



Appeal Decision

Site visit made on 23 July 2019

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th August 2019

Appeal Ref: APP/C5690/W/18/3214349

Former Garage Site, Hildenborough Gardens, Bromley BR1 4JP

- 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 Y Shahar (CESA Development 2016 Ltd) against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/17/099713, dated 11 January 2017, was refused by notice dated 25 May 2018.
 - The development proposed is described as the "construction of a new 3-storey residential building to accommodate 7no. self-contained flats, including front and rear balconies, 5no. parking spaces, refuse enclosure, cycle storage and associated site works".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have taken the address of the site from the appeal form as this more accurately describes the location of the site.

Main Issue

3. The main issue is whether the development would provide a safe and convenient route to the appeal site for pedestrians and visitors.

Reasons

4. The appeal site forms a roughly rectangular parcel of land that formerly contained single storey lock-up garages. The site lies within a predominantly residential area with a variety of style and size of properties in the area, which includes houses and flatted developments. Pedestrian access to the site is via a public pavement which ends outside 11 Hildenborough Gardens, some 90m east of the site, resulting in pedestrians having to walk on the road for the rest of the way.
5. During my visit I noted the covered footpath to the front of the flats of Grovehill Court which could potentially be used by occupiers of the proposed accommodation. However, this particular footpath is accessed via steps which would deter disabled users and those with pushchairs. I also noted that cars were parked on the northern side of Hildenborough Gardens, effectively reducing the width of the road. There are also two speed humps in the road between the appeal site and where the public pavement exists. Cumulatively these hazards would potentially result in disabled persons, others with mobility

issues and those with small children and/or pushchairs to be in conflict with vehicles entering the site and those accessing the existing parking spaces opposite the site entrance.

6. There is a grass verge along the length of the access to the parking spaces opposite the site entrance which could be used as a refuge area for pedestrians. However, it is bound by a kerb and has a slight incline which would make it difficult for disabled people and those with pushchairs moving to this area which also contains other features such as lampposts and trees. Furthermore, during bad weather, the verge could also become slippery, raising additional concerns over its suitability for pedestrians to use.
7. Moreover, even if the '*informal parking*' along Hildenborough Gardens was removed, this does not alter the fact that vehicles would still access the site resulting in a conflict with pedestrians walking along the road. Furthermore, I have no persuasive evidence that 90m is a short distance for a disabled person, someone with limited vision or a person pushing a child to travel. Notwithstanding the assumed traffic flow, it is highly likely that those walking along the access and are faced with vehicles, some of which may have to reverse down the road, would be without a suitable and safe refuge area. I find this to be in conflict with paragraph 91 b) of the Framework which seeks to ensure that developments are safe and accessible through the use of clear and legible pedestrian routes, which the development does not propose.
8. Thus, I find the proposal would not provide a safe and convenient access to the site. It would be in conflict with Policy 7.2 of the London plan 2016, Policy 14 of the London Borough of Lewisham Core Strategy 2011 and Policy DM33 of the London Borough of Lewisham Development Management Local Plan 2014 which seek, amongst other things, to ensure that developments can be used safely and easily by all regardless of disability and provide a proper means of access which is safe for both drivers and pedestrians.

Other Matters

9. I am aware that the appellant has been in negotiations with Phoenix Community Housing regarding possible improvements to the access. I am also aware of the appellant's right of way to the site and the hammerhead where cars are parked. However, the right of access and ownership of the verge and covered footpath are private matters outside of my jurisdiction.
10. I acknowledge that the appeal site formerly contained 27 garages which would have had the ability to generate more traffic and pedestrian movements than the proposed development. However, the garages were demolished in 2005 and from my visit it is clear that the site is now so overgrown that its use for the parking of vehicles is no longer possible. While it may be possible to re-instate the parking of cars at the site, in the absence of any evidence that this is a position that the appellant would revert to should this appeal fail, it is a fallback position to which I attach limited weight.
11. I have not been provided with any details of the planning permission from 2007 for a residential development on the site, as reported by the appellant in his written statement. Nevertheless, I have no evidence that permission was ever granted for this scheme and in any event, it would have since expired and thus carries very little weight as a material consideration.

12. I acknowledge that the proposal would boost the supply of housing for the Borough and that the principle of the development is acceptable. While these matters are material considerations that weigh in favour of the proposal, I do not consider that either individually or cumulatively they outweigh the harm identified above.
13. The site was the subject of pre-application advice which was generally supportive of a residential development. However, pre-application advice is not binding upon a Council and this does not alter my decision. I also note that representations were made by local residents, some of whom raise additional concerns. However, given my findings on the main issues, it is not necessary to consider these matters in detail.

Conclusion

14. For the reasons given above, and having regard to the development plan when read as a whole, the appeal is dismissed.

Graham Wyatt

INSPECTOR