



Appeal Decision

Virtual Hearing Held on 30 March 2022

Site visit made on 1 April 2022

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 MAY 2022

Appeal Ref: APP/D5120/W/21/3266732
175 Bellegrave Road, Welling DA16 3QS

- 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 Mistvale Ltd against the decision of the Council of the London Borough of Bexley.
 - The application Ref 20/00989/FULM, dated 27 April 2020, was refused by notice dated 11 August 2020.
 - The development proposed is demolition of existing buildings and erection of a part 4/part 5 storey building comprising replacement retail pharmacy on the ground floor with 20 apartments with cycle and refuse stores.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Amended plans including a Computer-Generated Image (CGI) were submitted with the appeal. The appellant's statement and subsequent correspondence confirms these are in response to the Council's refusal of the application. The Council has considered these plans and commented upon them in their appeal submissions. The plans show minor alterations to the internal layout, albeit important ones in the context of the Council's objections. Nonetheless, they do not substantially alter the nature or substance of the application which remains as applied for.
3. A number of additional documents were also received both prior to and after the hearing as set out at the end of this decision. Opportunities were given prior to and at the hearing for comments and overall, I find no party would be prejudiced by my consideration of the amended plans and additional evidence. I have therefore taken them into account in reaching my decision. The Revised National Planning Policy Framework (the Framework) was issued on 21 July 2021. The main parties were given the opportunity to give any comments, and these have been considered.

Main Issues

4. The main issues in this appeal are:
 - The effect of the proposal on the character and appearance of the area.

- Whether acceptable living conditions would be created for future occupiers, with particular regard to the provision of private external amenity space.
- The effect of the proposal on highway safety.
- Whether the proposal would be acceptable with regard to cycle parking and waste management provision.
- Whether the proposal would prejudice the re-development of adjoining land.

Reasons

Character and appearance

5. The prevailing character and appearance of this part of Bellegrove Road is one of residential and commercial properties of a strong traditional type, form, scale, and appearance. Properties are generally set out in linear rows along the A207 and are mainly 2 to 3 storeys and of a consistent building line with ground floor commercial, retail, and other uses and residential above. Immediately to the rear on both sides are generally 2 storey traditional residential suburbs of a strong traditional character and appearance.
6. The prevailing height of the buildings at this point is low with a petrol station forecourt canopy and signage prominent in the street with 2 storey commercial buildings prevailing opposite and on the appeal site. In combination with the Council owned and operated Westwood Lane car park, which wraps around the site to the side and rear and the broadly consistent suburban scale, this assists in providing a sense of openness and spaciousness, transitioning from the more densely developed commercial centre to the east and its denser rows of linear built form, to the suburban residential areas beyond.
7. It is also not always essential for a proposal to replicate the traditional design or appearance of a building or area and contemporary design can develop a further layer of townscape which complements, rather than competes with the past. For such development to be successfully achieved in design terms this does not necessarily mean it has to 'fit-in' or replicate existing patterns and styles of architecture, but it must positively respond to the constraints and opportunities of the site and locality and be visually appropriate.
8. The proposed building would occupy virtually all of the site area and there is no escaping that in essence, it would be a 'L' shaped 5 storey block under a flat roof. Sited very close to its boundaries the height, mass and form of the building would be considerably greater than any of the buildings that form the townscape context at this point. The sense of openness that gives way to the town's suburbs would be significantly diminished by such a large building mass and overly boxy form, unacceptably revealing its abrupt size on the approach from underneath the railway bridge and in views from trains on the line above travelling in and out of Welling.
9. The design approach to the external appearance has been to set back the upper storey and seek to visually break down the massing by applying different treatments but overall, the building takes insufficient visual cues from the vernacular of the local area and does not reflect local distinctiveness in any way. For a building of such scale the general arrangement of fenestration and

detailing would not supply a sufficient and interesting visual contrast to break up what are large facades facing the public realm.

