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# Appeal Decision

Site visit made on 15 May 2023

**by M Ollerenshaw BSc (Hons) MTPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 JUNE 2023**

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**Appeal Ref: APP/G5180/W/22/3311121**

**8 Green Close, Shortlands, Bromley BR2 0HJ**

- 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 Mr T and Miss S Halil and Boothby against the decision of the Council of the London Borough of Bromley.
  - The application Ref DC/22/02146/FULL1, dated 25 May 2022, was refused by notice dated 20 October 2022.
  - The development proposed is demolition of existing dwelling and erection of a part 3/part 4 storey building containing 9 flats, associated car parking, cycle parking, refuse facilities and landscaping.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are:

- the effect of the proposal on the character and appearance of the area, including upon the setting of the Shortlands Village Conservation Area;
- the effect of the proposal on the living conditions of neighbouring occupiers, having particular regard to light, outlook, privacy, noise and disturbance;
- whether the proposal would provide satisfactory living conditions for future occupiers, with particular regard to internal accommodation; and
- the effect of the proposal on highway safety, with particular regard to the proposed access arrangements and car parking provision.

## Reasons

### *Character and appearance*

3. The appeal site is located on the corner of Green Close and Kingswood Road within a residential area. The site comprises of a two storey detached dwelling which has a wide, gabled frontage and is set back a short distance from Green Close. It is positioned centrally within a large, rectangular plot with garden and garaging to the north western side and a further area of garden to the south eastern side which extends up to Kingswood Road. The land slopes down from the Kingswood Road boundary of the site to the boundary with 7 Green Close.
4. Green Close is characterised predominantly by detached bungalows on generous plots, whilst on Kingswood Road there are a variety of sizes and

styles of properties, ranging from two storey detached dwellings to imposing and elaborate Victorian buildings such as 4 Kingswood Road, which have been converted into flats, and more recently constructed three storey flats. Properties are generally set within large, well landscaped plots and this sense of openness, and the mature trees within gardens and lining the roads, provides a spacious, verdant character.

5. The site is not within the Shortlands Village Conservation Area (the CA), the nearest part of which is on the other side of Green Close to the west and includes 4 Kingswood Road. However, given its proximity the site forms part of the setting of the CA. Whilst the existing dwelling itself is of no particular architectural or historic merit and has a neutral effect on the character and appearance of the CA, the spacious and green character of the property's gardens and the absence of built form on the site frontage onto Kingswood Road contributes to the overall special features and characteristics of this part of the CA, where the sense of space and greenery are an important element that positively contributes to the special character of the CA.
6. The proposed building would be contemporary in design and would significantly increase the extent of built form on the site, including towards the site frontage that is currently open. It would extend forward of No 4 which is set well back from Kingswood Road.
7. Policy 8 of the Bromley Local Plan (2019) (the Local Plan) requires new residential development of two or more storeys in height to retain a minimum one metre space from the side boundary for the full height and length of the building; or where higher standards of separation already exist within residential areas, development will be expected to provide a more generous side space.
8. The design and layout of the building would occupy a considerable part of the site. There would be little space around the building and the nature of the design and site layout would be in contrast to the surrounding properties. The significant increase in coverage of built form across the site, the extent of new hard surfacing, and the relative lack of landscaping, would alter the existing rhythm on the street and detract from its verdant character. The proximity of the proposal to the site boundaries and its cramped appearance would be at odds with the spacious pattern of development in the area.
9. Given the significant scale, massing and height of the proposal and its prominent siting on the corner, it would be a dominant feature when arriving into this part of the CA. Despite the roof stepping down towards the rear, the overall scale and massing would contrast markedly with the modest scale of the bungalows on Green Close. The proposal would be readily visible from Kingswood Road, appearing as an incongruous feature, with blank expanses of brick visible. The flat roof design, large glazed openings and metal cladding would result in a box-like appearance which would sit uncomfortably against the pitched roofs and more traditional fenestration and appearance of neighbouring buildings, including 4 Kingswood Road.
10. The appellants have referred to similar developments in the local area. However, I do not have the substantive details or planning history of these cases before me to enable me to draw any comparisons with the appeal proposal, and each inevitably has design considerations and a surrounding context specific to it rather than to the appeal site. Accordingly, I have

determined the appeal on its own merits and do not find that the presence of other developments in the area outweighs or alters my findings above.

11. Although localised in its effect, I consider that the development would result in harm to the designated heritage asset. The harm I have identified would represent less than substantial harm to the significance of the heritage asset. The National Planning Policy Framework (the Framework) requires that great weight should be given to the conservation of designated heritage assets, irrespective of the level of harm. Paragraph 202 of the Framework states that where a development proposal will lead to less than substantial harm to a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The public benefits of the additional dwellings do not outweigh the harm caused to either the character and appearance of the area or the character or appearance of the CA.
12. For the above reasons, I conclude that the proposal would harm the character and appearance of the area, including the setting of the CA. Accordingly, it would conflict with Policies 4, 8, 37 and 42 of the Local Plan and Policy D3 of the London Plan (2021). Amongst other things, these policies seek to ensure that development is of a high standard of design and layout which enhances the quality of places and preserves or enhances the setting of conservation areas and not detract from views into or out of the area.

