



Appeal Decision

Site visit made on 24 January 2023

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd March 2023

Appeal Ref: APP/E5330/W/22/3300157

Charlton Liberal Club, 59C Charlton Church Lane, Charlton SE7 7AE

- 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 Liberal Ltd against the decision of the Council of the Royal Borough of Greenwich.
 - The application Ref 22/0151/F, dated 8 December 2021, was refused by notice dated 29 April 2022.
 - The development proposed is demolition of existing building and erection of a three storey building accommodating five 2-bed flats and one 3-bed flat.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Liberal Ltd against the Council of the Royal Borough of Greenwich. This is the subject of a separate Decision.

Preliminary Matters

3. The appellant has submitted amended plans as part of their appeal, which they consider addresses concerns raised regarding the outlook for future occupiers and have requested that these be considered. I have considered this request, having regard to the Wheatcroft High Court judgement¹. An integral part of this is the issue of fairness to interested parties. Ultimately, it is important that what is considered at appeal is essentially what was considered by the Council, and on which interested parties' views were sought.
4. The proposed amendments would extend part of the proposed building further forward towards the street, increasing its visibility, with a greater proportion of the building adjoining the neighbouring building. This may have implications for matters on which interested parties may wish to comment. In particular, I consider this could have implications for the effect of the proposal on the character and appearance of the area. I therefore do not consider it appropriate at this stage to accept the proposed amendments and shall proceed to determine the appeal on the basis of the suite of plans that were before the Council when it resolved to refuse planning permission.

Main Issues

5. The main issues are:

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

- Whether or not the proposed loss of a community facility is acceptable, having regard to the relevant provisions of the development plan;
- Whether or not the proposed loss of an employment generating use is acceptable, having regard to the relevant provisions of the development plan;
- Whether or not the proposed development would provide adequate living conditions for future occupiers, having particular regard to outlook and the provision of private outdoor space; and
- The effect of the proposed development on the character and appearance of the area.

Reasons

Community facility

6. The proposal includes the demolition of an existing building, located in a mixed use area near public transport and other local services and facilities. It was last in use as a social club (Charlton Liberal Club), falling within Use Class F2(b)², a hall or meeting place for the principal use of the local community. I am advised that the Liberal Club ceased operating several years ago due to viability issues and depleting membership from demographic changes.
7. The Council does not dispute that the building has been closed for some time, and this is corroborated by my own observations. I saw during my site visit that it is securely boarded up. While there is evidence that the site has been occupied by squatters previously, it was seemingly vacant at the point in time of my inspection and appears to have been for a prolonged period. Externally, I observed areas around the building to be unkept.
8. The appellant's property consultant advised in March 2021 that the appeal property was in a reasonable condition and arranged almost perfectly for the purposes of a local community use. While some time has passed and clearly the building and surrounding land need some maintenance, based on my own observations I have no reason to disagree with this assessment.
9. Policies GG1 and GG5 of The London Plan March 2021 (London Plan) seek to ensure that sufficient social infrastructure is provided and to build strong and inclusive communities, including through access to good quality community spaces. Similarly, Policy CH1 of the Royal Greenwich Local Plan Core Strategy with Detailed Policies Adopted 30 July 2014 (Core Strategy) seeks to maintain cohesive communities, including by expecting developments to support improved community facilities where there are identified local needs, and protect local services.
10. Policy S1 of the London Plan indicates that proposals that result in a loss of social infrastructure in an area of defined need should only be permitted where there are realistic proposals for re-provision or it is part of a wider public service transformation plan. Redundant social infrastructure should be considered for full or partial use as other forms of social infrastructure before alternative development is considered.

