



Appeal Decision

Site visit made on 11 October 2022

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th January 2023

Appeal Ref: APP/G5180/W/21/3286682

348 Crofton Road, Orpington BR6 8NN

- 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 Leone Paye Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/21/02115/FULL1, dated 23 April 2021, was refused by notice dated 4 October 2021.
 - The development proposed is first and second floor rear extensions, two storey side extension and dormer extensions to existing roof to provide 9 residential units and 9 car parking spaces.
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Decision

1. The appeal is allowed and planning permission is granted for first and second floor rear extensions, two storey side extension and dormer extensions to existing roof, to provide 9 residential units and 9 car parking spaces at 348 Crofton Road, Orpington BR6 8NN in accordance with the terms of the application, Ref DC/21/02115/FULL1, dated 23 April 2021, subject to the conditions set out in the attached schedule.

Procedural Matter

2. Revised drawings submitted during consideration of the planning application reduced parking provision to 9 spaces. I have determined the appeal on this basis and have amended the description of development to reflect this amendment. I note the description given by the Council states 9 parking spaces.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the living conditions of nearby occupiers, with particular regard to the outlook from properties to the rear of the site on Meadow Way, and;
 - the character and appearance of the area, with particular regard to density.

Reasons

4. The appeal site is situated within a row of mostly commercial premises on the north west side of Crofton Road and within a shopping parade. At the front is a period style two storey retail shop with a residential unit above. Attached at the rear is a large brick building, described by the Council as a business

unit/retail warehouse/showroom. I have described this part of the building as a 'warehouse' for the purpose of this decision letter.

5. Access is via a narrow track to the side which connects to an unmade service road at the rear of the site. It runs behind the buildings in the row, separating the appeal site from the rear gardens of the residential properties on Meadow Way.
6. The proposal is to erect a two storey side extension and roof dormers to the frontage building, enlarging the existing ground floor business space and providing an enlarged living space above. The retail shop on the frontage would be retained. Two floors would be built above the warehouse building to accommodate residential units with balconies enclosed to the sides by opaque privacy glass, projecting from the side wall of the building. 9 residential units of accommodation would be provided, comprising 7 x 1 bed units and 2 x 2 bed units.

Living conditions of nearby occupiers

7. The Council has submitted photographs (date stamped 2018) showing a view of the property from the garden and interior rooms of 10 Meadow Way. The appeal property and others in the same row would be visible from the properties on Meadow Way. I saw that those properties have long and generously sized gardens, and the houses are set back into their plots at considerable distances from the appeal property.
8. The existing warehouse building has a large mass. The dimensions provided by the Council indicate that its height would increase by around 2.4m to an overall height of around 8m. This would be around 1m higher than the previously approved first floor extension granted permission on appeal (Ref. APP/G5180/W/18/3207501). The additional massing would be contained on top of the existing building, maintaining the separation distances between it and the residential properties.
9. The additional bulk and massing to the building would be most apparent from the rearmost parts of the nearby residential gardens. However, it would not be so close to either the houses or the parts of their gardens most closely associated with them, so as to dominate the occupiers outlook from either their gardens or the houses. Furthermore, the proposed development would be seen with the varied rear elevations of the nearby buildings in the row, which present a considerable mass of development facing Meadow Way. In this context and given the combination of these factors, I find that the additional height, bulk and massing of the building, would not have an adverse or harmful effect on the living conditions of the occupiers of nearby properties.
10. The balconies would face south west and their sides would be enclosed by opaque 1.8m high privacy screens. Given the effect of the privacy screens and the oblique angle of the gardens on Meadow Way in relation to the balconies, I find that overlooking of these gardens from the balconies would be very limited and would not lead to an unacceptable loss of privacy for nearby occupiers. A condition could be imposed to require the fitment of the privacy screens to all sides of the balconies in accordance with details to be agreed by the Council. The main parties have agreed to this.

11. There would be several windows on the rear elevation of the building that would face the rear gardens on Meadow Way. There is agreement between the parties, notwithstanding the annotations on the drawings, that a condition should require them to be fitted with obscure glazing and retained in a non-opening state below a specified height. The degree of obscure glazing would have to vary however dependent on the room that the windows would serve within the new residential units to ensure satisfactory living conditions for the intended future occupiers. However, I am satisfied that as long as the obscure glazing was of a certain height that there would be no loss of privacy to nearby occupiers' gardens.
12. For these reasons, I find that the proposed development would respect the living conditions of both nearby occupiers and future occupiers of the development, consistent with criterion (e) of Policy 37 of the Bromley Local Development Framework Local Plan (2019) ("BLP"). Furthermore, the appeal proposal is consistent with Paragraph 130 of the National Planning Policy Framework (2021) ("Framework"), which requires development to provide a high standard of amenity for existing and future users, amongst other objectives.

