

Appeal Decision

Site visit made on 2 July 2019

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2019

Appeal Ref: APP/G5180/W/18/3219011

10A Sherman Road, Bromley BR1 3JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by South East Living Group against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/18/00399/OUT, dated 25 January 2018, was refused by notice dated 5 October 2018.
 - The development proposed is demolition of existing building and redevelopment with a mixed-use, 10-storey scheme comprising 6no. one bed, 3no. two bed flats and B1 commercial space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is for outline permission with all matters reserved for subsequent approval, except for access and layout, which are for consideration now. However, plans accompanying the application indicate the built form reflecting the description of development, although this is a possible rather than definitive outcome. As the Council had regard to these indicative plans in determining the application, I have dealt with the appeal on the same basis.
3. The Bromley Local Plan was adopted in January 2019, after the appeal was made, and the policies in this plan replace those in the Unitary Development Plan (UDP). Accordingly, for the purposes of this appeal I have had regard to the policies referred to from the new Local Plan instead of those from the UDP.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the settings of the Grade II listed Bromley North Station and the Bromley Town Centre Conservation Area;
 - the living conditions of some occupiers of Northpoint, with regard to outlook; and
 - the redevelopment of a wider area, which includes the appeal site, allocated in the Bromley Local Plan.
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Reasons

5. The appeal site is a broadly rectangular area of land, currently occupied by a single storey building in a commercial garage use. It has a frontage on Sherman Road to the south-east and backs onto the platforms of Bromley North Station to the north-west. Immediately to the north-east is Northpoint, a 10-storey residential apartment building, while adjoining the building currently on the appeal site is a single storey building and three storey office buildings. Beyond this to the south-west is the Bromley North station building, which has Grade II listed status.

Heritage Assets

6. The Bromley North Station was built in 1925 by the Southern Railway Company, replacing an earlier timber station. As such, it reflects a period of expansion and development of the rail network and, therefore, its historic significance should be seen in this wider context. In terms of architectural interest, the building has retained much of its original character and appearance, including the attractive neo-classical style booking hall and cupola, the glass canopied concourse at the rear of the booking hall and the original platforms.
7. As well as its listed status, the station building is within the Bromley Town Centre Conservation Area following the area's enlargement beyond its original designation focused around the historic core of Market Square and the north part of the High Street. The part of the conservation area closest to the station is known as Bromley North Village, which is late nineteenth century development in the form of predominantly two and some three storey buildings. Due to its proximity to the listed station building and conservation area, the appeal site forms part of the setting of these designated heritage assets.
8. The proposed increase in height of the building occupying the appeal site, from single storey to 10-storeys, is the principal consideration for this appeal in terms of the effect on the setting of the heritage assets. While scale is a reserved matter, as already noted the indicative proposal reflects the 10-storey height referred to in the description of the development applied for. I note in this regard the Council's concern that the height of the building is not fixed in this application. However, as the indicative plans show a 10-storey building and this is the scale of the directly adjacent Northpoint building, there is sufficient basis to assess the effects of the proposed building. Any material departure from the indicative form proposed here would need to be considered subsequently through a reserved matters application. I have had less regard to the detailed design in terms of appearance of the building as this is reserved for subsequent approval and there is likely to be considerably more scope for change with regard to these elements of the overall proposal.
9. The most significant potential visual effect of the much taller proposed building on the settings of the heritage assets is from views in front of the station building within the conservation area. Seen from the southern side of Tweedy Road, particularly close to the junction with North Street and approaching from the south along East Street, the station building would be in the foreground of and framed by the proposed building directly behind it.