² of The Town and Country Planning (Use Classes) Order 1987 (as amended)

11. Similarly, Policy CH(a) of the Core Strategy seeks to protect existing social and community facilities. It indicates the loss of these will only be permitted where there is evidence it would not create or add to a shortfall in provision for the specific community use and alternative community facilities of a similar nature are provided locally, or it is part of the Royal Borough's strategy for community facilities. Loss of a community facility may also be granted where the site is demonstrably unsuitable for continued use as a community facility.
12. While no detailed information on the viability of the former social club, or local demographic changes is before me, I have no reason to doubt the appellant's assertions that depleting memberships and associated viability issues led to the club's demise. However, it must be noted that any new occupier of the building, if to use it in its current F2 Use Class capacity, would have the opportunity to impose their own operating model. For example, not based on private memberships or serving a particular demographic of the community.
13. The appellant has submitted marketing information provided by their property consultant. This information indicates that the property was listed for sale on an unconditional basis by the trustees of the Liberal Club in January 2020. It was on the market for just over one month. There was considerable interest from residential property developers and the property sold in February 2020 to the appellant. The appellant subsequently submitted a planning application (Council ref 20/1370/F) for demolition of the existing building and erection of a residential building that was refused by the Council in September 2020.
14. The property was then advertised for lease in March 2021 as a commercial building benefitting from a local community use (Use Class F2). The evidence indicates it was on the market for up to 5 months and that the guide price was reduced on a couple of occasions during this period. While some limited interest was expressed, it is my understanding that no party came forward to express a formal interest in using the property for its permitted use.
15. The Council expect a site such as this to be marketed for 2 years. I am advised this requirement is derived from the Council's Validation Local List (2019), though no minimum marketing period is specified. In any event, while appropriate marketing and comprehensive marketing of the site could have held the potential to demonstrate a clear lack of demand for a local community use, I am not persuaded that the length of marketing undertaken is sufficient to draw firm conclusions in this regard.
16. A further relevant factor is that it is unclear whether genuine consideration has been given to whether the site could be used for other forms of social infrastructure potentially falling outside the F2 Use Class. For example, the marketing information indicates interest was expressed in use of the site as a church. However, this and other possible alternatives are not explored further nor discounted with clear reasons.
17. In addition, while I recognise there are public houses and a football ground close to the site, very little information has been provided on community uses akin to the appeal property's last active use in the vicinity. The appellant has referred to another sports and social club in the area. However, no further information related to details such as its capacity, layout, opening times, proximity or accessibility has been provided.

18. I acknowledge the site is located between residential properties, and an interested party representation indicates its use as a social club led to antisocial behaviour and noise nuisance, albeit infrequently. However, there is otherwise no compelling evidence before me that the continued use of the site as a social club or other such local community facility would result in undue levels of noise and disturbance or antisocial behaviour to assist in justifying the facility's loss. I also note there remains a mix of uses in the surrounding area.
19. For the above reasons, it has not been adequately evidenced that the loss of the facility would not create or add to a shortfall in the provision of this type of use, nor that alternative community facilities of a similar nature are provided locally. Moreover, I do not consider that it has been adequately demonstrated that the site is unsuitable for continued use as a community facility.
20. I therefore find that the proposed loss of a community facility is unacceptable, having regard to the relevant provisions of the development plan and would thus cause harm. The proposal is contrary to Policies CH1 and CH(a) of the Core Strategy and Policies GG1, GG5 and S1 of the London Plan, in so far as these policies seek to protect social infrastructure.

Employment generating use

21. Policy EA(a) of the Core Strategy relates to local employment sites and seeks to maximise the contribution to employment from sites in existing or previous employment use. However, the site's hall or meeting place use does not constitute an employment use. This is even though an active local community use (Use Class F2) at the site would generate a small number of employment opportunities. Indeed, whilst there is explicit reference in Policy EA(a) to it needing to be demonstrated that a site is environmentally or physically unsuitable for any employment generating use, this is only in circumstances where a non-employment use is sought on a vacant employment site, which the appeal site does not represent.
22. I duly find that, having regard to the relevant provisions of the development plan and without prejudice to my findings with respect to the first main issue of this appeal, the proposed loss of an employment generating use is acceptable. Indeed, Policy EA(a) is of limited relevance to my considerations.