*Living conditions of neighbouring occupiers*

13. The appeal site is bounded by 7 Green Close to the north west, 28 Mays Hill Road to the north east and Orchard Court, a complex of flats, to the east. 4 Kingswood Road is located on the opposite side of Green Close to the south west.
14. The appellants' Daylight and Sunlight report has assessed the impact on daylight to the habitable room windows of 4 Kingswood Road and Orchard Court and concludes that the development would minimise the impact on the neighbouring properties. However, the report does not address whether there would be any loss of daylight to the gardens of neighbouring properties.
15. The proposed building would extend a significant distance beyond the rear of Orchard Court. It would present a long flank wall very close and parallel to the boundary with Orchard Court. Notwithstanding the conclusions of the Daylight and Sunlight Report, I consider it likely that the proposal, due to its orientation, proximity and significant height, would have an overshadowing impact on the rear of Orchard Court, particularly its rear garden. The proposal would be dominant and visually intrusive when viewed from this location and result in loss of outlook for the occupiers, to the detriment of their living conditions.
16. The Daylight and Sunlight report does not contain any reference to the impacts on No 7 or No 28. However, given the separation distance and orientation between the appeal proposal and these neighbouring properties, and the stepped roof profile of the development, I consider it unlikely that the proposal would be significantly harmful to these neighbour's light or outlook.
17. The proposal would not result in intrusive overlooking of the flats at Orchard Court given the relative lack of fenestration to this elevation of the proposed building. No 7 and No 28 are served by private rear gardens. The upper level terraces and windows to the rear elevation of the building would be likely to

allow elevated views towards these neighbours' rear gardens, which I consider would be harmful to the levels of privacy currently enjoyed by these neighbours. Whilst I accept the appellants' point that a degree of intervisibility between properties is to be expected in residential locations such as this, given the current high levels of privacy in the rear gardens of these neighbouring properties, the proposal's effects on the privacy of these neighbours would be marked and adverse.

18. The cycle and bin stores along with four car parking spaces would be positioned close to the boundary with No 7. I do not consider that the use of these facilities would be likely to lead to such a high number of movements that would result in significant noise or disruption to the occupiers of No 7, particularly as the cycle and bin stores would be enclosed, whilst the retained garage to the side of No 7 would partially screen the parking area from the neighbouring property.
19. The use of the private terraces would be unlikely to cause significant noise disturbance to either No 7 or No 28 given the separation distances from these properties. Therefore, the proposal would not result in significant harm to the neighbouring occupiers in respect of noise and disturbance.
20. However, for the reasons stated above, I conclude that the proposal would adversely affect the living conditions of the neighbouring occupiers in terms of light, outlook and privacy. The proposal would therefore conflict with Policy 37 of the Local Plan and Policy D6 of the London Plan which, amongst other things, require development to respect the amenity of existing and future occupants of neighbouring buildings. The Council has also referred to a conflict with Local Plan Policy 4, however, that policy does not address this main issue and I find no conflict with it.

#### *Living conditions of future occupiers*

21. Flats 1 and 2 would have windows to both the front and sides of the building thereby providing an acceptable outlook from these units. However, bedroom 1 of Flat 3 on the ground floor and bedroom 1 of Flat 4 on the first floor would be served principally by small windows facing onto a small lightwell close to the Orchard Court boundary. Consequently, the outlook from these windows to the lightwell and Orchard Court would be restricted and enclosed and would create an oppressive living environment which would be unlikely to provide an adequate standard of accommodation for the future occupiers of these flats. It is reasonable to expect that a not insignificant proportion of the occupiers' day would be spent within the bedrooms. The proposed scheme would result in the only bedrooms within Flats 3 and 4 having a poor outlook.
22. Whilst the Council raises a similar concern in relation to bedroom 1 of Flat 8, that bedroom window has a more open and angled outlook towards neighbouring gardens which I find would provide a satisfactory outlook.
23. The Council is concerned that it is unclear whether predicted internal lighting to the ground floor layouts and some of the bedrooms has taken into account external obstructions, such as the upper terraces or the boundary/bulk of the building at Orchard Court. However, there is no technical evidence before me to counter the findings of the appellants' Daylight and Sunlight Report, which concludes that the proposed flats would be provided with acceptable levels of daylight and sunlight.

