



Appeal Decision

Site visit made on 17 October 2023

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 December 2023

Appeal Ref: APP/G5180/W/23/3320495

The Registry, 34 Beckenham Road, Beckenham BR3 4TU

- 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 Shaviram Beckenham Limited against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/22/02456/FULL1, dated 15 June 2022, was refused by notice dated 19 October 2022.
 - The development proposed is erection of vertical extension to provide 9no. flats at 5th and 6th floors (6no. 2 bedroom and 3no. 3 bedroom).
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Decision

1. The appeal is dismissed.

Main Issues

2. In respect to reason for refusal 2, the Council's delegated report refers only to harm to the occupants of the dwellings on Chaffinch Road. No other properties are specifically mentioned. I have therefore determined the appeal on this basis. As a result, the main issues are the effect of the proposed development on:
 - the character and appearance of the area, having particular regard to the setting of the conservation area (CA) and nearby listed building; and,
 - the living conditions of neighbouring residential occupants on Chaffinch Road, having particular regard to overlooking and privacy.

Reasons

Character and appearance

3. The appeal property relates to a former office building, which has been converted to flats. It is modern in appearance. The appeal property fronts onto Beckenham Road and has a wide façade, which lies at the back edge of the pavement. The front part of the building is 5 storeys high and has a central two storey roof top projection, which is set back from the front and side elevations. The roof top projection contains a duplex apartment and lift infrastructure. The appeal property has a large rear outrigger, which is lower in height than the roof top projection, but higher than the principal part of the building. The rear outrigger consists of 4 storeys of residential accommodation, with 2 floors of parking below.
4. The surrounding area contains a mix of uses including commercial, leisure and residential. The adjacent railway line and residential development beyond it are

on lower level land than the appeal site. The development on the opposite side of the railway line primarily consists of modest, two storey semi-detached dwellings. On the opposite side of Beckenham Road is a 3 storey terrace, which has retail and commercial units on the ground floor, with flats above. The terrace opposite is historic in appearance, consists of traditional materials and contains elaborate design features such as corner turrets and decorative gables.

5. To the east of the site is the Elm Road CA and a Grade II listed building, known as The Studio; both of which are designated heritage assets. Paragraph 189 of the National Planning Policy Framework (the Framework) advises that heritage assets are '*an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.*' The significance of the CA, insofar as is relevant to this appeal, derives from the high quality architecture, mix of uses including residential, institutional and ecclesiastical, use of traditional materials and tree-lined roads.
6. The Studio is a two storey building, with basement. It was a former Technical Institute and historically formed part of a small civic core, also comprising of swimming baths and a library. The Studio is separated from the appeal site by an access road and car park. In accordance with the statutory duty imposed by section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving the setting of the listed building in the determination of this appeal. The significance of The Studio insofar as is relevant to this appeal, derives from its late nineteenth century architecture, use of traditional materials including red brick with terracotta dressings and features such as a central octagonal cupola, metal weathervane, and mullion and transom windows.
7. There is a mix of historic and modern development adjacent to the CA and listed building, including buildings of a larger scale, such as the appeal property. The modern design, height and massing of the appeal property currently contrasts with the more modest scale and traditional design of buildings within the CA and the development on the opposite side of Beckenham Road. While there is a large, modern sports centre adjacent to the CA and listed building, the sports centre is lower in height than the appeal property and set back some distance from the highway. The appeal property is taller and bulkier than the surrounding built development and is highly prominent in views from Beckenham Road, Chaffinch Road and in the public realm adjacent to the sports centre.
8. There has been change to the setting of the listed building over time, including the development of the appeal property and sports centre. The listed building has also been isolated from surrounding built form by the road infrastructure and car park and has a modern two storey extension on the side nearest to the appeal property. The appeal property is currently larger and bulkier than the listed building and fails to respect the generally more tight-knit historic grain of development within the CA. As a result of its size, scale, siting and modern design, it does not contribute positively to the setting and therefore the significance of the listed building or CA.
9. The proposal seeks to provide a rooftop extension, which would provide 9 new flats on the part of the building that fronts onto Beckenham Road. Although the

proposal would be lower in height than the existing roof top projection, it would be higher in height than the principal part of the building and the rear outrigger. The extended fifth floor would be set back from the front, side and rear elevations, with the top floor set back further from the front elevation. The set backs enable the creation of private terraces for the flats.

