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## Appeal Decision

Site visit made on 27 January 2020

**by Adrian Caines BSc(Hons) MSc TP MRTPI**

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

**Decision date: 30 January 2020**

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**Appeal Ref: APP/G5180/W/19/3226018**

**91A High Street, Orpington BR6 0LF**

- 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 Mustafa Huseyin (Fastgrow Investments Limited) against the decision of the Council of the London Borough of Bromley.
  - The application Ref DC/18/04435/FULL1, dated 27 September 2018, was refused by notice dated 12 December 2018.
  - The development proposed is a first floor rear extension to create self-contained studio flat.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The Council's decision notice describes the development as "*part one/two storey rear extension to retail unit on ground floor and self-contained studio flat on first floor*". However, at my site visit I was able to see that a ground floor extension to the retail unit, akin to that previously approved by the Council<sup>1</sup> and shown on the proposed plans, has already been constructed. The application form describes the development as a first floor rear extension to create self-contained studio flat so I have considered the appeal on that basis.
3. The London Borough of Bromley Local Plan was adopted in January 2019 (BLP). The Unitary Development Plan policies cited on the decision notice are therefore no longer part of the development plan and have no weight. The appellant has referred to the adopted BLP policies so has not been prejudiced.
4. A previous application involving loft conversion works to form a flat was dismissed at appeal<sup>2</sup>. The scheme before me is substantially different, so whilst I have had regard to the previous appeal decision, I have considered this appeal on its own merits.

### Main Issues

5. The main issues are the effect of the development on i) the character and appearance of the locally listed building and the surrounding area, including the Orpington Priory Conservation Area; and ii) the living conditions of occupants of neighbouring residential properties, with particular regard to privacy and light.

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<sup>1</sup> LPA ref: 17/05304/FULL1

<sup>2</sup> Appeal ref: APP/G5180/W/18/3211769

## Reasons

### *Character and appearance*

6. The appeal concerns a two storey, locally listed building within the Orpington Priory Conservation Area (CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
7. The Supplementary Planning Guidance for Orpington Priory Conservation Area (SPG) identifies that the northern end of High Street is characterised by two storey buildings, punctuated by several larger buildings, within a tight village form that is rich in heritage and character. Based on my own observations, I concur, and it is these characteristics from which the significance of the CA is derived.
8. Although the listing description for the appeal building provides little detail of its particular interest other than its age and materials, the building is notable for its significantly more modest scale in relation to other buildings on this part of High Street and is reminiscent of the early village character. Through its age, scale and the retention of the original upper floor window detailing to both the front and back elevations, the appeal building makes an important contribution to the significance of the CA and is worthy of its status as a non-designated heritage asset.
9. The first floor rear extension would have a pitched roof with a ridge height lower than the existing building. It would also use matching materials and seek to replicate the existing window arrangement and style. Even so, due to its width and significant projection at an elevated level, it would have a substantial physical presence and result in the loss of most of what remains of the upper floor rear elevation and features, including the timber sash windows. Moreover, the building has already been extended with a very large ground floor extension that occupies most of the rear yard. The cumulative impact of the enlargements would be disproportionate and would overwhelm the modest building. The disproportionate scale of the extension would be further emphasised by the closeness to No 89, making it appear cramped.
10. The appellant states that the development would not be subject to widespread public view. I observed that views from Aynscombe Angle and Church Hill are restricted to narrow gaps between buildings. However, the development would be readily visible to surrounding neighbouring properties. These views also contribute to the character and appearance of the CA and are therefore important. Irrespective, the requirement for development proposals to preserve or enhance the character or appearance of the CA applies with equal force whether or not the proposal is prominent, or in public view.
11. The SPG advises that improvement works to pre 1945 buildings should take account of the character of the building and alter it as little as possible, including retention of original window openings. For the reasons above, the proposal would not accord with this guidance and would be harmful to the character and heritage interest of this locally listed building, thereby also diminishing its contribution to the significance of the CA and causing harm to its character and appearance.

12. In the parlance of the National Planning Policy Framework (the Framework), the harm identified to the designated heritage asset would be 'less than substantial'. However, any harm requires clear and convincing justification. The Framework also advises that the effect on a non-designated heritage asset requires a balanced judgement.
13. It has been suggested that the proposal would lead to improvements to the visual amenity of the site through removal of the outbuildings to the rear and tidying of the yard, but that has already taken place. No other public benefits have been put forward, although I recognise that a new dwelling would add to the supply and choice of housing in the area, albeit at a very small scale. This modest public benefit would not convincingly outweigh the harm that would be caused to the designated heritage asset and to the locally listed building.
14. I conclude, on this issue, that the development would cause harm to the character and appearance of the locally listed building and its surroundings. Thus, it would not preserve or enhance the Orpington Priory Conservation Area. The harm would not be outweighed by the public benefits of the scheme. The proposal would therefore be contrary to BLP Policies 37, 39 and 41, which amongst other things, require new development to preserve or enhance the character or appearance of conservation areas by respecting or complimenting the scale and form of existing buildings, and that extensions to locally listed buildings should be sympathetic to the character, appearance and special local interest of the building. It would also be contrary to the SPG and the Framework, as stated.

#### *Living conditions*

15. The rear elevation would contain two windows at first floor level facing the terraced properties in Aynscombe Angle. These windows would serve the living/sleeping space of the proposed studio flat. There are no trees to the rear.
16. I am informed by the appellant that the window-to-window separation to 23 Aynscombe Angle would be between 18m–21m. Such distances may be common in urban situations and I note that there are no prescribed separation distances in the development plan. Nonetheless, there would be elevated views into the small rear garden of No 23, to a greater extent than what currently exists. In my judgement, this would result in a sense of visual intrusion and loss of privacy within the garden of No 23.
17. The extension would project beyond the rear of the two adjoining properties 89 and 93 High Street, but given the relative height and position of their rear windows, any sense of enclosure and effect on outlook from those windows would be minimal. I did, however, note two windows in the side elevation of No 89. Neither appear to serve habitable rooms and one is obscure glazed, indicating a bathroom. Nonetheless, the windows are south-west facing and have uninterrupted access to natural light. The flank wall of the extension would be directly in front of the windows with only a nominal gap maintained, overhung by the eaves of the extension. Thus, the extension would obstruct nearly all of the daylight and sunlight received by the windows and would therefore be oppressive and unneighbourly.
18. I conclude, on this issue, that the development would have an unacceptable impact on the living conditions of occupants of the identified neighbouring residential properties in terms of privacy and loss of light. This would be

contrary to BLP Policy 37, which amongst other things, seeks to allow for adequate daylight and sunlight to penetrate in and between buildings, and to ensure that the living conditions of occupiers of neighbouring buildings are not harmed by inadequate daylight, sunlight, privacy or by overshadowing.

### **Conclusion**

19. For the reasons set out, I conclude that the proposal would be contrary to the relevant identified policies of the development plan, and the Framework, and therefore the appeal should be dismissed.

*Adrian Caines*

INSPECTOR