



# Appeal Decision

Site visit made on 19 July 2023

**by Ryan Cowley MPlan (Hons) MRTPI**

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

**Decision date: 7 September 2023**

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**Appeal Ref: APP/D5120/W/22/3308338**

**2A Hook Lane, Welling DA16 2DR**

- 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 Holgate Properties Ltd against the decision of the Council of the London Borough of Bexley.
  - The application Ref 22/00536/FUL, dated 2 March 2022, was refused by notice dated 23 August 2022.
  - Change of use from Taekwondo Academy (Class E) to a commercial unit (Class E) and residential dwellings (Class C3) being 1 x 2 bed flat and 4 x semi-detached 1 and 2 bed houses with associated refuse and cycle storage and improvements to the surrounding public area.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The Bexley Local Plan (the Local Plan) was adopted in April 2023. The policies from the Core Strategy (2012) and Unitary Development Plan (2004), referred to by the Council in their decision notice, are now superseded by the adoption of the Local Plan. The Council has provided copies of Local Plan policies they consider relevant to the appeal. Additionally, the London Housing Design Guide has been superseded by the London Plan Guidance Housing Design Standards, June 2023 (HDS). Both parties have had an opportunity to comment on these changes. I have therefore disregarded the superseded documents.
3. In the banner heading above, I have referred to the description of the development agreed between the main parties, evidence of which was provided by the appellant in their appeal submission.

## Main Issues

4. The main issues are:
  - The effect of the proposal on the character and appearance of the area;
  - The effect of the proposal on the living conditions of the occupiers of 9 Hawthorn Cottages and 14 to 16 Midwinter Close, with particular regard to outlook and sunlight;
  - Whether the proposal would provide adequate living conditions for future occupiers, with particular regard to internal space, outlook and light; and
  - Whether the proposal provides adequate arrangements for fire safety.

## Reasons

### *Character and appearance*

5. The appeal site comprises a detached two storey commercial building fronting Hook Lane, with alleyways and a parking area beyond and to the rear of properties on Bellegrove Road.
6. The existing building is a non-designated heritage asset (NDHA), with significance primarily derived from its historic brick-built frontage. It features an elongated single storey flat roofed rear offshoot, which would be demolished as part of the appeal scheme. The Council are satisfied this would not have an adverse impact on the NDHA, and there is no compelling reason before me to conclude otherwise.
7. The site sits on the periphery of a commercial area, though streets to the south of Bellegrove Road are largely residential in nature. These are primarily characterised by detached, semi-detached and terraced two storey dwellings and bungalows, of varying age. Immediately adjacent to the site are terraced properties, with semi-detached dwellings on the opposite side of Hook Lane.
8. Despite the density of the area, existing dwellings are typically set back from the footpath to some degree and rear gardens are often elongated but narrow, particularly at terraced or semi-detached properties. This provides space between rows of dwellings and respite from the built development, giving Hook Lane and neighbouring streets a somewhat suburban character.
9. The appeal proposal would introduce two pairs of semi-detached dwellings to the rear of the site, behind the retained two storey element of the existing building. The space between each building would be limited, as would the space to neighbouring buildings to the north and south, and to shared boundaries. Small garden spaces would be provided to serve each unit.
10. Plots 2 & 3 would sit immediately adjacent to the existing terrace at Hawthorn Cottages, albeit in a position and orientation at odds with the alignment of the terrace. This would appear incongruous in this setting. It would also create a heavily enclosed space between the existing building to the front and Plots 2 & 3. This would be exacerbated by the enclosure provided by the 3-storey curved terrace to the north. The narrowness of the alleyway serving the development would further add to the unduly constrained character of the development.
11. The development to the rear of the site would be largely screened from public views to the north and east by the existing frontage building and the existing curved terrace to the north. However, the constrained nature of the development would still be appreciated in views down the alleyway from Hook Lane. Moreover, it would be readily visible from within Midwinter Close, where its relationship to the adjacent dwellings at Hawthorn Cottage would become a noticeable feature in the street scene.
12. Overall, this would give the development an uncharacteristically cramped form and appearance, that would be out of keeping with the prevailing pattern of development in the surrounding area.
13. I recognise there may be developments of greater density nearby. Some local examples of such development have been brought to my attention, though the full details of each are not before me. Nonetheless, density is not the sole

factor in whether a proposal would have the appearance of being cramped or out of keeping with the existing pattern of development, and this therefore does not lead me to a different conclusion.

