



Appeal Decision

Site visit made on 21 February 2022

by Chris Couper BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th March 2022

Appeal Ref: APP/G5180/W/21/3276653
35 Widmore Road, Bromley BR1 1RW

- 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 Batchelors Solicitors against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/21/00160/FULL1, dated 24 December 2020, was refused by notice dated 22 March 2021.
 - The development proposed is described as a new four storey building to provide nine apartments, 6 x one bed, 2 x two bed and 1 x three bed.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description above from the application form, although I note that as well as ground to third floors, the scheme includes a recessed fourth floor.
3. The revised National Planning Policy Framework came into force on 20 July 2021 ('Framework'). I have therefore had regard to that document, rather than the now superseded 2019 version, in my decision.

Main Issues

4. The main issues are:
 - whether or not the proposal would preserve or enhance the character or appearance of the Bromley Town Centre Conservation Area, including its effect on the setting of listed and locally listed buildings;
 - whether the occupants of the proposed apartments would experience appropriate living conditions; and
 - the effect of the proposal on adjacent occupiers' living conditions.

Reasons

Character and appearance

5. The site falls within the Bromley Town Centre Conservation Area ('BTCCA'). The Bromley Town Centre Conservation Area Statement 2011 ('CAS') identifies this part of it as the Bromley North Character Area. Many of the buildings here

form part of the civic node which the CAS describes as having a quiet and dignified character, with much original, attractively detailed, architecture.

6. Those buildings, which are typically finished in a cohesive palette of red brick and stonework, include the former Town Hall, with the original 1906 building and a later 1930s extension both Grade II listed. Although its return elevations along this part of Court Street are plainer, and there have been some later twentieth century alterations, it is still an attractive, broadly two storey high, red brick building with stone dressings to its fenestration, and with a central courtyard.
7. The CAS notes that within this Character Area there have also been some mid to late twentieth century additions, such as the extension to the locally listed former Police Court House/Magistrate's Court, known as 'Community House', which have not been to the same standard. I observed that the part of that non-designated heritage asset which lies closest to the appeal site lacks the design detailing and quality of much of the rest of the building, although it does respect its predominantly two storey height.
8. Indeed, looking along Court Street from its Widmore Road junction there is a noticeable drop in height from Charles House to the predominantly two or three storey buildings beyond and opposite, with the view punctuated by the locally listed Fire Station.
9. Although the appeal site may have once been occupied by a single storey industrial building, it had been demolished by time of the 1989/1991 Ordnance Survey map, and it now comprises a largely vacant plot principally covered with hardstanding and commercial paraphernalia, and is used for parking and access. As such, there are views across it from Court Street to adjacent buildings, including Charles House, Community House and a Victorian former warehouse ('former warehouse') which has some architectural detailing on its end section.
10. Consequently, in my view whilst the plot does not detract from the quality and character of the area, neither does it form an 'attractive' break as suggested by the Council. Its contribution to the streetscene and to the area's character is neutral. I therefore agree with the conclusion reached in the Heritage Statement by Cogent Heritage ('HS'), broadly echoed by the Council, that there is no reason in principle why the land could not be developed.
11. Turning to the proposed building, it would occupy most of the plot, such that there would be very limited separation between it and Charles House. At effectively five storeys high, with only a small step back at fourth floor, it would have a very significant bulk and an imposing presence in the streetscene.
12. Additionally, notwithstanding its saw-tooth northern façade, there would be an abrupt step down to the much lower Community House, and it would tower over the former Town Hall. The impression of a bulky, 'top-heavy' development would be exacerbated by the open ground floor undercroft.
13. The HS describes the elevational design as 'unfussy', and there is no evidence on the drawings of 'patterning' on the northern elevation as described in the Design and Access Statement. Concerns have also been raised regarding the proposed materials, including the use of yellow/red brick, although that detail could be addressed by means of a condition should the appeal be allowed.

14. Nevertheless, having regard to Part III of the HS, I share the Council's concern that although the design is contemporary, it is rather generic and does not appropriately reference the site-specific context here. Whilst the scheme would largely hide the bland, poorly articulated, yellow brick, rear façade of Charles House from the streetscene, it would appear cramped on this plot, and its scale and mass would not appropriately relate to Community House or to the former Town Hall.
15. Paragraphs 197 and 199 of the Framework state that in determining planning applications account should be taken of the desirability of sustaining and enhancing the significance of heritage assets, and that when considering the impact of development on the significance of a designated heritage asset (such as a listed building or a conservation area), great weight should be given to its conservation.
16. This is in line with Sections 66(1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which require that special regard be had to the desirability of preserving listed buildings or their settings, and preserving or enhancing the character or appearance of conservation areas.
17. For the reasons above, the scheme would not preserve the setting of the former Town Hall and it would neither preserve nor enhance the character and appearance of the BTCCA. Applying Framework paragraph 202, and Bromley Local Plan 2019 ('BLP') Policy 38, I consider that the harm to those designated heritage assets would be 'less than substantial'. In these circumstances, the Framework and BLP Policy 38 state that the harm should be weighed against the public benefits of the proposal, including securing the asset's optimum viable use.
18. In terms of public benefits, the Council cannot demonstrate a five year supply of housing, as required by Framework paragraph 74. The Framework also seeks, at paragraph 60, to significantly boost housing supply. The construction of nine apartments here would thus make a small contribution to the Framework's social objectives, and to housing delivery and growth objectives in the BLP and the London Plan 2021 ('LP'), including its Policy D1.
19. That housing would be on previously developed land within a sustainable and accessible location in a Town Centre Opportunity Area, where the residents would no doubt contribute to the area's vitality and viability, all in accordance with development plan and Framework policies. There would also be economic benefits including during construction and from subsequent occupation.
20. However, the public benefits of the scheme would not outweigh the identified harm to heritage assets. The scheme would therefore conflict with BLP Policies 38 and 41, LP Policy HC1 and Section 16 of the Framework.
21. It would also conflict with BLP Policies 4, 37 and 39, and LP Policy D3 which amongst other things, and in broad terms, require a high standard of design which respects matters such as local character (including non-designated heritage assets), the site's context and the space around buildings, and which require development to make a positive contribution to the streetscene. However, as the scheme would be appropriately accessible there would be no conflict with LP Policy D5.

