



Appeal Decision

Site visit made on 6 July 2022

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2022

Appeal Ref: APP/E5330/W/21/3288001

88 Eltham High Street, Eltham SE9 1BW

- 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 Mrs Pat Obasuyi of the Christian Church of God Pentecostal against the decision of Royal Borough of Greenwich Council.
 - The application Ref 21/1823/FUL, dated 10 May 2021, was refused by notice dated 9 September 2021.
 - The development proposed is the demolition of existing church and nursery and construction of a multi-purpose building to accommodate 7 residential units, comprising (3x2) bed, (4x1) bed flats and a new church building.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Description of development

Main Issues

3. The main issues are the effect of the proposed development on:
 - The character and appearance of the area, with particular regard to the setting of adjacent Listed buildings at 86 and 90 Eltham High Street;
 - The provision of community facilities, with particular regard to the loss of an existing nursery;
 - Living conditions for future occupiers of the proposed flats, with particular regard to daylight and sunlight, and accessibility; and
 - Living conditions for neighbouring occupiers, with particular regard to outlook.

Reasons

4. The appeal site sits within Eltham Town Centre, on a narrow plot just to the south of Eltham High Street. The existing building on the site occupies the entirety of the "red line" boundary'. The northern part (nearer the High Street) is a two-storey, flat-roofed brick building occupied by the Christian Church of God Pentecostal, with the main church hall (as well as some amenities) on the ground floor, and a meeting room, library and office on the first floor; the

southern part is a single-storey pitched-roof building which has been a children's day nursery.

5. The site is accessed via a narrow cul-de-sac lane from the High Street. Across the lane from the appeal site is a vacant and fenced-off plot; beyond this to the west the site faces the rear of commercial premises on Court Yard. The immediate surroundings generally reflect the mixed retail and commercial nature of the town centre, with signs of residential uses on the upper floors of some buildings. To the south-west lies the yard and car park serving the Royal Mail's Eltham and Lee Delivery Office; to the south-east is the small residential enclave of Elizabeth Terrace.
6. The proposed development is the demolition of the existing building on the site, and its replacement with a new three-storey block. This would have a two-bedroom flat on the ground floor at the north end closest to the High Street, a new space for the church and, at the southern end, space for cycle storage and refuse storage. The first and second floors would each have one two-bedroom and two one-bedroom flats. A small third floor at the top of the stair core would provide access to communal rooftop amenity space for the occupiers of the seven flats.

Character and appearance

7. The appeal site is close to two Grade II Listed buildings; the "Playhouse" at 86 Eltham High Street, and 90 Eltham High Street¹, which sit at either side of the entrance to the lane from the High Street. I have a statutory duty to have special regard to the desirability of preserving the setting of the Listed Buildings. As heritage assets are irreplaceable, the Framework states that they should be conserved in a manner appropriate to their significance (paragraph 189). It goes on to advise that any harm or loss requires clear and convincing justification (paragraph 200) and that any harm that is less than substantial must be weighed against the public benefit of the proposal (paragraph 202).
8. The Playhouse was built as housing in the early 18th century – the List entry suggests that it may have been three dwellings – although it has most recently been in use as a restaurant; this had ceased trading by the time of my site visit. It has two storeys and a sunk basement level; the main elevation which faces the High Street is of white painted brick and has sash windows set within flat brick arches, with four flat-topped dormers on its high pitched roof. A shallow forecourt to the High Street sits behind wrought iron railings.
9. No 90 dates from the late 17th or early 18th centuries. It too was originally a house. It has two storeys plus an attic, which has modern dormers set in a half-hipped mansard roof. The High Street frontage has an early- to mid-19th century double shopfront, above which the walls are again painted brick, although the western end of the building (abutting the lane to the appeal site) is weatherboarded. The ground floor of the building was in use as "Legends", an American-themed restaurant, at the time of my site visit.
10. The proposed development on the appeal site would be of buff brick, with projecting (end-on) brick detailing, chamfered window openings, with copper- or bronze-coloured coated window and door frames and external railings. In

¹ These were referred to in the Council's officer report as "The Greyhound Public House" and "No 90 (The Eltham Pharmacy)" respectively, but the official List entry was updated in October 2021 to reflect the current name and address of the two buildings. I have used the updated names and addresses throughout my decision.

my view the simple form of the building and the high quality materials proposed would be appropriate to their urban environment.