10. To the open public car park, the wide shallow horizontal glass balustrading would sit jarringly with the narrow and irregular window openings. In combination with the contrasting grey cladding for the upper storey the eye would be unacceptably drawn to the building's undue height, exacerbated by the contrasting use of a bright buff Marziale and grey Forum Chrome brick. Its incongruity is graphically illustrated to me in the proposed CGI and Streetscene drawing¹ and the effects would be widely perceived from the public realm and surrounding residential properties.
11. Closer to the site and from the street views of sky and openness above and around the existing buildings would be replaced with monolithic walls of brick and narrow, regimented fenestration serving corridor circulation areas. When approaching from the east the lack of sufficient interest would visually confront passers-by with a view that is typically found on the rear service elevations of office blocks with little or no street presence.
12. Bland and lacking sufficient interest when seen above the petrol station canopy this is not how large façades evident from the main route in and out of the town centre should appear. The overly box like buff brick 4 storey entrance would be a particularly incongruous and unduly prominent addition jutting out into the streetscene. It would be a poor gateway feature for this main approach into the centre.
13. The appellant argues that it is necessary for the proposal to occupy the whole site because the plot is constrained, and this reflects the relationship on other sites. Further, that the windows are designed to not prejudice development of adjoining sites. However, design policies (whether local or national) apply to plots of all shapes and sizes, each site has its own constraints and opportunities and I do not think that the design approach taken here can be justified on the basis of site constraints.
14. This might well be a site where a building of individual contemporary appearance and greater scale could be appropriate, but the overall effect here would be a building with a heavy, monolithic feel and an appearance that would only serve to emphasise its incongruity in its more traditional setting. Optimisation of density in this case has resulted in what would be a jarring obtrusion of urban inner-city style architecture far too big and visually intrusive for its surroundings and offering little positive sense of place and identity. In this location, it would form a new character but one which would be wholly detrimental to the spatial and visual interests of the area.
15. In reaching this view I have had regard to the existing development at 64-100 Bellegrove Road which I observed at my visit. I do not have the full details of that scheme before me, but that building is also 5 storeys, appearing part of a part of a larger retail led development, anchoring this end of the town centre. The building replicates the scale of Morrison's retail block opposite although at 4-5 storey equivalent it is a taller and bulkier building overall, clearly seen and appreciated as such on the approach into the centre from the east.

¹ Drawing No. 3598-DMWR-XX-DR-A-PL08 Rev P1.

16. My observations were of a distinctly stand alone and landmark addition of built form, of a much larger scale than the proposal before me and which imposes rather than integrates in character and appearance terms. I do not necessarily share the Council's view regarding it being 'less obviously domineering' but to my mind the abrupt changes in mass, scale, and height with surrounding built form combined with flat and insufficiently articulated facades does not provide sufficient justification that a similar approach would be the most appropriate townscape response at the opposite end.
17. For these reasons, the proposal would cause harm to the character and appearance of the area. It would conflict with Policy D3 of the London Plan 2021 (the LP), Policy CS01 of the Bexley Core Strategy 2012 (the CS) and Policies H3 and ENV39 of the Bexley Unitary Development Plan 2004 (the UDP). When taken as a whole and amongst other things these require such development to reflect or, where possible, enhance the unique characteristics of the borough's areas, ensuring that building height, mass and setting enhances the character of the surrounding locality. Further, that development be of high quality that positively responds to local distinctiveness through layout, scale, appearance, and shape. Policies D5 and D8 of the LP do not appear, on my reading, to be relevant to this issue and there would be no conflict with them.
18. The policies are consistent with the Framework and the proposal would conflict with the requirement that developments that function well, add to the overall quality of an area, are visually attractive as a result of good architecture, is of a high-quality standard of design that is sympathetic to local character and history and results in a well-designed place.
19. High quality design has always been an aim of the Framework and more recently the National Design Guide has been published. Whilst not a detailed set of criteria against which to assess the design of a proposed development at a local level, it sets out broad principles to achieve the well-designed places that the Framework expects new development to deliver. In terms of the characteristics of context, identity, built form, homes, and buildings the proposal would fail to be a well-designed place.

Living conditions

20. Units 12 and 13 as one-bedroom studios would be provided with no private outdoor amenity space and the appellant accepts conflict with Policy H6 of the UDP and Standard 26 of the London Housing Standards Supplementary Planning Guidance March 2016 (the SPG).
21. The balance of competing considerations on what is a constrained site and approach to density means the lack of amenity space is a choice made by the appellant. In order to supply the quality of living accommodation required by the development plan it is important however that such standards are adhered to. That would not be the case for those units and despite public open space a short walk away², the lack of external space and small 1 bed size would mean the units would be oppressive for future occupiers, units which would not necessarily be limited to single occupancy in reality given its location.

