



Appeal Decision

Site visit made on 7 March 2019

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 July 2019

Appeal Ref: APP/G5180/W/18/3218280

7 & 9 Beckenham Lane, Bromley BR2 0DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Whitgift Estates (Bromley) Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/18/03524/RECON, dated 1 August 2018, was refused by notice dated 5 November 2018.
 - The application sought planning permission for the demolition of the existing building and construction of a replacement two storey building with additional accommodation within the roof space comprising 8 residential flats (4 x 2 bedroom and 4 x 1 bedroom), bin store, cycle store, 10 car parking spaces, alterations to existing vehicular/pedestrian access onto Beckenham Lane, front boundary and associated landscaping without complying with a condition attached to planning permission Ref 16/00722/FULL1, dated 9 November 2016.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans: 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20.
 - The reason given for the condition is: A condition specifying the approved plans is necessary to provide certainty.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing building and construction of a replacement two storey building with additional accommodation within the roof space comprising 8 residential flats (4 x 2 bedroom and 4 x 1 bedroom), bin store, cycle store, 10 car parking spaces, alterations to existing vehicular/pedestrian access onto Beckenham Lane, front boundary and associated landscaping at 7 & 9 Beckenham Lane, Bromley BR2 0DA in accordance with the application Ref DC/18/03524/RECON, dated 1 August 2018, without compliance with condition number 2 previously imposed on planning permission Ref 16/00722/FULL1, dated 9 November 2016 and subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Whitgift Estates (Bromley) Ltd against the Council of the London Borough of Bromley. This application is the subject of a separate Decision.

Preliminary matters

3. The description of development given above is taken from the Council's decision notice because the description on the application form does not make reference to the variation of condition 2. Within the appeal papers the appellant has indicated that the Council's description is accurate.
4. Since the determination of the application by the Council the London Borough of Bromley Local Plan (January 2019) (LP) has been adopted and this has superseded all policies from the London Borough of Bromley Unitary Development Plan (2006). I have therefore determined the appeal on the basis of the newly adopted LP.

Background and main issue

5. Planning permission has been granted following a previous appeal on the site, which allowed the apartment building currently under construction (reference APP/G5180/16/3154579). This appeal seeks permission to install balconies at second floor level to flats 7 and 8 without complying with condition 2, which required the development to be carried out in accordance with the submitted plans.
6. The main issue is whether varying condition 2 to allow balconies at second floor level to flats 7 and 8 would result in harm to the living conditions of the occupants of Pixfield Court with regard to privacy, noise and disturbance.

Reasons

7. The appeal site is located on Beckenham Lane, an arterial route between Bromley and Shortlands comprising mainly residential development and a primary school. It is located in the Bromley Town Centre Conservation Area.
8. To the west of the application site is Pixfield Court, a Grade II listed building divided into flats. Glebe Knoll to the east is a locally listed building with a new flatted development in its grounds to the rear. Beckenham Lane slopes upwards from west to east putting the application site at a higher level than Pixfield Court and lower level than Glebe Knoll. At the time of my site visit I saw that the development of the units was undergoing construction and I was afforded a view from the rear facing dormer windows at second floor level.
9. The position of the proposed balconies relative to Pixfield Court would allow opportunities for the overlooking of the side garden and front windows in this neighbouring building. The Appellant has referred to the provision of appropriately-sized obscurely glazed screens to the sides of the terraces although these are not shown on the submitted drawings. To my mind, these would, together with the existing intervening tree cover, provide privacy for both users of the balconies and neighbouring occupiers. Whilst the provision of balconies at second floor level would introduce the perception of overlooking, the provision of the privacy screens and intervening tree cover would in effect remove the ability of future occupiers to readily overlook the windows and side garden of the neighbouring building. I am satisfied that these privacy screens could be secured by a means of an appropriately worded planning condition.
10. In coming to the above view I acknowledge that the balconies could provide the potential for external activity in an elevated position relative to the

neighbouring properties. Whilst this may result in an increase in noise when compared to the previous proposal, I observed Beckenham Lane to be a busy road and a significant source of noise within the area. I consider that the use of the balconies would not result in any significant departure from the existing noise environment or adversely affect neighbours' reasonable enjoyment of their properties.

11. I therefore conclude that varying the condition to reflect the changes to the approved plans would not lead to any significant harm to the living conditions of Pixfield Court with regard to privacy, noise and disturbance. There would be no conflict with Policy 37 of the LP and Policy 7.6 of the London Plan 2016. These policies seek to ensure that development does not have a negative impact on amenity or cause harm to neighbouring dwellings through noise or disturbance.

Other matters

12. The site forms part of the Bromley Town Centre Conservation Area (BTCCA). Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act) requires that when assessing proposals for new development within a conservation area, special attention shall be paid to the desirability of preserving or enhancing its character or appearance. Section 66 of the LBCA Act similarly requires that when assessing proposals for new development which affects the setting of a listed building, special attention shall be paid to the desirability of preserving its setting.
13. Section 16 of the National Planning Policy Framework (the Framework) states that when considering the impact of a development on the significance of a designated heritage asset great weight should be given to its conservation. Any harm requires clear and convincing justification. Where a proposal would lead to less than substantial harm to a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
14. Within the context of the size and scale of the building the balconies are relatively minor additions at the rear that would not significantly alter the character and appearance of the development or the surrounding area.
15. I therefore conclude that the proposed development would preserve the character and appearance of the BTCCA and the setting of the adjacent listed building and would not detract from its significance. It would therefore accord with the heritage aims of the Framework.
16. I have had regard to other representations raised including concerns from local residents relating to use of balconies for storage and the presence of wildlife. However these do not affect my findings on the main issue or provide a compelling reason why planning permission should not be granted.

