



Appeal Decision

Site visit made on 10 January 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 JANUARY 2024

Appeal Ref: APP/G5180/W/23/3323014

110 Glenbar House, Flat 1, Croydon Road, Penge, Bromley, London SE20 7YZ

- 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 Penge Churches Housing Association against the decision of the London Borough of Bromley.
 - The application Ref DC/22/01912/FULL1, dated 9 May 2022, was refused by notice dated 25 November 2022.
 - The development proposed is demolition of the existing building and construction of a part 4/part 3 storey building to provide 9 residential dwellings (Class C3), alongside commercial office floorspace (Class E) at ground floor level together with hard and soft landscaping, cycle and car parking, and other associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. There is a discrepancy between the appellant's name used on the planning application and appeal forms. It has been confirmed that the appellant is Penge Churches Housing Association, and therefore this is the name that I have used for this decision.
3. The National Planning Policy Framework (the Framework) was updated in December 2023, and accordingly for the purposes of this decision I have referred to the latest version of the Framework. Chapter 12 of the revised Framework included updates and seeks to achieve 'well-designed and beautiful places'. Both main parties have had the opportunity to comment on the amendment to the Framework and I have considered the appeal on this basis.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - Whether it has been demonstrated that there is no demand for the existing affordable housing accommodation, and if so, whether the proposed affordable housing provision would meet an identified need for supported and specialised housing;
 - Whether the proposal would provide future occupiers with adequate living conditions having regard to the design and location of the main residential entrance; and

- The effect of the proposal on the living conditions of neighbouring occupiers with particular reference to outlook and loss of privacy for the occupiers of Anthony Court and loss of outlook for the occupiers of 11 Trinity Mews.

Reasons

Character and appearance

5. The appeal property is a detached two storey villa. The front elevation displays features characteristic of its period such as bay windows, decorative lintels above the windows and a prominent arched, recessed porch. It has side and rear dormers which provide additional accommodation within its hipped roof, although these are not prominent within views from Croydon Road. The appeal property therefore contributes positively to the character and appearance of the area.
6. Whilst there is a variation in the building designs along this part of Croydon Road, almost all buildings have hipped or pitched roof forms. Gabled front elevations are a prominent feature, particularly on the side of the road opposite the appeal site. The predominant materials on the front elevations include brickwork and render and many properties share similar decorative features such as bay windows and decorative lintels.
7. The appeal property is set back from the highway behind a small parking area, and properties on this stretch of the road are arranged in a discernible building line. To the left of the site, when viewed from Croydon Road, is a modern, four storey block of flats set away from the shared site boundary behind an access to a rear parking area. Whilst it is a large, wide building, its pitched and gabled roof form references the surrounding building typologies. To the right of the appeal site are a pair of two storey semi-detached houses with pitched roofs known as 10 and 11 Trinity Mews. As this part of Croydon Road is on a gentle incline they are constructed on higher ground than the appeal property.
8. There is a variety of building heights on Croydon Road, with Anthony Court being noticeably taller than the appeal building and 10 and 11 Trinity Mews. The proposal's stepped part four storey, part three storey-built form would mediate its height and create a gentle transition in building heights between these neighbouring properties. Consequently, the height of the proposal would not appear at odds to the streetscene.
9. However, due to its lack of articulation the proposal's flat roof form would appear as a large, heavy and somewhat unrelenting mass. Furthermore, it would appear at odds to the common pitched and gabled roof forms within this part of the Croydon Road. Consequently, the flat roof form would be an uncharacteristic addition to the street scene. The large, evergreen tree located to the front of Trinity Mews would filter views of the proposal from the area close to the junction with Elmers End Road. However, the proposal would be very prominent in public views from the areas of Croydon Road to the south west of the appeal site, thereby emphasising the roof's prominence as an uncharacteristic feature within the streetscene.
10. I acknowledge that the gaps between the proposal's side elevations and shared boundaries would not be significantly reduced, and its front elevation would not project significantly forward of the existing building line along the street.

However, the proposal's blocky and rectangular form does not reflect the building typology found in the immediate area and the proposal would not reinforce the local character of the area. The excavation to lower the proposal's ground floor level would be accentuated by the existing incline of the street. As a result, the sharp difference in levels between the proposal and Trinity Mews would appear jarring in what is otherwise a gently sloping street.

11. Both parties agree that the use of brownfield land for residential intensification is acceptable in principle. However, the impact of the development, when viewed in its context, due to its uncharacteristic roof, and bulky, rectangular form would cause harm to the character and appearance of the area.
12. Consequently, the proposal would conflict with Policies 4 and 37 of the Bromley Local Plan (2019) (BLP) and Policies D3 and H2 of the London Plan (2021) (LP). These policies require development to be of high-quality design, based on an understanding of local character and appearance, whilst noting that local character evolves over time and will need to change in appropriate locations to accommodate additional housing on small sites. I also find conflict with the principles within the Framework which aim to create high quality, beautiful and sustainable buildings and places by, among other things, being sympathetic to local character including the surrounding built environment.

