



Appeal Decision

Site visit made on 8 January 2020

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 23 January 2020

Appeal Ref: APP/Q3820/W/19/3236572

39A High Street, Northgate, Crawley RH10 1BQ

- 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 Earlswood Homes against the decision of Crawley Borough Council.
 - The application Ref CR/2018/0652/FUL, dated 13 December 2018, was refused by notice dated 3 September 2019.
 - The development proposed is the demolition of disused shop and erection of 4 x 2 bed apartments.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: -
 - The effect of the proposed development on the character and appearance of the area, with particular reference to the grade II* listed St John the Baptist Church, (the listed church) and the High Street Conservation Area (the CA), which are designated heritage assets, and trees;
 - The effect of the proposal on the fabric of the grade II listed 39 High Street, which is a designated heritage asset;
 - The effect of the development on archaeological assets;
 - The effect of the development on the living conditions of future occupiers, with particular reference to natural light;
 - The effect of the proposal on the wider environment;
 - Whether the proposal makes suitable arrangements for attenuating surface water runoff;
 - The suitability of the proposed refuse and recycling arrangements to satisfy the needs of future occupants; and: -
 - Whether or not the proposed development would make adequate provision for affordable housing.

Reasons

Character and appearance, including heritage assets and trees

3. The appeal site lies behind 39 High Street, between the flank wall of a more modern development in office use, and an access track serving the listed church. No 39 is a grade II listed building accommodating a business. The site lies within the CA.
4. The significance of the CA stems from the grouping of heritage assets and is focussed on the historic core of Crawley. The High Street is fronted by businesses, including a significant proportion of cafes and restaurants and has the character and appearance of a busy town centre commercial street, whilst the adjacent churchyard provides a quieter, more verdant, secluded backwater.
5. The significance of the listed church derives from its role in the historic development of Crawley, and its ecclesiastic architecture, whilst that of No 39 relates to its history, architecture and use of vernacular materials.
6. The boundary of the site with the church access track is formed by a hedge incorporating several pollarded lime trees. Despite the pollarding, these trees, when in leaf, make a significant contribution to the verdancy of the churchyard and the quieter, more secluded setting of the church.
7. The proposal would replace an existing, dilapidated single storey building, formerly in commercial use, with a two-story building containing four flats. The footprint of the building would be similar to that of the existing and would be in close proximity to the existing hedge and trees.
8. The existing building has a run-down appearance, and, to a degree, its removal would make a visual improvement to the area and redevelopment would make beneficial use of a brownfield site. However, by virtue of the screening provided by the existing planting, which largely conceals the current building, this improvement would be mainly experienced on the narrow frontage facing the High Street.
9. Further, the site has been subject to issues relating to public order. The replacement of the building would be likely to reduce issues of public order as the residential units would increase natural surveillance of the area and the removal of the dilapidated building would be likely to reduce the incentive for vandalism.
10. The proposal would place a building of modern design with a greater presence upon the street scene adjacent to No 39 and in views encompassing No 39 and the listed church.
11. Given the proximity of the trees and hedge to the proposed structure, not only is it likely that there would be harm to the planting and its root structure during construction, but it is likely that future occupiers would perceive the planting as a risk or nuisance and this would be likely to engender a desire to seek the removal of the trees or their limbs or a reduction of the scale of the planting overall. I therefore consider that the proposal would present an unacceptable risk to the future retention of the trees, even though they have a degree of protection provided by the CA.

12. Given the importance that I have attached to the trees and planting to the character and appearance of the CA, and the setting of the listed church, the loss, or reduction in overall canopy of the trees or planting would result in harm to the setting of the listed church, and the character and appearance of the CA. Further, their loss, or the significant reduction in their canopy, would make the proposed building, with its more modern architecture more visible within the views including the listed church and emphasise the difference in architectural style between the buildings.
13. The proposed building would be attached to the adjacent listed building. I have little evidence before me to suggest how that could be achieved without harm to the listed building.
14. The site lies within an Archaeological Notification Area. These are areas where there is evidence of archaeological remains requiring further investigation. The appellant did not provide an archaeological assessment to accompany the application.
15. Given the location of the site within the historic core of Crawley and adjacent to a medieval churchyard it is likely that the site would contain archaeological remains. In the absence of any assessment I am unable to conclude that archaeological remains would not be unaffected.
16. Policy CH6 of the Crawley Borough Local Plan 2015-2030 (2015) (the Local Plan) requires that residential development should contribute to the character and appearance of the town by including at least one new tree for each new dwelling. Where development proposals would result in the loss of trees, applicants must identify which trees are to be removed and replaced in order to mitigate for the visual impact resulting from the loss of the tree canopies.
17. Whilst the proposal results in the removal of some trees within the site, and the potential loss of adjacent trees, no mitigating planting has been proposed. In view of the constraints of the site and lack of opportunity to provide additional planting within it, the Council is open to the provision of a financial contribution towards securing planting offsite. However, no such financial contribution has been provided by the appellant.
18. Bringing these matters together I therefore consider that the proposal would result in harm to the character and appearance of the area, including the setting of the grade II* listed church and the CA and the fabric of the grade II listed building and result in loss of trees without making provision for their replacement or additional planting to enhance the area. The proposal would, therefore, be contrary to Policies CH2, CH3, CH6 CH12, CH13 and CH15 of the Local Plan which, amongst other things, seek to ensure that heritage assets are respected, preserved or enhanced, and seeks to retain existing trees and augment the existing provision of trees to enhance areas.
19. Similarly, the proposal would be contrary to the advice contained in the Urban Design Supplementary Planning Document (2016), the High Street Conservation Area Statement (1998) and the Green Infrastructure Supplementary Planning Document (2016) which have similar aims and provide guidance on how to achieve these.