14. I therefore find that the proposal would harm the character and appearance of the area. It is contrary to Policies SP5, DP2 and DP11 of the Local Plan and Policy D3 of the London Plan. These policies, among other provisions, seek to ensure development provides well-designed housing that makes a positive contribution to the area, and design respects existing character and context, contributes positively to the local environment and considers the relationships between buildings and spaces. They also seek to ensure the layout, height, scale and massing are complimentary to the surrounding area.
15. It would also conflict with guidance within the HDS, which seeks to ensure design proposals respond positively to the unique characteristics of the site in its wider physical context, including the character and legibility of the area and local patterns of buildings and streets.

#### *Living conditions of neighbours*

16. 9 Hawthorn Cottages is a two-storey end-terrace dwelling located immediately to the south of the appeal site, with a modest gap maintained to the shared boundary. The existing building at the appeal site steps down to single storey, with a flat roof, at the point at which it projects beyond the rear of No 9.
17. The proposed dwelling at Plot 3 would sit alongside No 9, at an oblique angle, and would project considerably beyond its rear elevation. The tall side wall of the existing single storey structure would be retained along the shared boundary. However, the blank gable wall of Plot 3 would project above this, as would that of plot 4 beyond.
18. The existing building on the appeal site has a deleterious effect on outlook from No 9. Retention of the tall side wall of this structure will not change this. However, the addition of further buildings extending above the wall, along the side boundary and sitting beyond the rear boundary would further erode the outlook from this neighbouring property. The oblique angle of the development relative to this neighbouring dwelling would also contribute to the harmful sense of enclosure, appearing oppressive from within No 9's garden area. This would be detrimental to the living conditions of occupiers of No 9.
19. The scheme is supported by a Daylight and Sunlight Assessment (DSA). This confirms that the level of skylight (Vertical Sky Component) reaching the ground floor glazed doors in the rear elevation of No 9 is already limited. The DSA indicates this would deteriorate further because of the proposal, as would that of the first-floor window above. The extent of change would remain within Building Research Establishment (BRE) guidance. However, this does not lead me to a different conclusion with regard to my findings on outlook above.
20. In respect of 14 to 16 Midwinter Close, the proposed dwellings at Plots 3 and 4 would be situated an appreciable distance from the rear elevation of these neighbouring dwellings. The space provided by the elongated gardens at Nos 14 to 16, combined with the additional buffer of the footpath serving No 13, would adequately mitigate any undue harm to the outlook from these neighbouring dwellings or their rear gardens. This relationship would also be

comparable to the relationship between the terrace at Hawthorn Cottages and No 16.

21. The DSA states that the proposed development would have an acceptable impact on the sunlight to existing surrounding residential windows. As the proposed development is situated to the north of existing gardens, it is also asserted that the proposed development would have no impact on the percentage of each that receives two hours of sunlight on 21 March, complying with BRE guidance. The Council does not appear to dispute these findings and I have no reason to conclude otherwise.
22. While I have not identified harm in respect of the effect on the living conditions of 14 to 16 Midwinter Close, I find that the proposal would have a harmful effect on the living conditions of the occupiers of 9 Hawthorn Cottages, with particular regard to outlook. It would be contrary to Policies DP2 and DP11 of the Local Plan. These policies, among other provisions, seek to ensure appropriate levels of outlook are provided, and that there are no unacceptable adverse effects on the amenity of residents of neighbouring properties.