Living conditions

23. The appeal proposal includes the provision of 6 flats across 4 levels. Flats 2, 4 and 6 would be located on the ground, first and second floors respectively. These 3 flats would be on the side of the building adjoining the neighbouring building at 59 Charlton Church Lane (No 59).
24. The second bedroom of each of these flats would feature a floor to ceiling mirrored glass window located within the gap between the main part of the proposed building and No 59. This gap is deep and narrow, flanked on either side by tall blank walls with the roof overhang of both buildings overhead. The outlook from each of these bedrooms would therefore be considerably restricted and enclosed. I do not consider that this would represent a high quality of housing design.
25. While Flats 3, 4, 5 and 6 would benefit from Juliet balconies to the rear, these flats would otherwise not be provided with any meaningful private outdoor space. Policy D6 of the London Plan requires that a minimum of 5 square

metres of private outdoor space should be provided for 1-2 person dwellings and an extra 1 square metre for each additional occupant. The Mayor of London Housing Supplementary Planning Guidance (SPG) March 2016 indicates that in exceptional circumstances, where site constraints make it impossible to provide private open space, a proportion of dwellings may instead be provided with compensatory additional internal living space.

26. I recognise that Flat 6 is provided with additional internal living space above the minimum standards, and the Council is satisfied this would offset the shortfall in private outdoor space provision. However, Flats 3, 4 and 5 would not benefit from additional internal floorspace sufficient to compensate for the lack of private outdoor space, as advocated in the SPG. A small external amenity area is proposed to the rear of the building. However, as this would be a communal space, including a shared bike storage facility, it would not serve the same purpose as a private outdoor space. The proposal would therefore not provide an adequate amount of private outdoor space.
27. I therefore conclude that the proposal would not provide adequate living conditions for future occupiers, having regard to outlook (for the occupiers of Flats 2, 4 and 6) and the provision of private outdoor space (for the occupiers of Flats 3, 4 and 5). The scheme is thus contrary to Policy D6 of the London Plan and Policy H5 of the Core Strategy. These policies, among other provisions, seek to ensure new residential development provides an adequate amount of private outdoor space, achieves a high quality of design, and is consistent with the Mayor of London's Housing SPG.
28. Policy D14 of the London Plan primarily relates to the management of noise in development proposals, while Policy E(a) of the Core Strategy concerns various forms of pollution both arising from and affecting proposed development. I therefore do not find any direct conflict with either of these policies.

Character and appearance

29. The surrounding area is primarily comprised of traditional two, three and four storey terraced and semi-detached buildings, though more contemporary infill development exists in places. Immediately opposite the site is a 5-storey traditional building on the corner of Charlton Church Lane and Wellington Gardens. There are a variety of roof forms locally, though traditional dual-pitched and hipped roofs are prevalent. Windows typically have a vertical emphasis and multi-level forward projecting bay windows are common, as are roof lights and dormer windows, indicating accommodation at roof level.
30. The appeal site comprises an existing 2-storey social club building, with basement, and its associated curtilage. The building is attached to No 59, albeit the set back of this part of the building from the frontage makes it appear detached from some angles. Due to the parking forecourt to the front, the building itself is set back some distance from the footpath, and in views from the south along Charlton Church Lane is largely obscured by the neighbouring end-of-terrace dwelling at 61 Charlton Church Lane (No 61) that sits further forward and on higher ground. The site is somewhat elevated in views from the north however and sits immediately opposite the junctions of Wellington Gardens and Sundorne Road with Charlton Church Lane.
31. The existing building is of a simple design, with a flat roof and few features on its front elevation. The main entrance doorway is accessed via external steps

concealed behind a timber fence. The ground floor has a traditional brick finish with two large windows and a canopy above the front door. The first floor has a contemporary finish with characteristics of a mansard roof, including a modest slope to the front elevation, grey cladding and three tall, narrow windows. The existing building does not reflect many of the prevailing characteristics of the area, though its modest form appears subservient to No 59.