Planning balance in regard to heritage assets

20. The statutory duties in Section 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are matters of considerable importance and weight. As a consequence of the siting of the appeal scheme it would have a harmful impact on the setting of the grade II* listed church and the fabric of the grade II listed building. However, neither of the proposals would lead to the loss of any of the buildings or any of their special features. As such, whilst material, I find that the harm would be less than substantial. Similarly, as a consequence of the siting of the appeal scheme it would have a harmful impact on the High Street Conservation Area. However, due to the scale of the proposal within the wider context, this harm would be less than substantial. Paragraph 196 of the National Planning Policy Framework (2019) (the Framework) directs that where a development proposal will lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal.
21. The proposal would make four dwellings available to supplement housing delivery and provide economic support to local businesses and services. The proposal would remove an unattractive, dilapidated building within the CA and would be likely to reduce the incidence of public order issues. These would be public benefits to which, due to the scale of the development, I attach moderate weight. However, on the evidence before me I therefore conclude that the public benefit has not been demonstrated to outweigh the less than substantial harm identified to the setting of the grade II* listed church, the fabric of the grade II listed building and the character and appearance of the conservation area.

Living conditions

22. The proposed building runs east-west, with most of its windows and the balconies for two of the flats on its northern face, with only flats 3 and 4 having east facing windows.
23. Flats one and two are of significant depth and the rear rooms, as they abut an existing building, have no windows, nor are any rooflights shown on the plans. The depth of flats 1 and 2, and the lack of openings to the south or in the roof would result in a dim, unwelcoming environment. This would be exacerbated by the presence of the trees along the northern frontage, further reducing the amount of natural light entering the rooms.
24. The trees and planting would also restrict the outlook from some of the windows. The combined effect of the north facing windows and the restricted outlook would be likely to engender a desire by future occupants for the removal, or severe pruning of the trees.
25. The appellant has suggested that alterations to the design, such as the introduction of additional roof lights, could provide a solution to this issue. However, I have no evidence before me to demonstrate that this would be acceptable.
26. In the circumstances it has not been shown that the proposal would not result in harm to the living conditions of future occupiers. The proposal would therefore be contrary to Policy CH3 of the Local Plan, in as much as the lack of

access to natural light would fail to provide a good standard of amenity for all future occupants of the building.

Environment

27. The town centre location of the site provides links to services and facilities that would provide for the day-to-day needs of future occupants without reliance upon the private car, and that access to sustainable travel options is readily available. However, no sustainability statement or confirmation of proposed measures to address sustainability and water stress have been provided by the applicant in support of the application. In the absence of such documentation it has not been demonstrated that the proposal is acceptable in terms of sustainability, including the District Energy Network, water usage and climate change. Policy ENV6 of the Local Plan requires all residential development to provide a Sustainability Statement demonstrating how the sustainability objectives above have been addressed during the design and construction processes.
28. I therefore find that the proposal would result in harm to the wider environment. The proposal is therefore contrary to policies ENV6, ENV7 and ENV9 of the Local Plan, which together, amongst other things, seek to ensure that all development considers how it may achieve the sustainability objectives in relation to carbon, locally-specific climate change relating to serious water stress in the borough, future temperature extremes, and ensure it does not unduly increase the impact of heatwave events.
29. Similarly, the proposal would be contrary to the advice provided within the Planning and Climate Change Supplementary Planning Document (2016), which has similar aims and provides guidance on how to achieve them.

