



Appeal Decision

Site visit made on 30 November 2020

by Chris Couper BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02/03/2021

Appeal Ref: APP/G5180/W/20/3253481

7A – 7B Tubbenden Lane, Orpington BR6 9PN

- 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 Chelvan (The Shalwin Organization) against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/20/00410/FULL1, dated 24 January 2020, was refused by notice dated 9 April 2020.
 - The development proposed is a change of use from D1 (surgery) to C3 (residential flats) to create 2 separate one bedroom units, with private entrances and parking (as existing).
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from D1 (surgery) to C3 (residential flats) to create 2 separate one bedroom units, with private entrances and parking (as existing) at 7A – 7B Tubbenden Lane, Orpington BR6 9PN in accordance with the terms of the application, Ref DC/20/00410/FULL1, dated 24 January 2020, subject to the conditions on the attached schedule.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the host property and the area;
 - whether the occupants of the proposed flats, and of neighbouring properties, would experience appropriate living conditions; and
 - the effect of the proposal on the availability of community facilities.

Reasons

Character and appearance

3. This part of Tubbenden Lane is characterised by attractive rows of detached and semi-detached houses, with sloping roofs and architectural embellishments such as bay windows topped by gables with exposed timbers. Standing amongst that, this highly functional, rectangular, flat-roofed building stands out as markedly incongruous.
4. The use of the building as two flats would contrast with the prevailing use of nearby buildings as separate houses. However, the effect of that use on the site's character and appearance would be limited. The general form and mass

of the building would remain the same. Additionally, whilst balconies and enclosed small front gardens are not typical of the area, they would add visual interest here, and would help alleviate the site's currently very utilitarian appearance in the streetscene.

5. Consequently, whilst as a result of this scheme the building would still be somewhat anomalous, the proposal would significantly improve its design and it would enhance the character and appearance of the area.
6. Amongst other things, and in general terms, Policies 4 and 37 of the Bromley Local Plan 2019 ('BLP') require a high standard of design which enhances the quality of local places; and development which is attractive to look at, complements the area, and contributes positively to the streetscene. For the above reasons the scheme would accord with that approach.

Living conditions

7. The DCLG Technical Housing Standards 2015 ('THS') set out minimum gross internal floor areas for dwellings, which are reflected in the London Plan 2016 ('LP'), and the Mayor of London Housing Supplementary Planning Guidance 2016 ('SPG'). The Council maintains that both flats would fall just short of those space standards, and that their outside areas would not be ideal as they would face the public realm.
8. For my part, I note that each flat would have a reasonably proportioned bedroom and kitchen/diner, with a separate bathroom, all conveniently configured around a hallway. These would provide sufficient space for the occupants to undertake day-to-day domestic tasks, such as cooking, cleaning and washing, as well as to entertain or relax.
9. Whilst the outside spaces would face the highway, they would be set back from it and, at over 5sqm, each would accord with the SPG, and would provide a sufficient area to sit outside. As this part of Tubbenden Lane is a quiet spur road, and each space would be enclosed by a timber screen or obscure glass balustrade, they would be adequately private.
10. The appellant maintains that the proposal would comply with the THS space standards; and for the above reasons, I conclude that each flat would provide appropriate living conditions for its future occupants.
11. The garden of 7 Tubbenden Lane ('No 7') wraps around the site. Although windows in the appeal building's rear face have an outlook directly over a part of that garden, the family occupants of No 7 have still made good use of it, particularly during the Covid 19 restrictions.
12. As a result of this scheme there would be one less window on the building's rear elevation. The two bathroom windows could also be obscure glazed to prevent any overlooking. However, given that a surgery may typically operate during the daytime, there could potentially be greater overlooking of No 7's garden from the proposed bedrooms in the evenings and at the weekends when those occupants are more likely to be enjoying it.
13. That said, No 7 has a relatively large garden. Given the angles of view and the distance, those parts of its garden closest to that dwelling's principal rear face, along with the dwelling's main area of decking and its conservatory, would not be significantly overlooked from the proposed bedrooms.

14. Additionally, people using bedrooms generally want to protect their own privacy with curtains. These modestly-sized bedrooms would typically be used mainly for sleeping, with the future occupants likely to spend most of their waking hours in the larger kitchen/diners, and their adjacent outside spaces. Any views from the front-facing balcony would be mainly towards the highway and not towards the properties either side.
15. For the above reasons, I conclude that the scheme would not impact the living conditions at neighbouring properties to a harmful degree.
16. Amongst other things, BLP Policies 4 and 37 require that the LP and SPG minimum space standards are met; that schemes provide sufficient external private amenity space; and that the amenity of adjacent and future occupiers is respected. Even if there would be a shortfall against the space standards it would be very marginal, and the scheme would not conflict with the general thrust of those policies.
17. As I have found that this property is suitable for conversion, BLP Policy 1, which primarily addresses strategic matters of housing supply, is of limited relevance on this issue.

Community facilities

18. BLP Policy 20 recognises the value of social infrastructure to the health, wellbeing and quality of life of the borough's residents. It therefore seeks to prevent the loss of community facilities unless they are no longer needed, or alternative enhanced provision in an equally accessible location is made.
19. The Highlands Medical Practice formerly on the site has closed. In a report reproduced at Appendix 2 of the grounds of appeal, NHS Bromley sets out that it is proposed to relocate it to the Charterhouse Surgery at 59 Sevenoaks Road, about 0.4m away. I understand that, unlike that site, the appeal premises were considered too cramped, with no potential for growth, and that it was non-compliant with the Disability Discrimination Act.
20. With reference to paragraphs 1.2 and 6.3 of the appellant's grounds of appeal, I have no reason to doubt that the relocation has taken place, or that the new site is equally accessible to the community it serves. I therefore find that the proposal would not conflict with BLP Policy 20.

Other matters

21. Access during construction and the provision of separate services are private legal matters.
22. Given that the forecourt has previously been used for parking, and that trip generation associated with two small flats is likely to be less than for a surgery, I am satisfied that the parking area and its dimensions would be adequate.

Conditions and Conclusion

23. The Council proposed a number of conditions, which I have considered against the relevant tests in the National Planning Policy Framework, making amendments where necessary to improve precision, clarity and enforceability. I have imposed the standard time limit condition and, in the interests of certainty, a condition requiring that the development be carried out in accordance with the approved plans.

24. Additionally, in the interests of the character and appearance of the area, a condition is necessary requiring that the surfaces of the building be finished in the materials proposed. For that reason, and to ensure appropriate living conditions, my fourth condition is also necessary.
25. Adequate refuse and cycle storage areas are identified on the approved plans. Given the modest level of provision and the limited available space, I am not persuaded that they should be enclosed or covered, or that further details are required. However, I have imposed a condition requiring their provision in the interests of ensuring appropriate living conditions, and to promote sustainable travel.
26. The drawings show that the parking area will be floodlit. I am not persuaded that that is necessary for this small area facing the public realm, but if it is to be lit, then in the interests of ensuring appropriate living conditions, my sixth condition is necessary.
27. I have imposed a condition requiring the provision of the proposed parking spaces so as to avoid significantly inconveniencing other road users.
28. In order to protect neighbouring occupiers' living conditions I have imposed a condition requiring that the proposed bathroom windows be obscure glazed, and non-opening, or only partially opening. However, I have not applied it to the proposed staircase window as views from there would be fleeting and towards a side elevation. I am also not persuaded that additional side-facing windows, which would address the non-principal elevations of adjacent properties, would significantly harm neighbouring amenities. I have not therefore imposed the Council's fifth suggested condition.
29. Given the limited scale of this scheme, and that it involves a change of use and not a new building, temporary impacts during construction on nearby occupiers and on the safety and convenience of highway users would be relatively modest. The Council's suggested condition requiring the submission and implementation of a Construction and Environmental Management Plan is thus unnecessary.
30. I have no evidence to indicate that surface water drainage is at capacity. Given that the scheme involves the change of use of an existing building, re-using its existing parking area, and that the application form indicates that surface water would be disposed of to mains sewers, neither the Council's suggested conditions 12 or 13 are necessary.
31. Summing up, the scheme would enhance the character and appearance of the host property and the area; it would ensure appropriate living conditions for all occupiers; and it would not adversely impact the provision of community facilities. Consequently, having regard to all other matters raised, including representations by interested parties, the appeal is allowed.

Chris Couper

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Other than the lighting of the external parking area, the development hereby permitted shall be carried out in accordance with the following approved plans: 767/001A, 767/002, 767/009A, 767/010C, 767/011C, and 767/020B.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as set out in the planning application form and the approved plans.
- 4) The hard landscaping and boundary treatments as detailed on the approved plans and the application form shall be implemented prior to the first occupation of the flats, and shall thereafter be retained.
- 5) The refuse and recycling storage area, and the cycle spaces, as identified on drawing no. 767/010C, shall be provided in accordance with that plan prior to the first occupation of the proposed flats, and shall thereafter be retained.
- 6) If any lighting to the external parking area is to be provided, details shall be submitted to, and approved in writing by, the Local Planning Authority prior to its installation. The lighting shall then be implemented in accordance with the approved details and retained as such thereafter.
- 7) Prior to the first occupation of the flats, the parking spaces shall be provided in accordance with the approved plans, and shall thereafter be kept available for such a use.
- 8) Prior to the first occupation of the flats, the bathroom windows shall be obscure glazed to a minimum of Pilkington privacy Level 3, and shall be non-opening unless the parts of the windows which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The windows shall be retained as such thereafter.