² Shoulder of Mutton.

22. It is reasonable to consider whether conditions could address this deficiency and a condition requiring design amendments was offered by the appellant to secure design amendments in the form of bolt on balconies. However, there is no indication as to what this would entail, and it is not clear what the effect on the external appearance of a building I have already found to be unacceptable in design terms would be. Further, no suitably worded condition was put before me by the close of the hearing.
23. Units 11 and 16 would have balconies slightly below than the 5 square metres required by the standard. The appellant contested that the irregular shape of the site is the main reason, and that additional internal living space was provided within those units to compensate. The site is a constrained shape and location but again, I do not think that the design approach taken here can be justified on the basis of site constraints.
24. Further, this space would appear to be in the form of additional hallway/circulation space. To my mind, it is reasonable to require the additional space to add to the internal relaxation space, as the balcony space would have done. Whilst the standard does not refer to where this space should be provided, I interpret it to be requiring comparable 'living' accommodation, after all an important policy objective is to achieve high quality residential environments.
25. Regardless of whether my interpretation is correct these are not substantial deficiencies, but they do indicate a flawed approach in design terms. Ultimately, the proposal would not provide acceptable living conditions in terms of private external amenity space for the future occupiers of those units. In this regard, the proposal would conflict with Policy H6 of the UDP and the SPG insofar as they require residential development to normally provide adequate useable on-site amenity space, including balconies, terraces, and roof gardens.

Highway safety

26. A short distance to the east is the signal controlled Bellegrove Road junction with the dedicated left hand turn lane into Westwood Lane and suburban residential areas beyond. To the west, and in close proximity is the signal-controlled junction with Central Avenue and the approach to Welling station. Bellegrove Road classified as a London Distributor Road.
27. As is the current arrangement for the existing pharmacy deliveries and servicing of the proposal would predominantly take place directly outside the appeal site on Bellegrove Road. The footway here is wide and there are 2 bollards restricting vehicular access to it. Whilst the carriageway is double yellow lined it has no loading/unloading restrictions, but parking is prohibited at any time. This area abuts the vehicular exit from the petrol station.
28. The likely increase in the number and frequency of mainly LGV (Light Goods Vehicles), waste and servicing vehicles was discussed in some detail at the hearing, with both positions changing significantly. A consensus that vehicle trips would be increased by approximately 20 per day was reached but for 20 units I consider this to be a conservative estimate given the likely levels of occupancy and a society wide general increase in use of delivery services. Even 20 trips per day would be a notable increase, especially given existing levels of servicing and because the current arrangements would be retained.

29. I doubt a significant number of delivery drivers and trades people would seek to use Westwood Lane car park for any significant period. Whilst there might not be any physical restrictions, it is not ideal for the safe and efficient operation of that parking facility to have deliveries and servicing taking place from it, and which could prevent access to spaces. The increase the number of service and delivery vehicles, including waste vehicles and even if the majority were LGVs, could only realistically be accommodated on the public highway immediately in front of the appeal site.
30. At my visit I observed a delivery by a LGV to the existing Pharmacy. The vehicle parked on the carriageway and dwell time was approximately 4 minutes as goods were unloaded and delivered into the Pharmacy. During that time, I saw the majority of vehicles going straight ahead at the lights. I accept that this is only one snapshot and the Council supplied additional photographic evidence taken during the morning peak that showed vehicles queuing in the right-hand lane.
31. There is nothing to suggest deliveries could be controlled or timed and at certain times of the day 1-3 vehicles could be stopped on the highway in the left-hand lane whilst delivering to or servicing the building. During such time, vehicles travelling west and wishing to turn left into Westwood Lane and on exiting the petrol station, would have reduced visibility. This would also be the case when waste collections are made although they would be much less frequent.
32. There may be space in the right-hand lane at most times, but I have no doubt there would be some increased delays for road users turning left at the junction, as they try to manoeuvre around parked vehicles. Such occurrences may not be frequent and even if a vehicle could pass, the intensification in servicing and delivery trips would have some effect on the free flow of traffic around these busy junctions and well used pedestrian routes.
33. Although the access from the petrol station forecourt is wide, in combination with traffic queuing in the right-hand lane and even with moderate dwell times of a few minutes, the increased use of the highway for servicing in this location would also be likely to cause delays and inconvenience for those exiting the petrol station. Given the nature and layout of the highway network such occurrences could be frequent enough to create a much greater potential for conflicts between pedestrians, cyclists, and motorists.
34. Balanced against this the closure of the driveway to the side of the existing building would remove reversing movements to and from the carriageway and thereby remove that particular safety risk. I have also had regard to the site being in an accessible location close to services and facilities and that no accidents of significance to this issue have been recorded along this section of the highway. Traffic speeds would also be low.
35. Balancing these considerations together, some risk would be removed but the increase in servicing and delivery trips would be likely to lead to conditions which would affect the safe and free flow of traffic, increase the potential for conflict between all users and therefore cause harm to highway safety. This would conflict with Policies CS15 of the CS and G18 of the UDP and Policy T2 of the LP insofar as they require effective maintenance and management of the existing highway network to ensure the free flow of traffic and promote safety, health, and wellbeing and that the network of roads according to their function