10. The proposal would extend considerably further across the roof than the existing roof top projection and would result in a significant increase in bulk and massing at roof level. I acknowledge that the proposed extension would be well above eye level and partially screened by the existing parapet walls. Consequently, views of the proposal would be limited from the public realm to the front of the property.
11. The existing street trees currently provide some screening between the appeal property and the listed building. However, even when the trees are in leaf the two buildings are seen together in views along Beckenham Road. The street trees would provide some screening of the proposal in views from the east. The proposal would appear more prominent in these views when the trees are not in leaf. The proposed development would also be visible above the roof of the listed building and from the public realm surrounding the sports centre. In addition, the proposal would be visible from the west of the site, in views along Beckenham Road where there is less intervening tree cover. It would also be readily apparent in views from Chaffinch Road to the rear.
12. While the appellant's Heritage Statement argues that the proposal would appear as a loft conversion and would be barely perceptible, I find that the proposal would increase the bulk and massing of the appeal property at roof level, which would exacerbate its visual prominence. Given the building's back of pavement location and the proposed height and massing of the extension, the proposal would appear unduly prominent and incongruous in the street scene and out of scale with neighbouring properties.
13. While the use of metal cladding and large areas of glazing would lighten the visual appearance of the proposed upper floors, I do not find that the proposed materials would mitigate the visual impact of the scheme. Furthermore, metal clad roof top extensions are not a characteristic feature in the immediate locality.
14. The proposed additional mass and bulk at roof level would exacerbate the visual prominence of the appeal property, creating a property which would be even more at odds with the scale of the nearby listed building and development within the CA. As a result, the proposal would cause significant harm to the setting and therefore the significance of the CA and listed building. I find the harm to both would be less than substantial, but nevertheless of considerable importance. In accordance with paragraph 202 of the Framework, that harm should be weighed against any public benefits of the proposal.
15. The proposal would align with the objectives of the Framework, which seek to significantly boost housing supply, promote the effective use of land and provide housing within locations that have good accessibility to services/facilities and public transport links. The proposal would provide 9 new dwellings on a windfall site, which would make a positive contribution to the supply of housing within the borough, which I afford moderate positive weight.

16. While the proposal seeks to provide a mix of flat sizes, including family sized accommodation, outdoor amenity space in the form of terraces, blue and green roofs to promote biodiversity and reduce surface water runoff, renewable energy technologies, energy saving measures, accessible and adaptable dwellings and cycle parking, there is little to suggest that the scheme is anything more than policy compliant in respect to these matters and I have therefore give these benefits limited weight.
17. The appellant states that the proposal seeks to improve and upgrade the existing building. While the appeal property has recently been converted and parts of its external fabric have been upgraded, there is nothing to link these works directly to the appeal proposal. I therefore give them limited positive weight in my decision.
18. Overall, the proposed benefits carry moderate weight in favour of the development. As a result, there are no public benefits of sufficient weight to outweigh the great weight, which I am required to give to the less than substantial harm that would arise from the development.
19. For the reasons given above, I conclude that the proposed development would cause significant harm to the character and appearance of the area and the setting and therefore the significance of the CA and the nearby listed building. The proposal would conflict with Policies 4, 37, 38 and 47 of the Bromley Local Plan (the Local Plan) January 2019 and Policies D4 and HC1 of the London Plan 2021. These policies among other things require that: development respects heritage assets; is appropriate to its historic context; preserves the setting of a listed building; preserves and enhances the character and appearance of a CA, contributes positively to the local character and street scene; complements the scale of adjacent buildings; and, is of high quality.
20. The proposal would also conflict with the Framework, which seeks to achieve well-designed places that are sympathetic to local character, including the surrounding built environment and that account is had to the desirability of a proposal sustaining and enhancing the significance of a heritage asset.
21. Policy 41 of the Local Plan is not relevant to this main issue as it relates only to development within a CA. However, I find that the first reason for refusal is justified and supported by the other development plan policies listed and the Framework.

Living conditions

22. The residential properties on Chaffinch Road are located on lower level land than the appeal site and separated by a railway line. There are mature trees adjacent to the railway line, which provide some screening between the appeal property and these dwellings. The appeal property is already heavily fenestrated. The proposal would significantly extend the built form at roof level and increase the extent of fenestration on the fifth and sixth floors, plus provide roof top terraces for future residents.
23. The proposed fenestration and roof top terraces would cause some additional overlooking and loss of privacy to the occupants of neighbouring properties. However, given the distance between the appeal site and the properties on Chaffinch Road; the intervening vegetation and railway line; the extent of existing fenestration; and, the fact that the proposed elevations would be set

back behind the existing building lines all mean that the proposal would not result in a detrimental level of overlooking or perception of overlooking, neither would it result in a harmful loss of privacy to the occupiers of the neighbouring properties on Chaffinch Road.

24. For the above reasons, I conclude that the proposal would not be harmful to the living conditions of occupants of neighbouring residential properties in respect of privacy and overlooking. The proposal would accord with Policy 37 of the Local Plan. This policy among other things requires that development respects the amenity of occupiers of neighbouring buildings and does not result in a harmful loss of privacy.

Other Matters

25. The use of planning conditions to secure further design details, would not mitigate the harm that I have identified.
26. While paragraph 120 d) of the Framework supports the development of under-utilised land and buildings, given the extent of existing development on the appeal site, I do not find that the land and building is currently under-utilised.

Planning Balance

27. The Council is unable to demonstrate a 5 year supply of deliverable housing sites. In such circumstances, paragraph 11 d) of the Framework advises that planning permission should be granted, unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
28. The proposal would harm the setting and therefore the significance of a nearby listed building and the CA, which are designated heritage assets. Consequently, the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development. As a result, the presumption in favour of sustainable development does not apply in this case.

Conclusion

29. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no other material considerations, including the Framework, that would outweigh that conflict. Therefore, I conclude that the appeal should be dismissed.

A James

INSPECTOR