Living conditions in the proposed apartments

22. Whilst some of the proposed bedrooms on the scheme's northern face would only be served by a narrow window with a wall to one side, that would still give the occupants an adequate outlook, and would provide them with some natural light. The scheme's rear face would have an aspect across a parking area with a gap to the former warehouse. There would therefore be a satisfactory outlook from the windows in that elevation.
23. However, I have significant concerns regarding the utility of the proposed outdoor amenity areas on the scheme's southern face, which would be sited very close to the rear of the buildings on Widmore Road, whose height and bulk would be a looming presence over them. Whilst there is public open space nearby, as it would be less immediately accessible to residents it does not adequately mitigate for the poor quality private space here.
24. Additionally, since the planning application the subject of this appeal was determined, approval has been granted for the conversion of the upper floors at Charles House into 14 flats (Ref: 21/00855/RESPA) ('approved scheme'). Should Charles House be converted, there would also be potential for a significant degree of overlooking at very close quarters.
25. Turning to the acoustic environment, LP Policy D13 places the responsibility for mitigating the impacts from existing noise and other nuisance generating activities or uses on proposed new noise sensitive development, such as housing.
26. Whilst the submitted Noise Impact Assessment was considered acceptable for the approved scheme, I have no cogent or site specific evidence to assess what the impact of existing adjacent uses and activities, including the nightclub in the former warehouse and air conditioning, would be on the living conditions for the occupants of this scheme, nor regarding any mitigation required here. In that regard I note in particular that the scheme's rear elevation includes windows serving kitchen/living rooms and a bedroom, which would only be separated by a narrow gap from the nightclub.
27. Consequently, applying the 'agent of change' principle, I cannot conclude that the occupants of the proposed apartments would experience appropriate living conditions having regard to noise and disturbance from existing uses.
28. The Council states that as proposed apartments 5 and 8 have bedrooms of 11.3 sqm, in accordance with the DCLG Technical Housing Standards 2015 ('THS') they should be assessed as two person units and should have a minimum gross internal area of 50 sqm. However, the THS sets out that in order to provide two bedspaces, bedrooms should have a floorspace of at least 11.5sqm. As the bedrooms here would be less than that, they should be assessed as one person units, and at around 42 sqm each they would comply with the THS and, on this specific matter, with LP Policy D6.
29. Nevertheless, for the reasons above, the scheme would conflict with LP Policy D13, and with those parts of BLP Policies 4 and 37, and LP Policy D6, which require the provision of practical, useable, private external amenity space, and which require future occupants' living conditions not to be harmed by noise or inadequate privacy.

Adjacent occupiers' living conditions

30. The Daylight and Sunlight Analysis ('DSA') prepared by Ingleton Wood found that the proposed development on the appeal site would be likely to have a noticeable impact on daylight in Charles House and Community House. Nevertheless, it also concluded that, as offices tend to operate in a way that actively obscure natural light, and that they typically have deeper plans and are more likely to depend on electric light, the proposal would be unlikely, on balance, to significantly affect amenity within those offices.
31. However, given the height and proximity of the proposed development to Charles House, and having regard to the approved scheme, I have significant concerns that the proposal could significantly affect the availability of daylight and sunlight for any future residential occupiers of Charles House.
32. As a result, on the basis of the available and now rather outdated evidence, I conclude that the scheme would be likely to affect the living conditions of any future residents of Charles House to a harmful degree. Consequently, the proposal would conflict with those parts of BLP Policy 37 and LP Policy D6 which, amongst other things, require development to respect the amenity of occupiers of neighbouring buildings and to ensure sufficient daylight and sunlight appropriate to the context.

Overall Planning Balance and Conclusion

33. The Council cannot demonstrate a five year housing land supply. In such circumstances paragraph 11d) of the Framework and its footnotes 7 and 8, set out that planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed, which includes harm to designated heritage assets.
34. I have found that the scheme would harm the significance of designated heritage assets. That harm would be less than substantial, but would not be outweighed by the public benefits of the scheme. This provides a clear reason for refusal.
35. Additionally, from the evidence before me, I am not satisfied that the occupants of the proposed apartments would experience satisfactory living conditions, or that the scheme would not harmfully impact the living conditions within the approved scheme at Charles House. Consequently, having regard to all other matters raised, including representations by interested parties, the appeal is dismissed.

Chris Couper

INSPECTOR