Conditions

17. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. I have considered the conditions attached to the original planning permission in this vein and in light of paragraph 55 of the Framework.

18. Since construction of the development that is the subject of the original permission has already commenced, it is not necessary to attach the original condition 1, which set a time limit for commencement of the development. I have imposed a condition (no.1) specifying the relevant drawings, including the substitute plan references, as this provides certainty. With regard to the original permission, the submission elements of conditions 2 (materials), 3 (windows), 4 (landscaping), 5 (boundary enclosures), 6 (surface water drainage), 7 (construction management), 9 (bicycle parking facilities), 10 (lighting), 12 (refuse storage) and 15 (electric charging points) have been discharged by the Council. For clarity and certainty, and because a new permission is created in allowing this appeal, I have attached conditions which refer to these approved details to ensure that these details are implemented.
19. Conditions 8 and 11 relating to the provision of parking and turning areas and the closure of the existing access respectively are necessary in the interests of highway safety.
20. Condition 13 is necessary to ensure that development takes place in accordance with the arboricultural survey to ensure the protection of the trees on the site.
21. Condition 14 relating to amenity space is necessary to ensure the development provides good living conditions for its future occupants.
22. Condition 16 requires submission of details of obscure glazed privacy screens to either side of the balconies in the interests of the living conditions and privacy of the occupiers of neighbouring properties.

Conclusion

23. For the reasons given above, I conclude that the appeal should be allowed.

C Hall

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 10 Rev A, 11, 12, 13 Rev A, 14 Rev A, 15, 16, 17 Rev A, 18 Rev A, 19 Rev A, 20 and 4368-PD-204.
- 2) All external materials, including roof cladding, wall facing materials and cladding, window glass, door and window frames, decorative features, rainwater goods shall be implemented according to the approved details as set out in the approved application forms and drawings under Ref 16/00722/CONDT1 unless otherwise agreed in writing by the Local Planning Authority.
- 3) All windows (including rooflights and dormers where appropriate) including their materials, method of opening and drawings showing sections through mullions, transoms and glazing bars and sills, arches, lintels and reveals

- (including dimension of any recess) shall be implemented according to the approved details as set out in the approved application forms and drawings under Ref 16/00722/CONDT1 unless otherwise agreed in writing by the Local Planning Authority.
- 4) The scheme of landscaping shall be implemented according to the approved details as set out in the application form and drawings under Ref 16/00722/CONDIT unless otherwise agreed in writing by the Local Planning Authority and shall be implemented in the first planting season following the first occupation of the buildings or the substantial completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species to those originally planted.
 - 5) Boundary enclosures shall be implemented according to the approved details as set out in the approved application forms and drawings under Ref 16/00722/CONDIT unless otherwise agreed in writing by the Local Planning Authority. The approved means of enclosure shall be provided before the building is occupied and shall thereafter be retained.
 - 6) The surface water drainage scheme shall be implemented according to the approved details as set out in the application form and drawings under Ref 16/00722/CONDT2 and shall be permanently maintained thereafter.
 - 7) The Construction Management Plan shall be implemented according to the approved details as set out in the application form and drawings under Ref 16/00722/CONDIT unless otherwise agreed in writing by the Local Planning Authority. The Construction Management Plan shall be implemented in accordance with the agreed timescale and details.
 - 8) The car parking and turning areas shall be provided in accordance with the approved plans before the building is occupied and shall thereafter be retained for those purposes.
 - 9) Covered bicycle parking facilities shall be implemented according to the approved details as set out in the application form and drawings under Ref 16/00722/CONDIT unless otherwise agreed in writing by the Local Planning Authority. The approved facilities shall be provided before the building is occupied and shall thereafter be retained.
 - 10) The lighting for the access drive and car parking areas shall be implemented according to the approved details as set out in the application form and drawings under Ref 16/00722/CONDIT unless otherwise agreed in writing by the Local Planning Authority. The approved facilities shall be provided before the building is occupied and shall thereafter be retained.
 - 11) The existing means of access shall be permanently closed in accordance with the details approved under condition 5 before the building is occupied.
 - 12) The arrangements for storage of refuse (including provision for the storage and collection of recyclable materials) and the means of enclosure shown on the approved drawings shall be implemented according to the approved details as set out in the application form and drawings under Ref 16/00722/CONDIT

unless otherwise agreed in writing by the Local Planning Authority. The approved facilities shall be provided before the building is occupied and shall thereafter be retained.

- 13) The development shall be carried out in accordance with the Arboricultural Survey and Planning Integration Report Ref AR/3210b/jq under the supervision of an Arboricultural specialist.
- 14) The amenity/landscaped gardens shall be provided in accordance with the approved plans and thereafter retained for use by the occupants of the residential units hereby permitted.
- 15) Electric car charging points shall be implemented according to the approved details as set out in the application form and drawings under Ref 16/00722/CONDIT unless otherwise agreed in writing by the Local Planning Authority. The approved facilities shall be provided before the building is occupied and shall thereafter be retained.
- 16) Notwithstanding the approved drawings, flats 7 and/or 8 shall not be occupied until details of obscure glazed privacy screens to be installed along both sides of the roof terraces have been submitted to and approved in writing by the local planning authority and the screens have been installed in accordance with the approved details. Once installed the screens shall be maintained as such thereafter.