24. The combined reception spaces and kitchens would all be served by large glazed openings leading to terraces which would allow good levels of light penetration and outlook to these spaces. Similarly, the bedroom windows close to the boundary with Orchard Court would be likely to receive ample light from the windows positioned on that side of the building. I therefore find that the proposed flats would be provided with adequate levels of daylight. However, that does not justify allowing sub-standard living accommodation within Flats 3 and 4 by reason of poor outlook from the bedrooms.
25. For the above reasons, I conclude that the proposal would fail to provide for satisfactory living conditions for future occupiers, having regard to the internal accommodation. It would conflict with Policy 37 of the Local Plan and Policies D3 and D6 of the London Plan, which, amongst other things, seek to ensure that housing development is of high quality design that provides adequately sized rooms with comfortable and functional layouts, and delivers appropriate daylight, outlook and privacy. The Council cites conflict with Local Plan Policy 4, however, I find this policy to be of little relevance to this main issue.

#### *Highway safety*

26. The appeal site is within an area with a Public Transport Accessibility Level (PTAL) of 2. In view of the low PTAL, future occupiers of the development would be likely to need private cars to meet many of their day-to-day needs. The Council says that the London Plan maximum requirements for a site with a low PTAL would be 6.75 spaces (based on 0.75 spaces per unit).
27. The proposal includes a total of 6 parking spaces, of which 4 spaces would be located in the rear parking area adjacent to the boundary with 7 Green Close, and 2 spaces to the front of the site. The proposed parking provision would fall short of the requirements of the London Plan in this regard.
28. There is no on-street parking on Green Close or at its junction with Kingswood Road. At the time of my visit to the site at around mid-morning on a Monday, there was very limited availability for on-street parking on surrounding roads. Whilst that is only a snapshot in time, it is reasonable to suppose that the situation could be worse during peak times. I note the comments from residents that nearby roads are already heavily congested. Failure to provide adequate off-street parking to meet the needs of future residents would be likely to lead to additional pressure for parking spaces in the area, resulting in overspill parking on the nearby roads and potentially lead to reduced visibility at road junctions due to parked vehicles and obstruction of crossovers.
29. The appellants contend that the number of spaces required should be rounded down to 6 and has referred to an appeal decision at Blackheath<sup>1</sup> in support of this approach. However, even applying that approach to the appeal proposal, it would still not meet the requirements of Local Plan Policy 30, which would require 9 spaces for the proposal (1 space per unit).
30. Moreover, given the limited space available within the parking area to the front of the site, together with the proposed planting and the position of the parking spaces, it is unclear how vehicles would be able to manoeuvre into and out of those spaces and enter and leave the site in a forward gear. The appellants' vehicle tracking indicates that it would be possible to reverse within this area

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<sup>1</sup> Appeal Ref: APP/E5330/W/20/3259056

and leave the site in a forward gear. However, the space shown on the vehicle tracking plans does not appear to correspond to the size of the area indicated on the submission drawings which is more confined. Based on the submitted drawings, I consider that reversing in or out of the spaces onto Green Close from the front parking area in such close proximity to the junction with Kingswood Road would present an unacceptable risk to highway safety. The cumulative effects on the safety of highway users and the amenity of local residents would be unacceptable.

31. Therefore, based on the evidence before me, having regard to local circumstances around the appeal site and in the absence of a parking stress survey, I find the proposal would not provide adequate car parking which would likely lead to increased parking stress on the surrounding highway network.
32. I acknowledge that there is already gated access to the front driveway and that the volume of traffic and vehicle speeds are likely to be low on Green Close. However, the front access does not appear to be in frequent use for vehicular access. The proposal would represent an intensified use of this access by future occupiers and visitors with a consequent risk to highway safety.
33. For these reasons, I conclude that the proposal would be harmful to highway safety, with particular regard to the proposed access arrangements and parking provision. As such the proposal would conflict with Policies 4, 30 and 32 of the Local Plan, which together seek to safeguard highway safety and require provision of sufficient off-street parking.

### **Other Matters**

34. Other concerns have been raised by interested parties. I also note the Council's concerns in relation to the refuse storage area. As I am dismissing the appeal for other reasons, there is no need for me to consider these matters further.

### **Planning Balance and Conclusion**

35. It is common ground between the parties that the Council cannot demonstrate a five year housing land supply with the current position being a 3.99 years supply. That represents a significant undersupply. However, in relation to Framework paragraph 11 d), and having regard to footnote 7, the harm to the designated heritage asset provides a clear reason for refusing the proposal.
36. Whilst the proposal would make efficient use of the land, in the manner proposed this would be harmful to the character and appearance of the area, including the setting of the CA, the living conditions of neighbouring residents, future occupiers of the development and highway safety. There would be a significant social benefit from the delivery of nine flats in an accessible location, as well as modest economic benefits. Nevertheless, the harm resulting from the development would significantly and demonstrably outweigh the benefits of the scheme.
37. For these reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

*M Ollerenshaw*

INSPECTOR