10. The surrounding buildings that provide the existing visual setting are of varied heights but are generally taller than both the station building and other buildings within this part of the conservation area. These include the six-storey Northside House next to the station and the three-storey Post Office building on the other side of Sherman Road, and a five-storey office building behind this. Most significant in this regard is the 10-storey Northpoint apartment building, which currently provides the backdrop to the views from in front of the station.
11. The building as indicated would not exceed the height of Northpoint and, due to its proximity to this existing building and the limited width of the appeal site, would not bring development significantly closer to the station or conservation area. Moreover, the new building would be seen in the context of the varied but relatively modern buildings surrounding the station. I acknowledge the Council's observation that Northpoint pre-dates the station's listing and should be considered harmful in its own right. However, it is a matter of fact that this building exists and provides a part of the existing setting. Furthermore, despite its greater height it reflects the variety of building styles and ages, most of which post-date the station, that form the heritage assets' settings from the most prominent views, as described.
12. In reaching these findings I am particularly mindful of the statutory requirements for decision makers to have special regard to the desirability of preserving the setting of a listed building; and that in exercising planning functions in conservation areas special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area¹.
13. Therefore, for the above reasons, I conclude that the indicative form of the development proposed would not have a materially harmful effect on the settings of the Grade II listed Bromley North Station or the Bromley Town Centre Conservation Area and so these settings would be preserved. Consequently, it is not contrary to Policy 7.8 of The London Plan, which requires that development affecting heritage assets and their settings should conserve their significance; or to Policy 38 of the Bromley Local Plan, which concerns the effect of development on listed buildings, including their setting; or to Policy 42 of the Local Plan concerning the effects of development adjacent to a conservation area, which will be expected to preserve or enhance its setting. These policies are consistent with the National Planning Policy Framework (the Framework).

Living conditions

14. Due to the angle of Northpoint's layout relative to the appeal site, the two buildings would be close to each other on the Sherman Road boundary, but would increasingly diverge towards the north-east boundary. Currently, occupants of the flats on the west side of Northpoint, facing towards the appeal site, have an open outlook over the single storey buildings on the appeal site and adjoining site. The introduction of a 10-storey building would not harmfully affect the outlook from the flats at the northern end of Northpoint

¹ Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

due to the angled layout largely enabling retention of the open aspect to the west.

15. The flats with the greatest potential to be affected by the position and height of the new building are those in the southernmost part of the west-facing elevation. These include windows to habitable rooms on each floor above ground level in the form of two bedrooms and a living room. The appellant indicates that the separation distance between the closest windows in Northpoint and the new building would be some nine metres at ground floor level and then a metre more above that due to the building's inset from the boundary. Above ground floor level the north-east corner of the new building would include a 45 degree inset, which is designed to mitigate the building's effect on the outlook from the existing flats.
16. As a general observation, the extent of separation between two 10-storey buildings in the southern part of the site would be limited. The substantive elevation of a new building of this height would by any reasonable assessment be relatively close to the nearest existing windows of habitable rooms in Northpoint. The inset of the north-east corner of the building would help to mitigate some of the effects on the outlook from some views within the nearest habitable rooms. However, the extent and height of the new building, in terms of its solidity and presence in relatively close proximity, would be readily apparent to occupants of these nearest rooms, particularly those on Northpoint's lower floors with regard to the effects of the new building's height. From views within the affected rooms, therefore, the new building would appear as a dominant and overbearing feature, both in its own right and by comparison to the open aspect that currently exists.
17. The appearance and related materials are reserved matters, but I am not convinced based on the indicative information currently provided that the design details or materials used could satisfactorily overcome these harmful effects on living conditions. The appellant contends that it is inevitable that there will be some effect on the outlook from Northpoint due to the wider redevelopment of the Bromley North site, which includes the appeal site. However, it does not follow from this argument that redevelopment of the site as a whole would result in the same effects on existing residents as found above. I recognise that the Framework says that policies and decisions should not prevent appropriate change, such as increased densities². Nonetheless, this does not outweigh the above findings with regard to the effects of the particular indicative form and the layout of building proposed in this case.
18. Accordingly, for the above reasons, I conclude that the indicative form of the development proposed would have an unacceptably harmful effect on the living conditions of some occupiers of Northpoint, with regard to outlook. As such, it is contrary to Policy 4 of the Local Plan concerning housing design, which requires development to achieve a high standard of design and layout including respecting the physical context; and to Local Plan Policy 37 concerning the general design of development, including respecting the amenity of occupiers of neighbouring buildings. These policies are consistent with section 12 of the Framework concerning well-designed places. Consequently, the proposal is in conflict with the Framework also, particularly the requirement that

² Paragraph 127c).

developments should have a high standard of amenity for existing and future users³.