*Living conditions of future occupiers*

23. The proposed plans indicate that the 2-storey residential unit at Plot 1 would have a Gross Internal Area (GIA) of 93m<sup>2</sup>. The Council contend this unit would only have a GIA of 71m<sup>2</sup>. However, no further clarification is provided with respect to how the Council arrived at this figure, and there is no compelling evidence before me to indicate the proposed plans are inaccurate. The proposed GIA is greater than the 79m<sup>2</sup> minimum GIA requirement for a 2-bedroom, 4-person, 2-storey dwelling set out in Policy D6 of the London Plan and the Nationally Described Space Standard (NDSS).
24. Policy D6 of the London Plan also indicates that a single bedroom must have a floor area of at least 7.5m<sup>2</sup> and be at least 2.15m wide. The appellant has confirmed that the single bedrooms at Plots 4 and 5 would have floor areas of 7.5m<sup>2</sup> and 10m<sup>2</sup> respectively, in accordance with Policy D6. However, they acknowledge that not all parts of these bedrooms meet the relevant width requirements. I note the bedroom at Plot 4 is particularly narrow and I am therefore not satisfied that the proposal accords with Policy D6 in this regard.
25. The proposed rooms shown as offices at Plots 2 and 3 were originally intended to be single bedrooms. The Council contends that these would likely still be used and marketed as bedrooms. However, I must consider the appeal based on the plans before me, and there is no compelling reason not to assess these proposed units as 1-bed 2-person dwellings as shown. Accordingly, I do not find any conflict with London Plan Policy D6 in this regard.
26. Though the design of the windows serving these rooms may have some adverse effect on outlook and light levels, I do not find that this would be so significant as to be unduly harmful to the living conditions of future occupiers.
27. While I have not identified harm in respect of the living conditions of future occupiers at Plots 1, 2 and 3, I conclude that the proposal would have a harmful effect on the living conditions of future occupiers at Plots 4 and 5, with particular regard to internal space. It would be contrary to Policy D6 of the London Plan and the HDS, which seek to ensure housing developments are of a high-quality design and provide adequately-sized rooms.

### *Fire Safety*

28. No information has been provided to demonstrate how the proposal would comply with the provisions of Policy D12 of the London Plan. I cannot be sure on the basis of the information before me that the proposal would, or could be made to, comply with the provisions of Policy D12. The use of a planning condition to secure details in respect of this would therefore not be appropriate.
29. I recognise the requirement for such details to be provided may not be set out in an up-to-date validation checklist, and may not have been explicitly requested by the Council before or during the application stage. This does not however demonstrate that the proposal would comply with Policy D12 and therefore does not lead me to a different conclusion on this main issue.
30. I find that the proposal would fail to provide adequate arrangements for fire safety. It is contrary to Policy D12 of the London Plan, which seeks to ensure all development proposals achieve the highest standards of fire safety in the interests of the safety of all building users.

### **Other Matters**

31. The proposal would reuse previously developed land in an existing urban area, with good access to services and public transport. It would also provide improvements to the quality of commercial floor space on offer and would contribute to meeting the housing target. Small sites are often built out relatively quickly, and this would support the Government's objective of significantly boosting the supply of homes, as set out in Paragraph 60 of the National Planning Policy Framework 2023 (the Framework). Additionally, the scheme would provide public improvements to the existing road access and car park, and an element of greening through the provision of small garden spaces. However, these benefits would be modest, given the small scale and context of the development.
32. Paragraph 124 of the Framework indicates that decisions should support development that makes efficient use of land. However, the desirability of maintaining an area's prevailing character and setting and the importance of securing well-designed, attractive and healthy places must be taken into account. Given the identified harm in this instance, it has not been demonstrated that the proposal would constitute an efficient use of land.
33. Other than where set out above, I have not identified conflict with any other relevant parts of the development plan or national policy and guidance. However, the absence of harm or development plan conflict with respect to other relevant matters weighs neither for nor against the proposal.
34. I understand that the proposals for this site have been amended, including following pre-application discussions with the Council. However, this does not indicate that the appeal scheme is acceptable with regard to the main issues.

### **Conclusion**

35. The proposal would result in significant harm and development plan conflict with respect to its effect on the character and appearance of the area, the living conditions of the occupiers of neighbouring properties and future occupiers, and fire safety matters. While I have found the proposal to be acceptable with respect to the effect on the living conditions of the occupiers of

14 to 16 Midwinter Close and the living conditions of future occupiers of Plots 1, 2 and 3, this does not outweigh the identified harm and development plan conflict. I therefore find that the proposal would be contrary to the development plan, taken as a whole.

36. There are no material considerations that indicate the proposal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal should be dismissed.

*Ryan Cowley*

INSPECTOR