The character and appearance of the area

13. The existing building is a large structure with a bland appearance. Although the proposal would be higher than the previously approved extensions to the building and positioned closer to the service road than the building permitted on appeal at No 346 (Ref. APP/G5180/W/19/3243570), it would be comparable in scale to other buildings nearby. It would achieve a high standard of design and layout, and would not appear unduly prominent or incongruous, in the context of the buildings of differing sizes and designs in the locality.
14. The Council has previously approved 5 units of accommodation at the site and it contends that the optimum development potential of the site was reached by that development. However, the site is located within close proximity to local amenities, services and employment opportunities, and with good accessibility to public transport. When taken in isolation from concerns relating to the scale and appearance of the building, which I have addressed above, I find no justification in the evidence before me, to support the Council's view that 9 units of accommodation would equate to an unacceptable density of development.
15. I have taken account of the previous planning permissions for development on the site and nearby sites. A tipping point might be reached in the future, whereby further increases in the scale of the building and the density of residential units may present unacceptable planning impacts. However, that point has not been reached with the current proposal.
16. For the reasons given above, I find that the scale and density of the appeal proposal would respect the character and appearance of the area, consistent with Policies 4 and 37 of the BLP, which require new development to complement the scale, proportions and form of the buildings in the area, and contribute positively to the street scene, amongst other objectives. The policies are consistent with Paragraph 130 of the Framework, which requires developments to be visually attractive and sympathetic to local character, amongst other matters.

Other Matters

17. The appeal site is located close to the Farnborough Conservation Area (CA). Paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Harm to or loss of the significance of a designated heritage asset from its alteration or destruction, or from development within its setting requires clear and convincing justification.
18. I concur with the Inspector for the appeal at No 346, that the setting of the CA is already compromised to an extent by some of the poor architectural quality that is currently in existence along the service lane. The existing building has a bland utilitarian appearance. Given my findings above in respect of character and appearance, whilst the proposal would involve a change within the setting of the CA, that change would not be harmful and would thus have no bearing on the character or appearance of the CA.
19. I note the concerns raised with respect to nearby trees, however as the development would take place on the roof, it would have little impact on the roots of the tree growing on the opposite side of the service road. The service road serves a number of other properties and I have no substantive evidence that its roots would be harmed by vehicles associated with the appeal proposal.
20. Although the appeal proposal would increase the height of the building, the upper part of its rear wall would slope away from the nearby tree, maintaining separation from its canopy. I do not anticipate that seasonal leaf drop would have a negative effect upon the future living conditions of the occupiers of the development, or lead to pressure to remove the tree.
21. I have not been provided with any substantive evidence to show the amenity space proposed would be too small to serve the proposed residential units. The development would be residential in nature and while residents may use the outdoor space around the site for recreation, I do not find that the activities at the site, including servicing and bin collections, and vehicle trips, would generate harmful levels of noise and disturbance. I have not been provided with any substantive evidence as to why the revised refuse and recycling storage details would be unacceptable. The Council finds them satisfactory. Damage to nearby properties arising from the construction and occupation of the development is not substantiated and would not justify refusal of planning permission in this case.
22. I note the planning history of the site and the recent planning applications, however all citizens are entitled to apply for planning permission.
23. The appeal proposal would be mostly single aspect residential units. My attention has been drawn by an interested party to an extract from Policy D6 of The London Plan (2021) ("TLP"), which requires single aspect residential units to provide a good standard of living conditions and be balanced against the benefits of dual aspect units when considering the optimisation of site capacity and density through Policy D3 of TLP.
24. The single aspect for the appeal proposal would be south west facing and therefore all units will likely benefit from sunlight reaching the glazed doors in the south west elevation. I have no substantive evidence that future occupiers of the units would suffer from overheating or inadequate ventilation. I have

not been provided with any substantive analysis of the comparative benefits and disbenefits of dual aspect units and single aspects units at the site, and how they would compare against the overall aims of Policy D3 of optimising site capacity. This matter is not determinative in this case.

25. Moreover, the increase in size of the business unit through the extensions at ground floor level, would, on the basis of the evidence before me be unlikely to result in increased levels of noise and disturbance to the degree that would be harmful to nearby or future occupiers' living conditions. It is noteworthy that the Council raised no concern in this regard.
26. In the context of the existing buildings facing Meadow Way, I have no substantive evidence that light spill from the appeal development would cause unacceptable light pollution or harm to nearby occupiers' living conditions. I have no substantive evidence that vehicles associated with the development would cause or contribute to unacceptable levels of air pollution.
27. With regard to access and parking provision, I saw the relative narrowness of the access, but I have no substantive evidence to justify that there are any historic concerns over the access or that its continued use by the appeal development would cause unacceptable highway impacts. I note that the Council had no such concerns.