Surface water runoff

30. The proposal lies within Flood Zone 1 and is, of itself, not identified as being at risk from flooding. Further, the changes to the footprint of the building are relatively small. However, I have no information before me regarding the provision of attenuation measures within the site to decrease the rate of runoff to address future climate change. In the absence of such information it has not been demonstrated that the proposal is acceptable in terms of attenuation of surface water runoff.
31. I therefore find that it has not been demonstrated that the proposal would make suitable arrangements for attenuating surface water runoff. The proposal is therefore contrary to policy ENV8 of the Local Plan, which, amongst other things, requires that development should reduce peak surface water run-off rates and annual volumes of run-off through the effective implementation, use and maintenance of sustainable urban drainage systems, unless it can be demonstrated that these are not technically feasible or financially viable.
32. Similarly, the proposal would be contrary to the advice provided within the Planning and Climate Change Supplementary Planning Document (2016), which has similar aims and provides guidance on how to achieve them.

Refuse and recycling

33. The proposed communal bin store is situated 40 metres from the nearest point at which the collection services could access them. The Council's Waste and Recycling Officer has stated that this distance would limit the size of bins to containers of 240 litres in volume. There is no information before me to demonstrate that containers of this type could be accommodated within the store to satisfy the needs of the future occupants.
34. The appellant has suggested that additional information could be provided to satisfy the requirements of the Council. However I have no evidence before me to demonstrate how a satisfactory storage solution would be achieved.
35. I therefore conclude that the proposed refuse and recycling arrangements have not been shown to be adequate to satisfy the needs of future occupants and the proposal would therefore be contrary to Policies CH3 and IN1 of the Local Plan which require, amongst other things, that development is supported by the necessary infrastructure on site and should meet the requirements necessary for their safe and proper use, including with regard to the storage and collection of waste/recycling.

Affordable housing

36. Policy H4 of the Local Plan would require either provision on-site or a commuted payment from the proposed development in order to contribute to off-site provision of affordable housing equivalent to 40% of the total housing provision. No mechanism to secure the provision of affordable housing has been provided. The Planning Practice Guidance indicates that affordable housing should normally be secured via the planning obligation process rather than a condition.
37. Whilst the Framework states that provision of affordable housing should not be sought for residential developments that are not major developments, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires my decision in this appeal be in accordance with the development plan, including the Local Plan, unless material considerations indicate otherwise.
38. The Framework, as an expression of government policy, is a material consideration of considerable weight. It states that existing policies, such as Policy H4 of the Local Plan, should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. As such, this policy being inconsistent with the Framework does not mean that it is necessarily out-of-date.
39. A significant proportion of the Council's housing delivery comes from small sites such as this, whilst the aim of the Framework policy is to ensure there are not disproportionate burdens on small developers. Whilst there is evidence of a need for affordable housing in the area, and that a significant proportion of new housing is delivered by smaller developments, no evidence has been provided to demonstrate that, in this instance, contributions toward affordable housing would result in a disproportionate burden on the developer. Taking all of this into account, I consider that the Local Plan policies remain justified by the evidence. If Local Plan policies remain justified by the evidence, then my decision should be made in accordance with it. I understand other Inspectors have come to a similar conclusion in their decisions.

40. I therefore find that the proposed development would not make adequate provision for affordable housing. As such, it would be contrary to Policy H4 of the Local Plan. This conflict with development plan policy would not be outweighed by the provisions of the Framework.
41. Similarly, the proposal would be contrary to the advice contained in the Affordable Housing Supplementary Planning Document (2017), which contains similar requirements to those of H4 of the Local Plan and provides information in support of the Councils requirement together with guidance on compliance.

Other Matters

42. My attention has been drawn to a development of similar scale and design that gained permission on the site in 2004¹. However, this permission has lapsed and there have been changes to the development plan and national planning policy since that time. Of particular note is the introduction of the Framework and the associated test balancing harm to heritage assets against public benefits, which I have carried out above.
43. The previous permissions are a material consideration. There would be further benefits accruing from the reuse of a derelict brownfield site, together with the replacement of a derelict building, and I note the representations of support in this regard. The site is in a location with good access to services and facilities to provide for the day-to-day needs of future occupiers, including access to more sustainable modes of transport. It is noted that the proposal would not be anticipated to have an adverse effect upon the viability of the town centre and its businesses, and, indeed, would be likely to provide limited support for these. However, taken together these benefits do not outweigh the harm resultant to the current development plan and national planning policy that I have identified above.
44. The appellant has expressed dissatisfaction with the way in which the Council have handled their application. However, that is a matter between them and the Council.

Conclusion

45. For the reasons given above, and having regard to all other matters raised, the appeal is dismissed.

I Dyer

INSPECTOR

¹ Council Refs CR/2003/0773/FUL and CR/2003/0774/CAC