will be managed or improved. I find Policies T1 and T2 of the LP of no significance to this issue and there would be no conflict with these policies.

Cycle parking and waste management

36. The amended plans show space on the ground floor for 38 cycle spaces which would be an acceptable provision numerically. The Council's objection relates to the cycle provision being not fit for purpose as the constrained layout would discourage use of the spaces. I find no basis for the assertion that 8.2.6 of the London Cycling Design Standards (the LCDS) only relates to 2 tier stands at public transport interchanges. They are only an innovative solution to space constraints where they are easy to use for all and the LCDS also refers to the limitation of the minimum aisle width of 2.5m to allow cycles to be turned and loaded.
37. For cycle parking within buildings 8.5.3 of the LCDS refers to guidance in 8.2.1 which, in turn, requires amongst other things that recommended space requirements be met and that space should be used efficiently. I was referred to a construction industry standard product³, used elsewhere on residential schemes in urban areas but that also appears to be a product manufactured against bespoke dimensions and room layouts, so suitability of design and operation is ultimately a matter of judgement on a case-by-case basis.
38. The access door to the ground floor cycle storage area would be a standard 900 millimetres (mm) width, approximately 300mm less than the 1200mm opening referred to in 8.5.3 of the LCDS. A typical cycle could physically fit through the door but in combination with what would be a 'tight' arrangement for use of the stands (1.5m between them) and the need to turn immediately left and right after a short but narrow corridor next to a meter room, accessing the stands and manoeuvring a cycle in and out of them would not be as convenient and easy as the guidance indicates it should be. This could also result in what I consider to be an undesirable storage of cycles on individual balconies facing the public realm or taking up valuable internal living space.
39. I accept that the product offered may be considered by some to be technically acceptable but here the combination of a number of factors being near to compliance with the standard are significant. Overall, the layout and design would not be conducive its convenient and therefore regular use and does indicates to me a further element of the design, layout and practical use of the building which is not sufficiently high quality.
40. Amendments have addressed the size of the waste receptacles and the point at which waste is collected. This includes bulky items and details could be set out in a management agreement and agreed by the Council. Commercial and residential waste would be presented onto the public highway on the days of collection and bulky waste would follow existing arrangements in accordance with the Council's specialist collection service. Waste management arrangements would therefore be acceptable and there would be no conflict with Table 3.2 of the LP.
41. Nonetheless, the cycle parking provision would not be acceptable and although the harm would not be significant there would still be conflict with the requirements of Policy T5 of the LP and its associated LCDS insofar as they,

³ The Bike Storage Company – Appendix 9 of appellant's statement of case.

when taken as a whole, require development proposals to remove barriers to cycling, supporting cycling facilities which are fit for purpose and designed and laid out accordance with the LCDS.

