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## Appeal Decision

Site visit made on 16 July 2019

**by H Miles BA(hons), MA, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 August 2019**

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**Appeal Ref: APP/G5180/W/18/3215049**

**Cranbrook Court, 50 Thesiger Road, Penge, London SE20 7NW**

- 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 Gregg Rust of Tanqueray Hewitt Ltd against the decision of the Council of the London Borough of Bromley.
  - The application Ref DC/18/01013/FULL1, dated 2 March 2018, was refused by notice dated 26 June 2018.
  - The development proposed is refurbishment and extension of Cranbrook Court to provide a total of 33 units of temporary accommodation for the homeless (Sui Generis) and an additional 19 private market units (Use Class C3) including a new landscaping scheme, car parking layout and cycle storage.
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### Decision

1. This appeal is dismissed.

### Procedural Matters

2. Following the Council's decision on the application that led to this appeal there have been revisions to the Framework contained in the new version published in February 2019. No changes have been made to the content directly relevant to the main issues of this appeal. Consequently, I consider that no prejudice would occur to any parties as a result of me taking the revised Framework into account in my assessment of the appeal's merits.
3. From the evidence submitted I see that during the course of this appeal the London Borough of Bromley formally adopted the Local Development Framework Local Plan London Borough of Bromley Planning Division January 2019 (the Local Plan). Both main parties have had the opportunity to submit comments on the relevance of the Local Plan to this case. I have taken the Local Plan into account in my reasoning and for the reasons above, I do not consider the parties would be prejudiced as a result of me doing so.
4. I have been provided with amended plans which include alternative scenarios in relation to the car and cycle parking layout. The appeal process should not be used to evolve a scheme and it is important that what I consider is essentially what was considered by the local planning authority, and on which interested people's views were sought. In this case, neighbours have raised concerns in relation to parking. As some of the proposed scenarios would reduce this provision, this may deprive those who would wish to make comments on a lower level of parking the opportunity of such consultation.

Therefore, in the interests of fairness and openness these revised plans will not form any part of this assessment.

5. The Draft London Plan is referred to in appeal submissions. However, I am not provided with evidence that these policies will be adopted in the form that they are presented to me and as such I afford them limited weight in my consideration of this appeal.

## **Main Issues**

6. The main issues are the effect of the proposed development on the character and appearance of the surrounding area, the quality of living conditions for future occupiers, and whether the proposed development would provide satisfactory sustainable transport options with particular regard to cycle parking.

## **Reasons**

### *Character and Appearance*

7. The appeal site is occupied by a two storey block with a pitched roof and is currently used as temporary accommodation for homeless people (TA). It is located on the corner of Thesiger Road and Parish Lane. This area is characterised by flatted developments of generally three storeys with pitched roofs (which I understand to be in both residential and nursing home use). These buildings are generally modest in scale or include design features to break up their massing. The character of the wider area is of mainly two storey residential terraced housing, albeit that there are also commercial and community uses close by.
8. A notable exception to the character described above is the Christ Central Church building opposite the site on the corner of Green Lane and Parish Lane. This is generally two storey with distinctive design detailing including a turret. There is also a four storey building with a pitched roof fronting the road along Green Lane. I note that there is another four storey block with a pitched roof accessed from Parish Lane, however as this is set back from the road its contribution to the character of the appeal site is limited.
9. The proposed development would be up to four storeys in height. The upper floor would include substantial windows/doors and terraces and although it would be set back from the main building line these elements would result in a prominent appearance to this upper floor. Whilst its ridge height may be lower than some nearby buildings, given its design and use its prominence is greater than other pitched roofs which characterise the immediate area. The site is a corner plot, however I am not presented with substantive evidence that a taller building would be acceptable in this location for this reason.
10. Furthermore, the elevation fronting Parish Lane presents a single unbroken elevation of some length. Aside from the entrance, the design detailing to break up this elevation includes four projecting windows. Given their low number, they do not significantly detract from the massing and size of this elevation.
11. A combination of the four storey appearance and lack of relief to the Parish Lane elevation would result in a size and scale to the proposed building which

would be inappropriately large and dominant in the surrounding context and would be harmful to the character and appearance of the area for this reason.