11. The maximum height of the building would be around 12m, although this would only be a small part of the building (at the access point to the roof terrace), and for the most part it would be around 9.55m high. While it would therefore be taller than the existing building on the site (which is at most around 6.9m high at the northern end) it would not be incongruous in an area where, as I saw, buildings are typically two or three storeys in height.
12. I have not been provided with precise measurements of the heights of the two Listed buildings nearby, although it was apparent on site that No 90 is a somewhat taller building than the Playhouse. It seems reasonable, based on the evidence before me, to assume that the proposed building on the appeal site would be higher still than either of the Listed Buildings. However, both the Playhouse and No 90 are primarily appreciated from the High Street, from where the proposed development would be seen only in glimpses. It would sit behind the Listed Buildings, rather than being seen to rise above them. Even in closer views from within the lane, the form, bulk and scale of the appeal development would not overwhelm the two Listed Buildings.
13. The eastern side of the proposed building, facing a site currently used as car parking at the northern end of Elizabeth Terrace, would be a wall of blank brickwork three storeys high. I note the Council's comment that this would "fundamentally alter the multi-layered view through between the Listed Buildings from Eltham High Street". From what I saw on my site visit I consider that any such views are very limited, to the extent that they are possible at all; they therefore play a negligible part in forming the setting of the Listed Buildings.
14. I conclude that the setting of the two Listed Buildings would be preserved, and the proposed development would not be harmful to the character and appearance of the area. It would therefore comply with Policies DH1, DH3 and DH(i) of the 2014 Royal Greenwich Local Plan ("the RGLP") and Policies D3 and HC1 of the London Plan 2021 which together (and among other things) seek to ensure that development is well-designed, takes account of the surrounding townscape, and that heritage assets (including the setting of Listed Buildings) are protected and enhanced. As I do not find that the development would cause harm to designated heritage assets, it is not necessary to apply the public benefit test set out in paragraph 202 of the Framework.

Community facilities

15. Policy CH(a) of the RGLP seeks to protect existing social and community facilities. It states that planning permission which would lead to a loss of community facilities through change of use or redevelopment will only be granted in certain circumstances. These are: where there is evidence that the loss would not create or add to a shortfall in provision for the specific community use; where alternative community facilities of a similar nature are provided locally in the area which that facility serves; it would enable the implementation of the Royal Borough's strategy for the provision of community facilities; or where the site is demonstrably unsuitable for continued use as a community facility.

16. The appellant has stated that the proprietor of the nursery on the appeal site ceased operations there at some point before the Covid-19 pandemic began and has subsequently vacated the premises. I have no reason to doubt this account, although I have not been provided with more specific information in respect of “when” or “why”. Nevertheless, part of the site has been a nursery following an appeal decision in 2016², and this remains its lawful use alongside the existing church.
17. The appellant provided an extract of a website search³ which produced 29 results for nursery and day care providers within 2 miles of the appeal site. However, there is nothing before me which indicates what the demand for nursery or similar care is in the area, nor indeed the extent to which the other providers identified have capacity to make up for the loss of the facility on the appeal site. The appellant also drew my attention to the fact that of the notification of the planning application sent to 62 neighbouring properties did not prompt any objections to the loss of the nursery; however, in my experience it seems unlikely that a provider of nursery or child day care in a town centre such as the appeal site would serve such a localised catchment area, and this is therefore not demonstrative of a lack of demand for its services.
18. Finally, the proposed development would include a new space for the church, and I note the appellant’s comment that this would potentially also be able to provide nursery facilities, in more modern surroundings than previously, at times when the church was not being used for worship. Again, though I did not enter the existing building, I have no reason to doubt that this may be so. However, the scheme would lead to there being a much smaller space available for community uses, and this does not amount to a firm proposal for the replacement of the nursery facility. The information which the appellant has put before me is lacking in the details (such as reasons why the previous nursery proprietor ceased operating or relocated, or evidence that the property has been unsuccessfully marketed for the same use) which would allow me to be satisfied that the requirements of the development plan have been satisfied.
19. I conclude that the proposed development would result in the loss of a community facility which has not been adequately justified. The proposal therefore conflicts with Policy CH(a) of the RGLP, the most relevant provisions of which I have set out in paragraph 15 above. It also conflicts with Policy CH1 of the RGLP and with Policies S1 and S3 of the London Plan 2021, which together seek to protect local services and social infrastructure, including by ensuring that there is no net loss of childcare facilities unless it can be demonstrated that there is no ongoing or future need.

Living conditions – future occupiers

20. The proposed flats would be single aspect, with windows oriented approximately to the west on the main elevation facing the lane from the High Street. I recognise that there are some instances where the development of single-aspect dwellings is an appropriate response to site conditions, and a narrow, backland or courtyard type site such as the appeal site is potentially one of those cases.

