



Appeal Decision

Site visit made on 10 November 2021

by C J Leigh BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2021

Appeal Ref: APP/D5120/W/21/3271873

281 Broadway, Bexleyheath, DA6 8DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr K Court, H and F Finance Ltd against the Council of the London Borough of Bexley.
 - The application Ref 20/03271/FUL is dated 11 December 2020.
 - The development proposed is demolition of 281 Broadway and warehouse to the rear and erection of a part three/four-storey building comprising a commercial unit for Class E use or a tattoo studio (*sui generis*) fronting Broadway and 9 apartments (4 No. studios, 1 No. 1-bed, 3 No. 2-bed, 1 No. 3-bed) with associated amenity space and landscaping.
-

Application for costs

1. An application for costs was made by H and F Finance Ltd against the Council of the London Borough of Bexley. This application is the subject of a separate Decision.

Decision

2. The appeal is dismissed and planning permission refused.

Reasons

3. The main issues in this appeal are:
 - a) the effect of the proposed development on the character and appearance of the area;
 - b) the effect of the proposed development on the living conditions of adjoining occupiers, with particular reference to light and outlook;
 - c) whether the proposed development would provide satisfactory living conditions for future occupants.

a) Character and appearance

4. The appeal site fronts a busy commercial area where there is some variety in the design and form of buildings. However, there is a broader consistency in the vicinity of the appeal site with the height of buildings being two or three storeys, with the appeal property of 281 Broadway lying between two storey pitched roof properties. The staggered building line along Broadway means No. 281 is set notably forward of the neighbour to the west at ground floor. The

appeal site also comprises a large warehouse building to the rear of Broadway, where there is again variety in the appearance of buildings.

5. The main parties raise no objection to redevelopment of the appeal site and I concur; there is the opportunity to improve the appearance of the site over the dilapidated condition and discordant form of buildings on the site. However, the proposed building would be notably out of character with other properties on Broadway due to the excessive height, scale, mass and siting as shown in the drawings. The considerable increase over the height of the modest two storey pitched roof buildings either side would appear discordant in the street, emphasised by the flat form and horizontal emphasis to the elevations of the building.
6. Although a set-back at the upper levels is shown to reduce the massing, the staggered building line means the proposal would be set notably further forward than the neighbour at No. 283. This would create a tall flank elevation having a very dominant effect when looking towards the appeal site from the west, which would be further emphasised due to the raising of the building above neighbours in front and behind as seen in that view.
7. There is a recent permission for redevelopment of 271 Broadway, which sees a four storey building adjoining the terrace of 273-279 Broadway. That building relates appropriately to the area being a corner site that references the other tall corner buildings of No. 269 and The Golden Lion pub. Although the new building on No. 271 rises above the two storey terrace adjoining, much more limited views of that west elevation exist in the area due to there not being any staggered siting of the building line; with the appeal proposal it is in particular the increase in height over adjoining properties to either side and the long views of the tall flank western elevation due to the forward position that would make the scheme unduly prominent and discordant in the street.
8. I note there is also a three storey building at 287-289 Broadway of some age, taller than the neighbouring buildings. However, this in itself relates poorly to the area due to the height and partially coming forward of the building line of Nos. 283-285 at first floor and above. Thus, it is not a good example to follow and, furthermore, the appeal proposal is for a building taller again and also set further forward.
9. On the first issue it is therefore concluded that the height, scale, siting and design of the proposed development would not lead to the creation of a high quality place, and so would be contrary to Section 12 of the National Planning Policy Framework. This would lead to harm to the character and appearance of the area, which is contrary to Policies D3 and D4 of the London Plan 2021, Policy CS01 of the Bexley Core Strategy 2012 and the relevant provisions of saved Policies H8 and ENV39 of the Bexley Unitary Development Plan 2004 (UDP), whose objectives include, amongst other matters, that residential development is of a high standard of design, and their siting, design and appearance are compatible with the character of the area.

b) Living conditions of existing occupiers

10. The property of No. 283 to the west contains residential properties on the upper floors. There is a window at first floor to that property facing south and currently adjoins the existing side elevation of the closet wing. The submitted

Daylight and Sunlight Assessment shows a reduction in light to that window meaning the guidance for vertical sky component and no sky line contained in the Building Research Establishment's publication 'Site layout planning for daylight and sunlight: a guide to good practice' would not be met.