12. Consequently, the proposed development would have a harmful effect on the character and appearance of the surrounding area. In this respect it would be contrary to the policies most relevant to this main issue: Policy 4 and 37 of the Local Plan and Policies 7.4 and 7.6 of the London Plan (2016) (the London Plan). Together these policies seek to ensure a high standard of design, complement and respect local character and complement the scale, mass and form of adjacent buildings and areas, amongst other things.

### *Living Conditions*

13. It is put to me that the Council's assessment of the TA room sizes are based on standards in the Housing Health and Safety Ratings System which relate to housing in multiple occupation (HMOs). In any case, the main parties agree that the nationally described housing standard would not apply to the TA, and I have not been provided with any minimum room sizes in development plan policies which relate to this use. Nor are there planning policies requiring the provision of outdoor space.
14. There are 4 units at ground floor which are single aspect, with their only outlook to the rear. There is a pedestrian path which provides access to car and cycle parking directly outside these windows resulting in poor levels of privacy. However, the outlook from these windows would be towards the parking area. This is generally a relatively open outlook and although there may be cars parked which could restrict views these are unlikely to be permanently in place. As such the outlook from these units would be acceptable.
15. It is put to me that a number of the rooms are inadequately sized. However, taking into account my comments in relation to size standards above, I am not provided with any other substantive evidence which demonstrates that the proposed rooms and units would not be adequately sized for the day to day living requirements of occupants of the TA. Combined living rooms/kitchens are not uncommon in self-contained residential development and I am not presented with evidence that this form of living would present significantly harmful risks to future occupiers.
16. The proposed development would provide TA units across 4 floors and does not provide a lift or step free environment. However, the appellant has accepted that the units at ground floor could be made accessible and I am satisfied that this could be secured by condition. As such, the proposed development would provide a suitable mix of units for occupiers of the TA with accessibility requirements.
17. I appreciate that the size of the TA units may be comparable to other residential units permitted under permitted development. However, the scheme before me now relates to a full planning application and is therefore subject to assessment against the relevant development plan policies.
18. Taking all the above into account, the proposed development would provide an acceptable level of amenity, in terms of their living conditions, for future users of the TA.
19. Turning to the proposed private accommodation, Units NR002, NR003 and NR203 are adequately sized for one person units and although the plans

indicate that the bedrooms could accommodate a double bed they are annotated as single bedrooms. I see no reason why a single occupier should only have space for a single bed and therefore I am satisfied that the sizes of these units would be adequate.

20. Units NR001, NR005 and NR006 have their main outlook to the rear. There is a footpath leading to the cycle storage relatively close to these windows and their outlook is towards either the car park or a fence. There is space for some planting/amenity space directly outside the windows which would provide a buffer to avoid direct views into these rooms. Similar to my assessment of the TA above, units NR005 and NR006 would have their outlook across the car park which would not be unacceptably harmful. Unit NR001 has views towards a fence in relatively close proximity. However, due to the height of the fence and the fact that there is some separation, this relationship would not be unacceptably harmful to the outlook from these windows.
21. Although the communal roof terrace would not benefit from natural surveillance it would be of a size, shape and suitably accessible to provide a usable shared outdoor space for the future occupiers of the private accommodation.
22. Of the 19 proposed private units, 5 would be provided with external private amenity space. I the concerns about the depth of the space provided to unit NR301, however given these occupiers would also have access to the semi-private communal terrace this combination would result in sufficient accessible and practical amenity space for these future occupiers.
23. 7 units would have no access to any additional amenity space whilst 7 units would be provided with projecting bay windows. The submitted evidence shows that these create an additional 2sqm of internal living accommodation, and these units are a minimum of 2sqm above the standards set in the London Plan minimums space standards for new dwellings. Given their location close to a road junction and considering that they would have access to the communal roof terrace, this arrangement would be acceptable in this limited number of units. Furthermore, all these units would have access to the communal roof terrace, and whilst this is a semi-private space it would nonetheless provide sufficient accessible and practical amenity space for these future occupiers.
24. Although there are a number of single aspect units, I am not presented with evidence as to how this would lead to unacceptably poor quality living conditions for future occupiers.
25. Consequently, the proposed development would provide an acceptable standard of living conditions for future occupiers of the private accommodation.
26. London Plan Policy 3.9 seeks to provide mixed and balanced communities. Although I have been provided with some evidence relating to the need for certain sized units, I am not provided with persuasive evidence which indicates that there is a specified housing mix in the development plan for the size of either private or TA units. The proposed development provides both residential and TA tenures, ranging from studio to 3-bedroom units. Taking this into account the I do not find the mix of sizes and tenures proposed to be harmful to creating mixed and balanced communities.
27. It is suggested that matters including the number of single aspect units, density of the development, the small size of some of the units and the higher