32. The appeal proposal would result in the demolition of the existing building, albeit with retention of the basement level for storage, and its replacement with a 3-storey building with living accommodation in the roof space. The proposal would feature a hipped roof design with two front facing roof lights. Its eaves and ridge height would be comparable to those of No 59. Two 3-storey projecting square bays would flank the main entrance to the front, though the proposal would remain approximately in line with the front elevation of No 59. Windows on the front elevation would be large with a vertical emphasis. The link to No 59 would remain considerably set back from the front elevation and would be glazed with floor to ceiling mirrored glass. The building would have a similar brick, stone and render finish to No 59.
33. Given the limited contribution of the existing building to the character and appearance of the area, I consider that its demolition would not result in any considerable harm. Due to its proposed siting and relationship to No 61, the proposed building would also remain considerably screened in views from the south. However, I recognise it would be more prominent in other views locally.
34. I find the design of the proposed building, while somewhat contemporary, to be sympathetic to many of the prevailing characteristics of the area and the proposed finish would be in keeping with No 59. Though its form would not appear subservient to No 59, the depth of the set back of the glazed link between the two would successfully maintain the impression of two detached buildings from most viewpoints and negate any harmful terracing effect. Given its considerable set back from the footpath, its relationship to No 61 and the density of the surrounding area I do not consider the proposed building would appear unduly incongruous or overly dominant.
35. I therefore conclude that the proposed development would not harm the character and appearance of the area. The scheme is therefore in accordance with Policy D3 of the London Plan and Policies DH1 and H(c) of the Core Strategy. These policies, among other provisions, seek to optimise site capacity with regard to form, layout and design, provide a positive relationship between the proposed and existing urban context and ensure infill development maintains the character of the area.
36. Policy D4 of the London Plan seeks to deliver good quality design including through the use of design and access statements. The proposal is supported by a statement considering matters of design with regard to various development plan policies and guidance accordingly. I find no conflict with this policy.

Planning Balance

37. Paragraph 11(d) of the National Planning Policy Framework (the Framework) dictates that the presumption in favour of sustainable development is engaged where the policies which are most important for determining the application are deemed out-of-date. This includes, for proposals involving the provision of

housing, situations where the local planning authority cannot demonstrate a 5-year housing land supply (5YHLS).

38. The appellant alludes to a shortfall in the supply of housing, and the Council acknowledges the Royal Borough can only demonstrate a housing land supply of 3.1 years, which is a considerable undersupply. In accordance with paragraph 11(d), in such cases permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
39. The Framework seeks to significantly boost housing supply. It highlights that small sites can make important contributions to housing requirements and encourages the optimal use of underutilised land. The proposal would provide a temporary boost in employment during construction, reuse previously developed land, and contribute to housing delivery in the Borough. Additional residents may also contribute to the local economy and vitality of the community. These benefits would be modest however given the small scale and context of the development. Nevertheless, in the context of the considerable housing supply shortfall that applies, the scheme's benefits attract moderate and meaningful weight in cumulative terms.
40. However, the Framework promotes social interaction and advocates against the loss of valued facilities and, in this sense, is consistent with the intentions of Policies CH1 and CH(a) of the Core Strategy and Policies GG1, GG5 and S1 of the London Plan in so far as these policies seek to safeguard community facilities and social infrastructure. I thus attribute significant weight to the harm that would be caused by virtue of the loss of a community facility. I have also identified conflict with Policies H5 of the Core Strategy and D6 of the London Plan, these policies are consistent with the Framework in so far as set out, that developments should create places with a high standard of amenity for future users. In this context, I attribute significant weight to the harm I have identified would be caused to the living conditions of future occupiers. The scheme's identified harm cumulatively attracts substantial weight.
41. It is therefore my view that the proposal's adverse impacts would significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development therefore does not apply.

Conclusion

42. Whilst I have found that the loss of an employment generating use is acceptable and the proposal would have an acceptable effect on the character and appearance of the area, I have identified significant harms as a result of the loss of community facilities and the creation of unacceptable living conditions for future occupiers of the development. These harms are the overriding considerations in this case.
43. I have found no material considerations that indicate the proposal should be determined other than in accordance with the development plan, taken as a whole. Consequently, I conclude that the appeal should be dismissed.

Ryan Cowley

INSPECTOR