Redevelopment of Wider Area

19. The adopted London Plan identifies Bromley Town Centre as an Opportunity Area, while Policy 2.13 seeks to promote the town centre's strategic role and realise its capacity for sustainable growth. The most up-to-date local allocation of relevance is in the now adopted Bromley Local Plan. The appeal site forms part of Site 2, land adjacent to Bromley North Station, which is a three hectare site identified for a mix of uses including 525 homes, 2000m² of office space, community use, café/retail uses, transport interchange and parking⁴.
20. An application for redevelopment of the adjacent site to the appeal site, Nos 6-10 Sherman Road which also forms part of the allocated Site 2, was recently refused by the Council⁵. This involved demolition of the existing buildings and redevelopment with a mixed-use, 23-storey scheme comprising 219 Build to Rent apartments, flexible Class B1/D1 uses floorspace, car and cycle parking, associated access and public realm improvements. I note that, similar to the appeal proposal, one of the reasons for refusal was that the standalone nature of the development is considered to jeopardise the deliverability of the wider Local Plan allocation due to the proposal's size, scale and design.
21. The appellant contends that the appeal proposal was designed to be compatible with the scheme proposed for Nos 6-10 and that as this was refused there is no template against which the interaction between the two developments can be judged. The refused scheme on adjoining land is not before me, nor have I seen the plans for what was proposed for the site. Nonetheless, it is possible to draw findings for the purposes of this main issue from the relationship between the two sites in the wider context of the Site 2 allocation, particularly in the light of the appellant's more general contention that the indicative form of the proposed building would minimise any constraints on future development of the adjoining site.
22. I have found with regard to the appeal proposal that it would harmfully affect the living conditions of some occupiers of Northpoint. Similarly, while the proposed building does not include any windows in its south-west elevation facing Nos 6-10, the indicative height of the building and its proximity to the adjoining site could, for example, have implications for the living conditions of any future occupiers of development on the adjoining site. This could be by way of the effect on natural light or the outlook from windows in development facing the appeal building in this case. That in turn may dictate greater separation distances between buildings on the two sites than might otherwise be desirable or achievable in design terms and efficiency of land-use through a more comprehensive approach to development across both sites.
23. Indeed, these issues concerning design quality and efficiency of land-use are likely to be relevant irrespective of any potential effect on living conditions. I note in this regard the Council's comments on the refused scheme's

³ Paragraph 127f).

⁴ This allocation supersedes the allocation of the same site as 'Opportunity Site A' in the Bromley Town Centre Area Action Plan (2010).

⁵ Reference 17/05790/FULL1.

relationship with the appeal proposal and wider site context, that the two submitted schemes do not appear to be mutually compatible in view of the very close proximity between 6-10 Sherman Road, 10A Sherman Road and residential dwellings at Northpoint House, which have the ability to appear cramped and discordant, and would not appear as a holistic, well-designed form of development. Furthermore, the Council considers that should the developments not come forward together with a more holistic and comprehensive parking layout, the cumulative impact of on-street parking within this locale would be unacceptable.

24. Therefore, taking these findings as a whole, I am unaware of any specific evidence, aside from the effect on overlooking due to the positioning of the windows in the south-west elevation, to positively support the appellant's contention that the indicative form of the proposed building would minimise any constraints on future development of the adjoining site.
25. I acknowledge that the wider Site 2 has been a draft proposal, and subsequently a development plan allocation, for a number of years with no start to development yet. Related to this, I note also that it has not been possible for the parties with an interest in the two neighbouring sites on Sherman Road to reach agreement on a comprehensive development approach. While I accept the importance of delivering outcomes from this allocation, including to meet the Council's housing targets, I consider that in this case the limited benefits of providing nine residential units and some commercial floorspace do not outweigh the need to take a comprehensive approach to development, for the reasons given. While the proposal would deliver a tall building, in accordance with the objectives for the wider site in the Bromley Town Centre Area Action Plan, this is clearly not the only form that development across the wider site could take.
26. I have had regard to the earlier appeal decision to permit a standalone development within the same Bromley Opportunity Area site, to which the appellant draws attention⁶. However, in that case the now adopted Local Plan which includes the wider site allocation had yet to be examined and, therefore, the Inspector gave the effect on any comprehensive development approach reflected in the draft plan only limited weight. Moreover, unlike the earlier appeal, in this case the Council has indicated reasons for its concerns to support the reason for refusal, as noted in paragraph 23 above. For these reasons, I find that the two cases are not directly comparable and, therefore, I give the earlier appeal little weight for the purposes of considering the current proposal.
27. Accordingly, for all the above reasons, I conclude that the proposed development would materially compromise the redevelopment of a wider area, which includes the appeal site, allocated in the Bromley Local Plan in accordance with Policy 1 and Site 2.