percentage of single person units demonstrate that the site is overdeveloped. I address these aspects relative to the living conditions of future occupiers above. In general, I do not find unacceptable harm. Consequently, these matters do not lead me to conclude that the site is overdeveloped.

28. I have been provided with examples of other decisions which relate to the provision of TA in the borough<sup>1</sup> where it is said that the units were smaller and/or national space standards were not referred to. I have also been referred to the decision at Cranbrook Court in 2012<sup>2</sup> where TA units of the same size, type and use were considered acceptable. However, I am provided with limited evidence in relation to these cases and therefore I attach limited weight to their specific circumstances. Nevertheless, as can be seen above, I do not find harm in relation to the size of the TA nor do I apply the national space standards.
29. Consequently, for the reasons above, the proposed development would not provide an unacceptable quality of living conditions for future occupiers. Therefore, in this respect, the proposed development would not be contrary to the policies most relevant to this main issue: Policy 4 (Housing Design) of the Local Plan or Policy 3.5 (Quality and design of housing developments) and Policy 3.9 (Mixed and balanced communities) of the London Plan.
30. The Council refer to policy 3.3 of the London Plan in their reason for refusal. However, this is a policy mainly relates to housing supply and therefore I find the policies above more relevant to this main issue.

### *Cycle Parking*

31. Policy 6.9 of the London Plan sets out that cycle parking should be provided in new developments as part of an integrated approach to sustainable transport, helping to tackle climate change, health and local economy and sets out cycle parking standards. Policy 31 of the Local Plan seeks to encourage cycling in connection with the promotion and facilitation of sustainable transport.
32. There is dispute as to whether the London Plan cycle parking standards for dwellings or for student accommodation should apply to the TA. Given its layout as individual self-contained units with no element of shared communal space (which would be common in student accommodation) the most relevant standard would be for dwellings. It is put to me that this results in a requirement for 45 cycle parking spaces. I am not presented with detailed evidence that occupiers of the TA would not have bikes. The requirement for 27 cycle parking spaces for the private accommodation is not in dispute between the main parties.
33. The plans show an area of bike storage for 48 bikes annotated to be for the 'private units occupants'. It has been suggested that these spaces could be used for both the private and TA and although its location would require a short walk for those in the TA to access cycles, I do not consider this to be excessive.
34. This would still leave a shortfall of 24 spaces. Given the limited area of ground floor external space their provision elsewhere could be harmful to the appearance of the proposed building and/or the living conditions of future occupiers. As such it would not be appropriate to secure such details by condition in this case.

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<sup>1</sup> 16/05849/FULL1 15/00969/FULL2 13/01055/FULL2

<sup>2</sup> 12/00842/FULL2

35. I appreciate that there is no cycle parking provision currently on the site, however the low level of existing provision would not justify a shortfall of cycle parking spaces as part of a proposed redevelopment of the site. I also note that the application was not refused on the grounds of harm to highway safety.
36. Consequently, for the reasons above, the proposed development would not provide satisfactory sustainable transport options with particular regard to cycle parking. As such, in this respect, it would be contrary to the development plan policies most relevant to this main issue: Policy 6.9 of the London Plan and Policy 31 of the Local Plan, the aims of which are set out above.

