The Planning Inspectorate

Appeal Decision

Site visit made on 8 April 2021

by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2021

Appeal Ref: APP/G5180/W/20/3257594
The Lodge, Southend Road, Beckenham BR3 1SE

- 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 Robert Grant against the decision of the London Borough of Bromley Council.
- The application Ref DC/19/05347/FULL1, dated 23 December 2019, was refused by notice dated 13 February 2020.
- The development proposed is the demolition of existing building and redevelopment of the site to provide 8 residential units in a 4 storey building and associated landscaping, car parking, cycle parking, access and refuse.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues of the appeal are the effect of the proposed development on:

    - the character and appearance of the host property, local area, the Southend Road Conservation Area (the Conservation Area) and the setting of Grade II Listed Buildings; and

    - the effective use and safety of the highway.

Procedural Matters

3. Since Bromley Council's (the Council) refusal of the application Ref DC/19/05347/FULL1, the Mayor of London has adopted a new London Plan. In line with Planning Practice Guidance, my consideration of the issues of this appeal has, therefore, been on the basis of the National Planning Policy Framework (the Framework), the Bromley Local Plan 2019 (the Local Plan) and the London Plan 2021 (the London Plan). The appellant and the Council have confirmed that this is not prejudicial to their cases.

4. The address used for the appeal property varies between the documents submitted for this appeal, for clarity I have used the address used in both the Council's decision notice and the appellant's appeal statement.

5. The appellant has submitted a revised plan Ref: 183360-002 Rev A, with the appeal. This shows adjustments to the positioning of the footway and verge area adject to the vehicular access to the appeal property. This is intended to

overcome concerns expressed by the Council with regard to road safety. Given that the Council and other interested parties have had opportunity to comment on the revised plan, I have considered this revised plan in line with the Wheatcroft principles[1] .

Reasons

Character and Appearance and Heritage Assets

6. The local area of the appeal site has genuine sylvan qualities and is made up of large residential developments sitting in their associated landscaping, either houses or blocks of flats that demonstrate the residential evolution of the area over 200 years to the present. The local area of Southend Road is characterised by early Cator Estate development of large Italianate semi-detached villas dating from circa 1850, and fine 1950s block of flats that contribute to the significance of the CA. Located on the opposite side of Southend Road to the appeal site are the Grade II listed gatehouses to Beckenham Place, a Georgian Country estate established by John Cator. The Gatehouses are therefore of some age and are therefore of historic as well as architectural value.

7. These are heritage assets to which I have a statutory duty under sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. I must have special regard to preserving the setting of a listed building and pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

8. The proposal is to replace the existing single dwelling on the appeal site, with a development of 8 dwellings in a single residential building that would appear to be 4 storeys, despite the dormer window form adopted for the upper floor flats.

9. I concur with both the appellant's Built Heritage Statement (BHS) and the Council that the demolition of the existing dwelling on the appeal site would be neutral in terms of its impact on the character or appearance of the Conservation Area.

10. The appeal site is prominently located on a large plot on the wide and open junction between Southend Road, Copers Cope Road, Foxgrove Road and Beckenham Place Park access road. This allows for long views of the proposal, which, due to its height, bulky roof massing and dormer windows, would appear as unduly prominent within the context of surrounding development and associated landscaping.

11. When combined with the additional hardstanding proposed on the appeal site, the proposal would appear as excessively urban and unduly assertive and dominant within the context of the sylvan character and appearance of the local area and that of the Conservation Area of which it forms part.

12. Due to its scale, height and massing the proposal would also appear prominently within the context the Grade II Listed gatehouses when viewed from the open junction next to the appeal site, as well as from Foxgrove Road and Beckenham Place. Within these views, the proposal would appear as unduly assertive and dominating in the local scene.

[1] *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37])

13. For these reasons I do not agree with the appellant, or the conclusion of their BHS, that the proposed development would be in keeping with the character and appearance of the Conservation Area and would have no impact on the significance of the Conservation Area or the surrounding listed buildings. Rather, I find that the proposal would not respond positively in terms of its height, bulk and massing to the character and form of neighbouring development. Thereby promoting an unduly prominent addition to the townscape of the local area that would not fully take into account the preservation or enhancement of the character or appearance of the Conservation Area and the setting of the Grade II Listed gatehouses.

14. I acknowledge that the appellant has sought to respond to issues raised in a previous dismissed appeal[2] for a residential development on the appeal site, however, I have considered the development as proposed on its own merits, which is a fundamental principle that underpins the planning system.

15. The appellant has drawn my attention to the permitted development rights[3] that would allow for up to two additional storeys to be built on to existing purpose built and freestanding housing blocks, of the type to be found in the local area. This is referred to by the applicant as a fallback position. Whilst this permitted development right demonstrates a wish to create more self-contained homes, it only represents a potential for upward extension of building on sites other than the appeal site, which would be subject to pre-determination by the Council, with regard to the Framework so far as relevant to the subject of the prior approval and the required public consultations. Therefore, I have afforded only moderate weight to this in my considerations.

16. I find, therefore, that the proposal would cause harm to the character and appearance of the local area, contrary to Policies 4 and 37 of the Local Plan and Policy D3 of the London Plan which collectively seeks to ensure that development is of a high standard of design, and that it enhances local places, while respecting local character.

17. Furthermore, the proposals excessive bulk, height and massing and resultant undue prominent presence of the proposed 4 storey building would, in combination with the proposed extent of hardstanding, fail to preserve the character or appearance of the Conservation Area. In the significant views I have identified from within the Conservation Area, the proposal would also cause harm to the setting of the Grade II Listed gatehouses. I therefore find that the proposed development would be contrary to Policy 38 and 41 of the Local Plan and Policy HC1 of the London Plan, which seek to ensure that development has due regard to the importance of preserving or enhancing heritage assets and conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings.

18. The proposed development would result in substantial harm to the significance of the Conservation Area and, although I find, within the context of paragraph 196 of the Framework, the harm to the listed building would be considered less than substantial, in accordance with the Framework, great weight should be

[2] Appeal Ref: APP/G5180/A/08/2092593
[3] Schedule 2, Part 20, Class A and Class ZA of The Town and County Planning (General Permitted Development) (England) (Amendment) (No.2) Order 2020

given to the conservation of those assets. I address the balance against public benefits in my conclusion below.

Effective use and safety of the highway

19. Vehicular access to the appeal site would continue to be by the existing access located on Copers Cope Road, immediately adjacent to its junction with Southend Road, a 5-way junction with no pedestrian facilities.

20. Due to the existing wall and gate piers that it is proposed to retain, the visibility from vehicles exiting the appeal site of people using the footway is very limited. Based on my observations during the site visit, I find that this results in an existing pedestrian environment that gives the appearance of being hazardous and which results the footway being experienced as unsafe by its pedestrian users.

21. The appellant has sought to address concerns with regard to the safety of the highway through the submission of a plan that shows adjustments to the positioning of the footway and verge area adjacent to the vehicular access, intended to overcome the second reason for refusal given by the Council in the decision notice. The appellant has also provided a Stage 1 Safety Audit related to the proposed highway design adjustments.

22. In their appeal submission the Council have provided details of the collision history and accident profile of the junction detailed in the Councils appeal submission.

23. The appellant has argued that the intensification of the use of the existing vehicular access generated by the proposal would be negligible compared to the existing situation. However, when compared with the existing single dwelling on the appeal site, I find that the proposed housing development and its 8 dwellings would result in a proportional and not insignificant increase in use of the existing vehicular access and activity from occupiers and visitors.

24. I find that, due to the increase in vehicular activity that would result from the proposal and the proximity of the vehicular access to the appeal site and the junction, it would result in a risk of congestion at the junction of Copers Cope Road and Southend Road. This would not only be detrimental to the effective use of the highway but also to the safety of the junction for both its vehicular and pedestrian users.