Other Matters

28. I have had regard to other matters raised by interested parties. The building's appearance would be considered through reserved matters and there is no

⁶ APP/G5180/W/16/3164927 dated 12 May 2017.

substantive evidence to suggest that the proposal would have a harmful effect on traffic congestion. I note in this regard that the Council considers that the proposed restriction of residential parking permits in what is a largely car-free development (except for two disabled on-street spaces) could still lead to residents of the new building parking on-street outside controlled hours. Given the controls that are proposed on car use and the highly accessible nature of this location by public transport, I consider that this is unlikely to occur to an extent that would cause material harm and this matter should not, therefore, count against the proposal.

29. The appellant contends that the Council cannot demonstrate a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing, as required by the Framework⁷. Consequently, in the appellant's view, the appeal proposal should be considered in the context of paragraph 11d) of the Framework. This requires that where policies which are most important for determining the application are out-of-date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
30. Reference is made to the increased housing requirement for Bromley included in the draft London Plan as well as the contribution anticipated from small sites. While I acknowledge that there is evidence of housing need associated with the draft plan that suggests that the Council's housing requirement might increase, the plan is currently at examination so, ultimately, there is uncertainty with regard to any final revised housing figure. Furthermore, the Council has an outstanding objection to the proposed requirement. For these reasons, I can give this matter little weight for the purposes of this appeal.
31. The appellant draws attention to a recent appeal decision in which the question of whether the Council could demonstrate the requisite housing supply was considered⁸. The Inspector concluded in that case that there is not compelling evidence that a 5 year supply of housing land exists⁹. In response, the Council indicates that its latest position statement on housing land supply, agreed in November 2017, is to be revised but it appears to remain the most up-to-date assessment the Council has undertaken. However, it pre-dates the findings of the Inspector in the appeal referred to.
32. I note also that the Inspector who examined the Local Plan reported her findings in December 2018, after the appeal decision referred to was issued and, the Council indicates, in the knowledge of this and other relevant decisions. The conclusion the Inspector reached is that the allocations in the now adopted Local Plan provide a reasonable prospect for a 5 year housing land supply, subject to 5 year reviews. Therefore, in these circumstances, while there is a clear finding from a relatively recent appeal decision of a lack of the requisite housing supply, evidence from the Local Plan examination suggests otherwise. As such, despite the clear findings in the appeal decision

⁷ Paragraph 73.

⁸ APP/G5180/W/17/3181977 dated 16 July 2018.

⁹ Paragraph 39.

and the lack of an up-to-date housing supply position statement by the Council, based on the available information it is not possible to conclude for the purposes of this appeal that the Council cannot demonstrate the housing supply required by the Framework.

33. In any case, and for the avoidance of doubt, although this scheme would provide nine additional flats and commercial floorspace in a highly accessible location and would contribute to the housing mix and the local economy, it would also have an unacceptably harmful effect on the living conditions of neighbouring residents and would compromise the comprehensive redevelopment of a larger site allocation in the adopted Local Plan. It would thus be contrary to a number of development plan policies and to the Framework. I consider that such adverse impacts would significantly and demonstrably outweigh the benefits of this scheme, as assessed against the Framework as a whole. Hence the presumption in favour of sustainable development, as advocated at paragraph 11 of the Framework, would not apply.
34. The appellant has submitted a Unilateral Undertaking that provides for a financial contribution towards carbon offsetting, car club membership and restrictions on resident parking permits. However, given my findings against the appeal on two of the main issues, it is not necessary to consider the question of the Undertaking further as the appeal must be dismissed on these grounds.

Conclusion

35. I have found in the appellant's favour with regard to one main issue, concerning the effect on heritage assets. However, this is not sufficient to outweigh the material harm that has been found with regard to the effect on living conditions and the redevelopment of the wider area, and the conflict with the development plan and the Framework. The presumption in favour of sustainable development does not apply and there are no other material considerations that outweigh the conflict with the development plan. Accordingly, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR