



Appeal Decision

Site visit made on 16 January 2023

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2023

Appeal Ref: APP/D5120/W/22/3299503

The Coach House, 40 Watling Street, Bexleyheath DA6 7QG

- 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 John McDonnell of Downmores Ltd against the decision of the Council of the London Borough of Bexley.
 - The application Ref 21/02371/FUL, dated 10 June 2021, was refused by notice dated 4 May 2022.
 - The development proposed is the erection of five flats comprising 3x 2-bed flats, 1x 3-bed flat and 1x 1-bed flat, with undercroft parking, cycle store and bin store.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr John McDonnell of Downmores Ltd against the Council of the London Borough of Bexley. This application is the subject of a separate Decision.

Procedural Matters

3. The description of development in the banner heading above is taken from the appeal form. I have used it as it provides a more concise description of the proposal than the wording on the planning application form.
4. At the time of my site visit the public house on the site was called the Lord Hill rather than the Coach House. It appears from the Council's "Locally Listed Buildings" directory that this change represents a reversion to its previous name. I have used the current Lord Hill name in my reasoning below to reflect the site as it now is; I have however retained the Coach House name in the banner heading above so as to reflect the information on the planning application form originally submitted to the Council.
5. The appellant submitted revised drawings while the planning application was being determined. The Council stated that "given the amount and scale of issues that had been raised by the LPA, it was not deemed appropriate for these amendments to be made", although it did not explain this reasoning further. The principal changes made were in relation to the siting of balconies and windows; I have determined the appeal having had regard to the later versions of the submitted drawings, though they have in turn raised further questions which I address in the "other matter" section.

6. The Council adopted the new Bexley Local Plan ("the 2023 BLP") on 26 April 2023 while this appeal was being determined. At the same time the 2012 Bexley Core Strategy and the remaining saved policies of the 2004 Bexley Unitary Development Plan, which had been referred to in the decision notice, were withdrawn. The main parties were afforded the opportunity to comment on the new policies (although the appellant elected not to do so), and where relevant in my reasons below I have referred to the policies of the 2023 BLP.

Main Issues

7. The Council's decision notice included seven reasons for which it had refused planning permission. However, there is considerable overlap between some of them, and accordingly I consider the main issues in this appeal to be:
- The effect of the proposed development on the character and appearance of the area, including on the setting of a nearby non-designated heritage asset;
 - Whether or not the development would provide future occupiers with acceptable living conditions, with particular regard to noise disturbance, outlook, and privacy;
 - The effect of the proposal on nearby mature trees;
 - Whether or not the proposed refuse collection point would provide adequate access, and its effect on the operation of the adjacent public house.

Reasons

Character and appearance

8. The appeal relates to the entire site occupied by the (now) Lord Hill public house, on the north side of Watling Street. The pub building itself is set towards the street frontage of the relatively deep plot. There is a yard and external seating area to the rear of the building, and an L-shaped driveway and car park wrap around the side and rear of the building and yard. The appeal proposal is the erection of a freestanding block of five flats in the rear car parking area; this would comprise an undercroft car park (with space for three vehicles) and a two-bedroom flat on the ground floor, two two-bedroom flats on the first floor, and one three-bedroom flat and one one-bedroom flat on the second floor. There would also be bin and cycle storage facilities at the rear of the ground floor behind the parking undercroft.
9. The Lord Hill is a locally listed building and, although neither main party has provided further information about its history or significance, its status as a non-designated heritage asset ("an NDHA") is not disputed. Viewed from the street it has two distinct parts, the eastern part is of three storeys with a pair of two-storey bays on the front elevation, while the western part has two storeys; various extensions and outbuildings have also been added to the rear. Based on its external appearance alone I would estimate that it is probably late Georgian or early Victorian in origin and, notwithstanding some insensitive modern alterations (such as cumbersome uPVC windows) it has a neat and uncomplicated appearance which makes a positive contribution to the character and appearance of the local area. In my view its significance insofar as this appeal is concerned is derived from the combination of factors including its age, its simple and pleasant form, and its status as a long-established

- landmark both locally and on what was once the main road between London and Dover.
10. The proposed block of flats would (by the appellant's measurement) be around 1m lower than the three-storey part of the Lord Hill, but would be taller than the two-storey part of the pub. Although the block would be set a minimum of around 11.5m behind the rear of the pub building (again by the appellant's measurement) it would be built very close to the rear and side site boundaries. The combination of size and siting would make the proposed block an unduly prominent addition to what is a relatively constrained backland site.
 11. The block would be a simple flat-roofed structure, finished in light brown facing brick; there would be some very limited relief provided by bands of dark brick at ground floor level. Windows, doors and the glass balustrading to external balconies would have dark grey aluminium framing. Seen from Watling Street, in the gap between the Lord Hill and the adjacent building at 34-36 Watling Street (a vehicle tyre fitting centre), the block would be visually dominated by the wide entrance to the vehicle undercroft. Overall, the proposed block would not form a sympathetic backdrop to the Lord Hill public house. Furthermore, the area between the block and the pub would mostly be given over to hard surfaced areas of car parking (which would continue to serve the Lord Hill's customers), which would not provide an attractive foreground for the proposed flats. The overall impression, and in my view not a positive one, would be of a block of flats which had been squeezed into a pub car park without much care or consideration having been given to the appearance of the site or the wider area.
 12. I acknowledge that there is a wide variety of architectural styles to be found in the buildings along and around Watling Street in the vicinity of the appeal site, and that this includes other blocks of flats (such as Florin Court and Sovereign Court, immediately east of the Lord Hill) which are broadly similar in their form and styling to the proposed development before me. However, these other blocks form part of the diverse street scene rather than the specific backdrop to an NDHA; I also saw that those other blocks are laid out with external and undercroft car parking restricted to the rear of the building so that, while it is not entirely attractive or sympathetic to its surroundings, it is not a dominating feature in the way which would be the case with the appeal scheme. Overall, I do not consider that these nearby developments carry significant weight in support of the appeal proposal.
 13. The proposed development would be harmful to the character and appearance of the area; it would also diminish the appearance and status of the Lord Hill from which its significance as an NDHA is partly derived. I therefore conclude that the development would conflict with Policies DP2 and DP11 of the 2023 BLP, and with Policy D4 of the London Plan 2021. While taken together these policies are supportive of residential schemes on small backland and infill sites, they nevertheless require all development to be well-designed and sympathetic to the character of the surrounding area and streetscene, including in terms of their landscaping. The proposal also conflicts with Policy DP14 of the 2023 BLP, which requires development proposals affecting heritage assets (including NDHAs) or their settings to describe the significance of the asset and demonstrate how the proposal conserves or enhances the significance of the asset.

Living conditions

Noise

14. The front windows of the proposed flats would be around 3.7m from the end of the Lord Hill's external seating area. The planning application was accompanied by a Noise Impact Assessment ("NIA")¹, the baseline survey for which was carried out over a long weekend (Friday to Monday) in mid-November 2021. The NIA survey found average noise levels² at the nearest proposed window locations of 56dB between 07.00 and 23.00, and 50dB between 23.00 and 07.00. The NIA also indicated that road traffic was the dominant source of continuous noise, although the maximum noise levels of 68dB which were surveyed between 20.00 and 23.00 on the Saturday evening were attributable to the pub.
15. I note the comment in the NIA that noise levels arising from busy beer gardens of around 75dB are typical, and that this would lead to a "level in the high sixties" (dB) at the proposed dwellings. However, it seems realistic to expect that the use of the external seating area in the summer would be greater than in November, and therefore the noise levels in the proposed flats would be *at least* in the high sixties as found by the NIA, and possibly higher still. It therefore seems likely that the flats would be subject to significant noise disturbance.
16. The NIA concludes that this disturbance could be controlled "with proprietary glazing and a suitable ventilation strategy to allow windows to remain closed [during the noisiest periods]". I note also that the scheme was redesigned while the planning application was being determined, with the flats' proposed balconies being relocated from the front of the building to the rear so as to screen them from noise from the pub. However, that these measures have been considered necessary seems to me to be indicative both of the potential for noise disturbance, and of the "solution" coming at the cost of quality of life for future occupiers of the flats, whether in terms of the expectation that they should not be able to open the windows of their main living rooms on summer evenings, or by putting their balconies on the shaded north-facing rear of the building rather than the sunnier south-facing front.
17. Notwithstanding that there have been several developments of flats in the surrounding area in recent years, it is nevertheless essentially a suburban environment, and future occupiers are likely to have lower expectations of – and tolerances for – noise disturbance than in a more densely built town or city centre location. I note the Council's reference to complaints of noise disturbance from occupiers of surrounding blocks, though I do not know the outcome of those complaints. Nevertheless, it seems likely that the very close relationship between the proposed flats and the external seating area of the Lord Hill would lead to unacceptable noise disturbance for future occupiers and, potentially, knock-on impacts on the ability of the pub to host noise-generating music or similar events.

Outlook and privacy

18. Proposed Flat 1 (on the ground floor) would have a limited outlook from many of its windows; the front bedroom and lounge/dining area would open onto a

¹ Venta Acoustics – Report VA3916.220117.NIA2 dated 17 January 2022

² Using the LAeq,T indicator – the equivalent continuous A weighted sound pressure level over the time period

car parking space (and so would also lack privacy), while a proposed side window in the lounge/dining room (not present in the original drawings) would face a boundary fence only around 2.1m away (by the Council's measurement).

19. Although the scheme was revised to move the balconies to the rear of the building (as I have described above), the revised elevations show that the lounge/dining rooms would have full height windows. Although the balconies would no longer lack privacy, given the very close proximity of proposed Flat 3 (at the eastern end of the first floor) to the Lord Hill's external seating area, it is likely that there would still be a reduced level of privacy within that flat.

Findings on living conditions issue

20. For the reasons set out above, I find that all of the proposed flats would be likely to have unacceptable noise disturbance as a consequence of their proximity to the pub's external drinking area. Flats 1 and 3 would have a harmful lack of privacy, while rooms within Flat 1 would also have a limited and poor quality outlook. The proposed development would not therefore provide acceptable living conditions for future occupiers. While the appellant has proposed mitigation measures in respect of noise disturbance, these would have their own negative consequences for future occupiers' living conditions.
21. I therefore conclude that the proposal conflicts with Policy DP11 of the BLP and with Policies D6 and D14³ of the London Plan 2021, which together seek to ensure that development achieves high-quality design, including in respect of privacy, outlook and noise disturbance. There would also be conflict with the "agent of change" principle set out in Policy D13³ of the London Plan 2021, which seeks to ensure that established noise and other nuisance-generating uses remain viable and can continue or grow without unreasonable restrictions being placed on them, and places the responsibility for mitigating impacts from existing noise and other nuisance-generating activities or uses on the proposed new noise-sensitive development.

Trees

22. There is a group of mature evergreen trees planted along the northern edge of the appeal site, next to the boundary with Guinea Court on Sterling Road. Given their proximity to the proposed block of flats, it is likely that the proposed development would inevitably result in harm to, or the total removal of, these trees. The appellant asserts that they would not be put at risk, and that they would be content for arboriculture assessment and tree protection conditions to be imposed in the event of the appeal being allowed.
23. However, based on how close the proposed block would be to the site boundary, I am not persuaded that the trees could be protected and retained during any construction period or beyond; this is especially so given the revised drawings which show 1.8m deep balconies attached to the north side of the block very close to the trees.
24. The Council considers the trees to be of low quality; I saw during my site visit that they are somewhat sparse in parts and so would not disagree with that overall assessment; their loss would be unlikely to cause significant harm if

³ The Council's decision notice and its response in relation to the new Local Plan indicated conflict with "Local Plan policies D13 and D14", but it is apparent from the evidence before me in full that this is a typographical error and that the policies referred to are those of the London Plan 2021.

their adequate replacement could be assured. However, given the very limited space which would be retained between the proposed block of flats and the site boundary, it does not seem to me that a replacement tree planting scheme could realistically provide an acceptable amount of greenery on the site. This again reflects my concerns, addressed under the character and appearance section above, that the proposal is trying to cram rather more built mass onto the site than it can reasonably take.