Conditions

28. The appellant has given written agreement to the pre-commencement conditions recommended by the Council.
29. A condition is necessary to ensure that the development is undertaken in accordance with the approved drawings.
30. A condition controlling the use of external materials is also necessary to protect the character and appearance of the area.
31. Conditions relating to privacy screens, obscure glazing and restrictions on opening of certain windows, and the submission and adherence to a Construction and Environmental Management Plan (CEMP), are necessary to protect the living conditions of nearby occupiers.
32. I find however that the requirement for the submission of measures to reduce construction noise is not precise and has not been justified. The same applies to the requirement for the CEMP to cover "Highways and Environmental Protection issues as requested on a case by case basis". The recommended condition lists a range of measures relating to construction traffic movements that have not been justified to be necessary by the evidence submitted. The site is accessible from a relatively high order road. I have therefore modified the wording of the CEMP condition to limit its scope.
33. Conditions requiring the provision of the refuse storage, bicycle parking and car parking facilities prior to occupation, and the illumination of the car parking area and driveway, are necessary to provide continued satisfactory servicing of the development, satisfactory living conditions, and to encourage cycling. However, there is no clear justification for removing permitted development rights.

34. There is no dispute between the parties that the development should be constructed to meet Building Regulation optional requirement M4(2) 'accessible and adaptable dwellings', in accordance with Policy 4 of the BLP.
35. The rear windows serving the residential units above the frontage shop, appear to be high level units set above the floor levels of the rooms they serve. As such, access through the windows to the roof would not appear to be convenient. Therefore I am not persuaded that imposing a planning condition preventing access to the roof for use as a garden or amenity space would be necessary.
36. I have not been referred to any policies justifying the necessity of providing electric vehicle charging points.

Conclusion

37. For the reasons given, I conclude that the appeal proposal complies with the development plan as a whole. There are no material considerations of sufficient weight to indicate that a decision on this appeal should not be made in accordance with the development plan. The appeal should succeed.

G Sylvester

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings: nos. 002 PL1 Rev. 013, 012 Rev. 012, 022 Rev. 012 and the Location Plan shown on 001 Rev 012.
- 3) No development shall commence until details of the materials to be used for the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall be carried out above ground level until details of the 1.8m high opaque privacy screens for the balconies shown on the approved drawings have been submitted to and approved in writing by the Local Planning Authority. No residential unit served by a balcony shall be occupied until the opaque privacy screens have been installed in accordance with the approved details and permanently retained as such thereafter.
- 5) The development hereby permitted shall not be occupied until the dormer windows in the side roof slopes have been fitted with obscure glazing to a minimum of Pilkington privacy Level 3 and no part of those windows that is less than 1.7 metres above the floor level of the room in which it is installed shall be capable of being opened. The windows shall be permanently retained as such thereafter.
- 6) The development hereby permitted shall not be occupied until the windows in the north west elevation have been fitted with obscure glazing to a minimum of Pilkington privacy Level 3 up to a height of 1.7 metres above the floor of the room in which the window is installed. No part of those windows that is less than 1.7 metres above the floor level of the room in which it is installed shall be capable of being opened. The windows shall be permanently retained as such thereafter.
- 7) No development shall commence until a Construction and Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall provide for:
 - Dust mitigation and management measures
 - Location and operation of plant and wheel washing facilities
 - Parking for operatives during construction period
 - Hours of construction.

The approved Plan shall be adhered to throughout the construction period of the development.
- 8) The arrangements for storage of refuse (which shall include provision for the storage and collection of recyclable materials) shown on the approved

drawings shall be completed before any part of the development hereby permitted is first occupied and permanently retained thereafter.

- 9) Vehicle parking spaces shall be provided in accordance with the approved drawings before the development hereby permitted is first occupied and permanently retained thereafter.
- 10) The bicycle parking facility shall be provided in accordance with the approved drawings before the development hereby permitted is first occupied and permanently retained thereafter.
- 11) No development shall be carried out above ground level until details of a scheme to light the driveway and car parking areas hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is first occupied and the lighting shall be permanently retained thereafter.
- 12) The residential units hereby permitted shall be built in accordance with the criteria set out in Building Regulations M4(2) 'accessible and adaptable dwellings' and shall be retained permanently thereafter.