² LPA Ref: 15/1134/V (PINS reference not provided)

³ Sourced from nurseryfinders.co.uk

21. It appears quite possible that, because of the site orientation, the proposed flats would receive some afternoon or evening sunlight for at least part of the year. Both main parties' evidence on this point was slightly confused; the Council referred to "east-facing windows", when they would in fact be west-facing. The appellant meanwhile described residents benefitting from "morning sun directly into their properties", when this would not be possible and direct sunlight could only reach the flats (if at all) later in the day. However, there is no daylight and sunlight study before me to substantively demonstrate that all the flats would receive acceptable levels of daylight and sunlight. In view of the single-aspect nature of the scheme, this is a significant omission.
22. In terms of accessibility, Policy H5 of the RGLP states that new build developments of flats that are three or more storeys will be required to have sufficient lifts. The proposed development as submitted does not include any lift provision. I note the appellant's comment that lifts could be incorporated into the scheme to meet the development plan requirement; however, it is not apparent from the submitted drawings where a lift could be accommodated within the scheme without requiring a significant reconfiguration of the internal arrangement. In my view this is not therefore a matter which, had the proposal been acceptable in all other respects, could be addressed by the use of a condition.
23. Flats 1, 2 and 5 (the two-bedroom flats at the northern end of the building on the ground, first and second floors respectively) would each have an inset balcony of around 6m²; these would provide private amenity space (although privacy for the occupiers of the ground floor flat in particular would be limited by the space being located next to the access route to and from the church and the other flats). The four one-bedroom flats on the upper floors would each have a full height window with railings (though it is not clear from the material before me whether or not these would open fully in the style of a Juliet balcony), but in any case these would not provide private amenity space. Nevertheless, the Council considered that the provision of communal amenity space on the rooftop would be acceptable; given the configuration of this particular site I agree.
24. The proposed flats would provide adequate amounts of internal living space for future residents, and the ground floor flat would have level access making it potentially accessible to wheelchair users. That the scheme may be acceptable in these respects does not, however, outweigh harm caused by the other shortcomings I have found.
25. On the basis of the evidence before me, I cannot be satisfied that the single-aspect dwellings proposed would receive acceptable levels of daylight and sunlight. The upper floor flats would not have lift access. I therefore conclude that the development would not provide a high standard of living conditions for future occupiers, and the proposal conflicts with Policy H5 of the RGLP and with Policy D6 of the London Plan 2021. These policies seek to ensure that new housing development is of a high standard and, among other things, provides good accessibility and levels of daylight and sunlight for future occupiers.

Living conditions – neighbouring occupiers

26. The Council considered that the proposed development may cause some overshadowing, or be overbearing, for occupiers of buildings to the north of the appeal site at 86, 90, 92 and 94 Eltham High Street. Given the physical

separation between the upper part of the proposed building on the appeal site and these neighbours, I consider that while there may be some increase in overshadowing (and again, the appellant has not put forward substantive evidence on this matter) the extent of this would be limited and would not be likely to lead to significant harm. Similarly, the addition of the equivalent of a single storey in height on the appeal site would not result in it becoming harmfully overbearing.

27. In respect of 7 Elizabeth Terrace, this lies to the south, and slightly east, of the appeal site. The separation distance, and its orientation relative to the appeal site, means that the appeal scheme would be unlikely to have any significant impact whatsoever on the daylight or sunlight reaching No 7.
28. I attach little weight (in itself) to the fact that no objections to the appeal proposal were submitted by the occupiers of any of these neighbouring properties; it is my role to consider the impacts of the scheme in neutral terms for the longer term. However, for the reasons I have set out in the preceding two paragraphs, I consider that the appeal scheme would not cause any significant harm to the living conditions of neighbouring occupiers. The proposal would therefore comply with Policy DH(b) of the RGLP, which seeks to protect amenity for adjacent occupiers.

Planning Balance and Conclusion

29. The proposed development would provide seven new dwellings, resulting in a small increase in housing supply which is a modest benefit of the scheme. The appeal site is in a town centre location close to a variety of shops and services, and there would also be likely to be some benefits for local businesses arising from an increased number of households in the area, although given the small scale of the proposal this would represent a very modest social and economic benefit. It would also provide an improved place of worship for the Christian Church of God Pentecostal.
30. I have found that the proposed development would not cause harm to the setting of the nearby Grade II Listed Buildings or to the character and appearance of the wider area. It would also not cause unacceptable harm to neighbours' living conditions. However, it would result in the loss of a community facility without adequate justification, and it has not been demonstrated that future occupiers of the flats would have acceptable living conditions. The proposal would therefore conflict with the development plan taken as a whole.
31. There are no material considerations which indicate that the decision should be made other than in accordance with the development plan. For the reasons given above, the appeal is therefore dismissed.

M Cryan

Inspector