Development of adjoining land

42. Westwood Lane car park wraps around the rear of the appeal site and the adjoining petrol station buildings and forecourt. Clearly comprehensive schemes for a cluster of adjoining sites is preferable but not always achievable and the Council confirmed at the hearing that no discussions about the potential redevelopment of any adjoining site had taken place. Accordingly, the likelihood or reasonableness of it being subject of large-scale development is, on the evidence before me in this appeal, supposition.
43. Simply, if permission were to be granted this would be a consideration in the design for any future scheme and the appellant has offered one such design solution. I was referred to a privacy standard of 22 metres, a Council design principle⁴ for the distance between habitable room windows distances and I accept any future proposal on adjoining land could fall short of this. The standard however does allow for demonstration of how privacy has been incorporated into the design and therefore contains some necessary flexibility. Such a guideline is also not policy, but it does recognise that whether something would represent a high quality of design depends on a number of site specific and bespoke considerations and judgements.
44. Seeking to optimise the use of such land in accessible urban locations requires innovative and bespoke design solutions. Here there are clearly a number of opportunities and constraints for the development of a site with adjoining land that is also suitable for redevelopment. The appellant has sought to mitigate future effects in the design and layout of the proposed units, and through the position, size, and type of fenestration in the building. This includes hallway windows on the north facing and east facing elevation. Although I have found this approach to result in other design failings this does not automatically demonstrate a high-quality design could not be achieved.
45. There is no definition of 'large' within Policy H12 of the UDP although development of either site would be significant. Overall, I find no substantive evidence that the proposal before me should be resisted on the grounds that it has not been shown it will fit satisfactorily into a larger development that may or may not come forward on adjoining land and would not assist with the proper planning of the sites or area. Therefore, this proposal would not be in conflict with Policy H12 of the UDP which seeks to ensure piecemeal development that does not prejudice the proper planning of a large development.

Other Matters

46. I acknowledge that pre-application advice was given and that this is a revised proposal. However, that pre-application advice is not binding and there appear to be some differences with that proposal the Council considered to be material. I agree⁵ and that request also contained limited design details at that stage. The Council does not object in principle to residential development and the considerations involved are subject to a degree of subjectivity. Each case

⁴ Design for Living: Bexley's Residential Design Guide LDF SPD 2006.

⁵ Based on Appendix 1 of appellant's statement of case.

must be decided on its own merits and the Council's administration and determination of the application has no significant bearing on the planning merits of the appeal. I have considered the draft agreed conditions which could have been appropriate had a grant of planning permission been appropriate, but do not find that they alter or are necessary to my conclusions on the main issues in this case.

Planning balance and conclusion

47. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case although I have not found conflict in terms of Policy H12 of the UDP, the harm and extent of conflict I have identified is such that the proposal should be regarded as being in conflict with the development plan as a whole. It is therefore necessary to consider whether there are material considerations which indicate that permission should be granted, notwithstanding this conflict.
48. The Framework is one such consideration although in this appeal the parties do not dispute the existence of a 5-year supply of housing land and that an up-to-date development plan with consistent policies is before me. The proposal would make a more effective use of land and provide a modest contribution to help meet the general need for new homes in an accessible location. It would provide an improved replacement pharmacy facility and there would be modest temporary economic benefits during construction and from additional support for the vitality and viability of the centre, once occupied.
49. It is important that decisions in such locations avoid homes being built at low densities and that optimal use is made of such an accessible site, close to public transport and services and facilities. Nevertheless, the Framework is also clear that decisions should promote an effective use of land while safeguarding and improving the environment. That would not be the case here.
50. The design bar is a high one in my view and the creation of well-designed and attractive residential environments with high-quality buildings and places is fundamental to what the planning and development process should achieve. National and local policy is clear that permission should be refused for development of poor design which fails to take the opportunities available to improve the character and quality of an area and the way it functions.
51. Although there would be social and economic benefits, these do not outweigh the harm and conflict with the development plan that I have identified. The proposal would not accord with an up-to-date development plan and therefore would not be the sustainable development for which paragraph 11 c) of the Framework indicates a presumption in favour.
52. Material considerations, including the Framework do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR

VIRTUAL APPEARANCES

FOR THE APPELLANT:

John Escott BA (Hons) Dip TP MRTPI

Robinson Escott Planning

John Neale B.Arch (Hons) DipArch ARB RIBA

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Steve Giles
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Motion

Gurdev Benning

Mistvale Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Ian Smith

Principal Planner
London Borough of Bexley

Tom Fox

Placemaking Projects Manager
London Borough of Bexley

Les Henry

Senior Engineer (Development)
London Borough of Bexley

DOCUMENTS AND PLANS SUBMITTED PRIOR TO AND FOLLOWING THE HEARING

1. Statement of Common Ground signed.
2. Statement of uncommon ground, unsigned by the Council.
3. Statement of significance of 64-100 High Street and photographs (appellant)
4. Emails and Photographs of traffic on Bellegrove Road taken 28 March 2022 (Council)
5. Agreed suggested planning conditions.