11. I accept the reduction is limited, but I cannot agree this would not be material: combined with this reduction is the very constrained outlook that would be created. The window, and room behind, would look out towards a narrow channel with the existing closet wing to the west and the very tall flank elevation of the proposal extending deep into the site. With this constrained outlook I concur with the Council that the reduction in light would be appreciable, and be harmful to living conditions. Whilst I agree the use of the room as a bedroom gives a further degree of flexibility in interpreting the guidance on loss of light, the degree of harm to levels of light and outlook is sufficient in my judgement to still be objectionable.
12. The property of No. 279 to the east has two windows at first floor in the side elevation of its closet wing facing the appeal site. These windows were not fully assessed in the lighting assessment, with my attention drawn to an existing screen in front of those windows. I accept that screen will have some effect on levels of light to the room behind those windows, but on what I have read and seen I cannot go on to conclude with confidence there would be no harmful effect on levels of light or outlook. The existing screen rises to around eaves height and, due to the pitched roof of the existing property at No. 281, there is a general absence of building mass above that screen.
13. The proposed building would rise significantly higher than the existing building and the screen in this location, and with a much greater depth. The height, width and extent of this flank elevation, close to those windows of No. 281 are of such extent that I am not persuaded the levels of light to those windows, and the room behind, would be acceptable. These matters mean there would also be an unduly oppressive outlook to those windows. Again, whilst the use of the room as a bedroom may allow flexibility on these matters, the scale of harm still gives rise to an objection.
14. The position of the building and location of balconies ensure no unreasonable loss of privacy to existing residents. However, the scale, position and height of the proposed building means that, on the second main issue, it is my conclusion the proposal would be harmful to the living conditions of existing occupiers with regards to light and outlook. This would be contrary to saved Policies ENV39 and H7 of that seek to ensure new residential development is not prejudicial to the environment of the occupiers of adjacent properties.

Living conditions of future occupiers

15. The proposed development shows the provision of single aspect flats. Policy D6 of the London Plan 2021 states that housing developments should normally avoid single aspect dwellings, and they are only to be provided where it is a more appropriate design solution to meet the requirements Policy D3 of the London Plan (Optimising site capacity through the design-led approach), and it can be demonstrated that it will have adequate passive ventilation, daylight and privacy, and avoid overheating.

16. I am satisfied from the information provided to me that the proposed flats would have adequate daylight and privacy. However, no information has been provided regarding ventilation and avoidance of overheating. The supporting text to Policy D6 is clear why dual aspect dwellings are generally sought and single aspect dwellings to be avoided (paragraphs 3.6.4-5). I do not agree this is a matter that can be dealt with by condition since it may be that the design and layout of the scheme itself may have an implication on meeting these policy requirements; without any details on the matter, it simply cannot be said with certainty Policy D6 would be satisfied.
17. The layout of the flats shows sufficient amenity space for future occupants, with balconies for upper floor properties and a ground floor amenity space for Flat 1. There is sufficient space within the rear area of the site to ensure that amenity space is useable by future occupants, notwithstanding the fact that the wider area would be used by other residents.
18. I share the Council's concerns regarding the outlook for the third bedroom in Flat 1. The sole window is to the service access for the development, which is a narrow space enclosed by the flank elevations of the proposed building and the boundary with the neighbour. It would be an area well-used by other residents reaching the cycle store. I further consider this would lead to unreasonable noise disturbance, which should be avoided due to the use as a bedroom. I do not agree a condition could be attached preventing use of that room as a bedroom as a breach would be difficult to detect and hence enforce.
19. On the third main issue it is therefore my conclusion that the proposed development would not provide a satisfactory standard of accommodation for future occupants. This would be contrary to Policy D6 of the London Plan and saved Policy H7 of the UDP.

Other considerations and conclusions

20. The site lies within the Bexleyheath & Crayford Area of Archaeological Search. Following the Council's objection due to there being no archaeological assessment the appellant submitted a Desk Based Assessment. This has satisfied Historic England and I am content this matter has been resolved, subject to suitable conditions.
21. The proposed development would see refuse collection from Broadway, with a refuse vehicle temporarily waiting on the road whilst bins are collected. The Council raise concern that this operation would interfere with a bus cage outside the site. However, from what I have seen at the site visit and read in the submissions, it is apparent that many properties along Broadway are serviced this way (including the existing property fronting Broadway), which I understand is a visit once a week. I have no reason to doubt that operatives of the refuse vehicle will be aware of traffic regulations and so will not obstruct bus maneuvers, and I can also safely presume this occurs at present along Broadway. I therefore think the development would be serviced with no harm to highway safety or the freeflow of traffic.
22. The proposal would lead to the provision of dwellings and modern commercial space in a sustainable location well served for means of travel other than the private car, and would make the more efficient use of land for housing. The Framework sets out the Government's objective of significantly boosting the

supply of homes, and I attach significant weight to this. However, it is my overall conclusion that the harm arising on the main issues, and the consequential conflict with the development plan and the Framework, outweighs other considerations. The appeal is dismissed accordingly.

C J Leigh

INSPECTOR