### **Other Matters**

37. Concerns have been raised in relation to means of escape from the TA. The appellant states that the proposals comply with building regulations as the units have secondary means of escape from habitable rooms and/or travel distance is within the limit allowed, and I have not been provided with substantive evidence to contradict this. Nevertheless, means of escape are not a consideration to which I can attribute any degree of weight.
38. I have been provided with a Unilateral Undertaking (UU) which secures an education contribution of £24,942 towards education infrastructure and improvements at St Johns Primary School. It is put to me that there is need for an expansion in education provision in the Borough and that St Johns Primary School, Penge, which is local to the site, is one of the schools with an existing identified pressure. It is also stated that the proposed development would generate a child yield and this is used to calculate the amount of the contribution. However, I have not been provided with the detail of how the size of this contribution has been established.
39. A health contribution of £18,836 towards the provision of healthcare facilities and/or the improvement of and/or support for existing healthcare facilities at Wickham Park Surgery is included. I understand that the proposed development would create demand for additional services and that the Council are seeking to address this through provision at Wickham Park Surgery. The amount of the contribution has been calculated using the Healthy Urban Development Unit model although I have not been provided with detail as to how this figure was reached.
40. Furthermore, the UU contains a carbon offsetting contribution of £29,582 towards the cost of providing carbon emissions reduction improvements at Glebe School, West Wickham. This contribution is included as the proposed development would not achieve 'zero carbon' which I understand to be required by development plan policy to avoid harm to carbon dioxide emissions. I am provided with an explanation as to how this amount has been reached.
41. I am satisfied that mitigation would be required to offset the impact of the proposed development in respect of the three areas identified above. Whilst I have not been provided with evidence that justifies the amount of the contributions proposed towards healthcare and education, in any case, the contributions would need to be reasonable in scale to make the development acceptable in planning terms only. As such, the contributions discussed above would only provide mitigation and not a benefit. Therefore, the lack of harm in these respects would be a neutral factor.

42. The UU also includes a nomination agreement between the Council and the Owner for the TA with a fall back position that if the Council do not fill the premises the owner can nominate suitably qualified residents by way of a registered provider. The fact that the accommodation would be secured as TA and that the Council would enter into a nomination agreement is not in dispute between the main parties, albeit that the term registered provided is not defined as part of the fall back position. As such, I am satisfied that this element of the UU, along with the submitted drawings and evidence, secures the TA for this purpose and therefore this is a benefit of the proposed development.
43. From the evidence submitted I understand that there is a significant need for the provision of the TA. The proposed development would increase the number of units available at this site from 28 to 33 and would ensure all units included improved insulation, double glazing, a new heating and hot water system, full decoration and new appliances. I have not been provided with significant evidence in relation to the rent levels, however I note that the submitted UU allows nomination agreement between the Council and the Owner. The provision of this accommodation is a notable benefit of the proposed development.
44. Furthermore the proposed development would provide additional market housing, in an accessible location with the associated social, economic and environmental benefits of such provision. It would include solar photovoltaic panels and a green roof resulting in positive impacts for biodiversity and drainage.
45. However, the harm to the character and appearance of the area would be a public long term harm, and the provision of adequate sustainable transport provision, with its links to reducing climate change, is also important. Furthermore, I do not have evidence that the development before me now would be the only way to provide additional accommodation both for TA and market housing on this site. As such, although the benefits of the scheme weigh in favour of the development, these matters are not sufficient to outweigh the harm to the character and appearance of the area or the unsatisfactory sustainable transport options, identified above.

## **Conclusion**

46. For the reasons above, this appeal should be dismissed.

*H Miles*

INSPECTOR