proposal before me.

23. Access to the existing hall is currently provided from a door on the eastern frontage adjacent to 43 Elm Bank Gardens. This door is located beyond the rear of the neighbouring property and as I observed during my visit people wait on the path along this shared boundary to enter the building, resulting in some noise from conversations. The proposed hall would also have the main access along this frontage but it would be located opposite the flank wall of no.43 which has no side facing main windows apart from at high level. A secondary access further to the rear of the site would not in my view result in significantly increased noise and disturbance to the detriment of occupiers of no.43. Moreover, the intensity of use of the replacement hall is not likely to be materially different from the existing use. Consequently I find that the impact on occupiers of 43 Elm Bank Gardens would be unlikely to be worse than at present and therefore the proposal would not result in unacceptable noise and disturbance to neighbours.

24. I therefore find that the proposal would be contrary to Policy DM DC5 of the DMP whereby the Council will seek to protect adjoining properties from visual intrusion, Policy DM DC1 of the DMP requiring development to connect with and contribute positively to its surroundings and Policy DM SI1 of the DMP in respect of the impact of replacement social infrastructure on residential character and amenity. There would also be conflict with the requirement that planning should seek to secure a good standard of amenity for existing occupants of land as set out in paragraph 17 of the Framework.

Social Infrastructure

25. The existing hall is actively used every day for church related meetings, a nursery, a dance school and drama group. The appellants' case is that whilst there would be an overall reduction in useable space the current layout of the hall is unacceptable and the existing facility is not fit for purpose.

26. I have had regard to the positive comments from the owner of the nursery school about the quality of the existing facilities, and its character as well as the concerns about the replacement space and in particular storage. I have no quantifiable evidence that the proposed replacement would not fulfil the requirements of the existing nursery or that the proposed replacement would not exceed the Ofsted requirement in terms of floor space with the overprovision allowing additional space for storage as the appellants claim.

27. I have also taken account of the fact that the replacement hall would be developed to higher environmental standards than the existing facility in compliance with the requirements of the Disability Discrimination Act which as I understand it, the current facility is not. Moreover, the replacement scheme has been designed to have the flexibility to serve a range of community facilities which also weighs in its favour. The proposed layout of the new hall would in my view respond to the needs of existing occupiers and reflect the requirements of proposed occupiers.

28. The proposals would therefore be in conformity with Policy CP16 of the CS and Policy DM SI 2 of the DMP which require the loss of community facilities to demonstrate that the service could be adequately re-provided in a different way or elsewhere. I also find that the replacement facilities and their flexibility would meet the criteria of Policy DM SI1 to ensure that existing facilities are being adequately re-provided and offer improved accommodation.

Affordable Housing

29. Policy CP15 of the Core Strategy seeks the provision of a range of housing with an expectation that a proportion of all new housing will be affordable. Where it is not proposed to provide affordable housing on site, Policy DM HO6 of the DMP and the Affordable Housing SPD provide for a financial contribution.

30. I have had regard to the Court of Appeal judgement in overturning the High Court Decision in the case of *The Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council* which had effectively quashed the Written Ministerial Statement (WMS) of 28 November 2014 regarding contributions for affordable housing. The WMS which is consequently confirmed as government policy states that for developments of 10 units or less, and which have a combined gross floorspace of no more than 1000sq.m, no affordable housing or tariff style contribution should be sought. This is now reflected Planning Practice Guidance.

31. The statutory position is that planning applications have to be determined in accordance with the development plan unless material considerations indicate otherwise. I have therefore had regard to the WMS as a material consideration and I attach great weight to it. However, this does not outweigh the significant and substantial weight which I attach to the local evidence of affordable housing need. I therefore find that the proposal should contribute to the borough's affordable housing need.

32. The appellants argued that in the light of the Court of Appeal judgement an affordable housing contribution should not be required. Nevertheless they confirmed that they would be willing to enter into a section 106 agreement in respect of affordable housing were I minded to allow the appeal. However, as I am dismissing the appeal for other reasons I have not pursued this matter with the appellants.

Other Matters

33. The application included two structural reports which indicated that demolition was a preferable approach to the development of the site rather than refurbishment of the existing hall. The appellants argued that the poor condition of the building and the extent of works required to satisfactorily and economically repair the building justified its redevelopment. A number of local residents challenged this view. The Council has not objected to the demolition of the proposed building, subject to a suitable replacement. Whether or not the existing building can continue to serve its function in the short or longer term I have determined this appeal on the basis of the proposed redevelopment before me.

34. It has also been suggested that residential development would be enabling development used to fund the replacement hall. The appellant has confirmed that the housing would help cross fund the hall but as residential use is acceptable in this location whether or not it is used to fund the proposed hall has not led me to any different overall conclusion.

Conclusion

35. The proposed development would contribute a new family sized dwelling alongside a replacement community facility. However, these benefits are outweighed by the harms which arise from the proportion, height and siting of

the development, the adverse impact on parking and highway safety and the overbearing impact of the proposal on neighbouring occupiers and the wider streetscene. For these reasons, and having regard to all other matters raised including representations from interested parties both in support and opposition, I conclude that the appeal should be dismissed and planning permission refused.

Kevin Gleeson

INSPECTOR