25. I further find that, notwithstanding the proposed adjusted layout detailed in the revised plan submitted by the appellant, the increase in vehicular use of the existing access that would be generated by the proposal would, due to the limited visibility of pedestrians afforded by the presence of the existing wall and gate piers, result in significant detriment to the safety of pedestrians using this footway. Notwithstanding the appellant's Stage 1 safety audit, the appellant has not provided any material that would justify their proposal in this regard.

26. For these reasons, I find that the proposal would result in harm to the effective use of the highway and significant harm to highway safety, which would conflict with policy 32 of the Local Plan and Policy T1 and T2 of the London Plan, which seek to ensure that development does not significantly adversely affect road safety and mitigate any impacts on London's transport networks and

demonstrate how they will deliver improvements that support the ten Healthy Streets Indicators including people feeling safe.

Planning Balance and Conclusion

27. Paragraph 11d, footnote 7 of the Framework states that where there are no relevant development plan policies, or the policies most important for determining the application are out-of-date (including housing, where the LPA cannot demonstrate a 5-year supply of deliverable housing sites), permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

28. When this is the case, and as this appeal relates to the provision of housing, the need for the proposal to be considered against paragraph 11d is triggered. However, although the proposal must be determined within the context of paragraph 11d, I consider the Local Plan policies are a material consideration within this decision, which carry full weight in so far as they conform to the Framework, along with the relevant policies of the London Plan. The Local Plan Policies 4, 32, 37, 38 and 41 and Policies D3, HC1, T1 and T2 of the London Plan which are most relevant to this appeal, are consistent with the Framework, specifically Sections 9, 12 and 16, which seek to promote sustainable transport, achieve well designed places and the preservation and enhancement of the historic environment.

29. According to the Government's Housing Delivery Test: 2020 the Council has a significant projected housing shortfall on that required. The Council's projected housing shortfall is also below that identified in the London Plan (2021).

30. As I have identified above, the proposal would result in harm to the effective use of the highway and significant harm to highway safety, as well as significant harm to the character and appearance of the local area and that of the Conservation Area, along with less than substantial harm to the significance of the Grade II Listed gatehouses, contrary to Local Plan Policies 4, 32, 37, 38 and 41 and Policies D3, HC1, T1 and T2 of the London Plan. In light of the Council's housing land supply position, paragraph 213 of the Framework makes it clear that weight should be given to existing development policies according to their degree of consistency with the Framework. Section 12 and 16 of the Framework recognise that developments should seek to achieve well designed places and the preservation and enhancement of the historic environment.

31. Even taking account of the objective of significantly boosting the supply of homes and the Council's supply position, the conflict between the proposal and the relevant parts of Policies 4, 32, 37, 38 and 41 of the Local Plan and Policies D3, HC1, T1 and T2 of the London Plan should be given significant weight in this appeal.

32. Set against the harm identified there would be social and economic benefits associated with the development. The appeal site is a 'windfall' site in terms of housing, in so far as it is a site not previously identified in the Bromley Development Plan and presents an opportunity for the proposed 8 dwellings. Although a relatively modest contribution to the overall housing target for the London Borough of Bromley, smaller housing schemes do collectively make a major contribution to the number of new residential units, as further

recognised in Policies H2 and H3 of the London Plan, which seek to increase the supply of housing on small sites, and I have given this significant weight in my considerations. The proposal would also generate employment opportunities during construction, and through the employment of local services for its upkeep and maintenance when occupied, as well as generating revenue benefits and spending by occupiers in the local area. In connection with the additional 8 dwellings proposed, these benefits attract modest weight in favour of the proposed development.

33. Consequently, I conclude that the significant harm to the character and appearance of the local area and that of the Conservation Area, along with less than substantial harm to the significance of the listed buildings that I have identified, would significantly and demonstrably outweigh the public benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

34. The proposal would conflict with the development plan as a whole and there are no other material considerations which outweigh this finding. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Victor Callister

INSPECTOR