25. I conclude that the proposed development would have a detrimental effect on the mature trees on the site. It would therefore conflict with Policies DP2, DP20 and DP21 of the 2023 BLP, which seek to support biodiversity and to support urban greening, including by retaining trees and hedgerows when possible where backland and infill sites are developed.

Refuse storage and collections

26. The proposed development includes a bin storeroom at the north-west corner of the block of flats. It would be able to accommodate two 240 litre capacity wheelie bins per flat, which would be adequate to handle the amount of waste arisings expected from the development. The Council did not indicate that it had any concern with this aspect of the proposed refuse storage arrangements, and I see no reason to take a different view.
27. The bins would need to be moved to the side of Watling Street on refuse collection days, and on this matter the Council's evidence set out its concerns on two related points. These are firstly, that the proposed collection point is behind the boundary fence of the front beer garden of the Lord Hill pub, and that it would therefore be inaccessible for waste collection; secondly, the unpleasant smell of the bins would be likely to be harmful to the pub's customers' enjoyment of the beer garden.
28. The appellants statement asserts that "the proposed refuse collection point is not located behind a fence". However, that is flatly contradicted by the submitted proposed site plan⁴ which shows the collection point to be within the beer garden behind an existing low timber fence, an arrangement confirmed by what I saw on my site visit. It is not clear to me from the information before me where else might be a suitable location where up to ten large bins could be left for collection without obstructing either use of the footway by pedestrians or safe vehicular access and egress to/from the appeal site, or where they would not be unpleasant for users of the beer garden (though I recognise that this second factor may be reduced depending on the time of day at which refuse collections generally took place).
29. However, on the basis of the evidence submitted I cannot be satisfied that the scheme makes appropriate arrangements for refuse storage and collection. The proposed development therefore conflicts with Policy DP 11 of the 2023 BLP and with Policies D3 and SI7 of the London Plan 2021. Together these policies seek to ensure that all development is well-designed and does not have an unacceptable effect on neighbouring residents or business (including as a result of odour), and that buildings have efficient service and maintenance arrangements (including adequate and easily accessible storage space for the collection of waste and recyclables).

⁴ Location and Site Plans, Drawing 01, dated May 2021 – unlike other drawings, no amended version of this drawing appears to have been submitted.

Other Matter

30. The revised floorplans and elevations submitted with the planning application raised several inconsistencies, including the positioning of the proposed block of flats in relation to the site boundaries, and the fact that, of the block were to be built as shown on the (unamended) site plan, the 1.8m deep balconies of flats 2 and 4 would cross the site boundary to oversail the neighbouring land to the north. There were also unresolved internal matters, such as balconies apparently being accessed through windows above kitchen sinks. I have not sought clarification or further information on any of these matters, as it could not change my overall conclusion.

Conclusion

31. The proposed development would provide five new dwellings, in an area close to Bexleyheath town centre which is well-located for access to shops and other services. It would make a modest contribution to increasing the supply of housing locally, and there would also be likely to be some minor benefits for local businesses arising from a small increase in the number of households in the area. Given the scale of the proposal, I consider that these social and economic benefits carry moderate weight in favour of the scheme.
32. However, I have found that the proposed development would be harmful to the character and appearance of the area, including to the setting of an NDHA, would not provide acceptable living conditions for all future occupiers, would be likely to lead to the loss of mature trees on the site, and would not make adequate provision for waste collections. These are matters which carry considerable weight, and outweigh the benefits associated with the proposal. The scheme would conflict with the development plan taken as a whole, and there are no other considerations, including the provisions of the National Planning Policy Framework, that outweigh this conflict.
33. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

M Cryan

Inspector