Affordable housing provision

13. The appellant, a community-based housing association with a mandate to house those in need and with a range of housing vulnerabilities, is the freehold owner of the property. Whilst the appeal property is currently vacant, it was most recently in use as five self-contained flats which provided temporary housing for homeless families.
14. The proposal would result in the loss of the flats for homeless families. They would be replaced by nine social-rented one bed units designed to cater to the needs of vulnerable homeless adults who require 'move on' accommodation.
15. Policy 11 of the BLP states that proposals involving the loss of sites currently providing specialist accommodation will be resisted unless it can be demonstrated that there is no demand for the existing accommodation and no demand for sites from alternative providers.
16. The submitted evidence does not demonstrate that there is no demand for the existing accommodation for homeless families which would be lost. Nor has evidence been provided to establish the extent of need for the proposed single person accommodation. Whilst the proposal would optimise the number of affordable units on site, it seems to me, that the provision of nine single occupancy units would not provide housing for as many occupiers as the existing five family sized units.
17. The appellant indicates that the appeal building in its current form is not fit for purpose, and that a redevelopment scheme including family size units is impractical and unviable without grant funding which is unlikely to be awarded. However, substantive evidence in relation to these matters has not been provided.
18. For the above reasons, I conclude that it has not been demonstrated that there is no demand for the existing accommodation and that the proposal would meet an identified need for supported and specialised housing. I therefore find

that it would conflict with Policy 11 of the BLP, the aims of which are described above. It would also conflict with Policy H12 of the LP which supports the delivery, retention and refurbishment of supported and specialised housing which meets identified need and satisfies the requirements of the specific use or group, while providing options for the diversity of London's population.

Future occupiers

19. The residential access would be located within the rear part of the proposed building along a side elevation. It would not be visible from the street and its location would not be especially apparent to visitors to the property, albeit additional signage could be included to make it more identifiable. Due to its position at the end of a narrow footway between a residential cycle store and a tall retaining wall on the boundary with Trinity Mews, the entrance would not be a welcoming arrival space.
20. The ground floor office would have windows facing the walkway which would enable active surveillance from the office. However, this is likely to be limited to standard working hours, which are generally during the daytime rather than late-evening or early morning. Whilst the area could be well-lit with artificial light, this in itself would not create active surveillance.
21. The Council refer to the Mayor of London's Housing Supplementary Planning Guidance (2016, updated 2017) (HSPG). This states that the 'arrival' at a building should be safe, secure and welcoming and that residential entrances should be visible, clearly identifiable, and directly accessible from the public realm. Due to its location to the rear, lack of visibility on the approach to the building and the limited active surveillance during long stretches of the day, I do not find that the residential entrance would be safe and welcoming.
22. I recognise that the Metropolitan Police did not object to the proposal. However, they do not appear to have been consulted in relation to the proposal. Regardless, I have considered this proposal on its own merits and concluded that it would cause harm for the reasons set out above.
23. I therefore conclude that the proposal would not provide future occupiers with adequate living conditions. Therefore, in this respect, it would be contrary to Policies 4 and 37 of the BLP and Policy D6 of the LP. Amongst other aspects these policies require that housing development are of high-quality design and protect the living conditions of future residents.
24. As set out above, the design would also conflict with the HSPG guidance in relation to the design of residential entrances.

Neighbouring occupiers

25. The proposal would introduce four storeys of built form with limited set back from the shared boundary with Anthony Court. The side elevation of Anthony Court has windows within each of its four storeys facing the appeal site. Whilst the windows within the centre of this elevation supply a stair core, the submitted evidence indicates that the remaining windows serve kitchens.
26. The proposal would have a deeper footprint and would be taller in height than the existing building. As it would be positioned close to the shared boundary its combined depth, height and proximity to Anthony Court's nearest habitable

windows means that the proposal would be a dominant and oppressive feature for the neighbouring occupiers.

27. Each of the proposal's upper floors have two-bedroom windows which would provide future occupiers direct views towards the windows within Anthony Court's side elevation. Given the proximity and orientation of these windows, the proposal would result in a harmful loss of privacy for the occupiers of flats within Anthony Court.
28. 11 Trinity Mews is located on the other side of the appeal site on land which is significantly higher. The part of the proposal closest to Trinity Mews would be three storeys in height, and lower than the ridge height of the adjoining property. The proposal's side elevation would be positioned further away from the shared boundary with Trinity Mews than the existing building. Towards the rear, the proposal's footprint would step significantly away from the shared boundary, allowing a good level of separation from its built form and the rear windows and garden of 11 Trinity Mews. Overall, the separation distance would ensure that the proposal would not be overly oppressive to the extent that it would significantly harm the level of outlook for occupiers of No 11.
29. However, for the above reasons, I have found that the proposal would harm the living conditions of the occupiers of Anthony Court, with particular reference to outlook and privacy. I therefore find that it would conflict with Policies 4, and 37 of the BLP and Policy D6 of the LP. Amongst other aspects, these seek to protect the living conditions of occupiers of neighbouring properties from unreasonable visual intrusion and loss of privacy.
30. The Council also alleges a conflict with Policy 9 of the BLP and Policies D6 and H2 of the LP with regards to this matter. However, my attention has not been drawn to any words within the policies that are relevant to this issue. The policies have therefore not been determinative in my decision.

Other Matters

31. The provision of a scheme providing 100% affordable housing units for vulnerable homeless individuals is a benefit of the scheme. However, the weight afforded to this is tempered by the loss of the existing family sized affordable units.
32. It has been put to me that if the appeal is dismissed, the appellant is likely to sell the property on the open market, and consequently, any future development is unlikely to include affordable housing. Be that as it may, I must determine the appeal on the basis of the drawings and information which I have before me. As such, it is a matter of limited weight.
33. I understand that the appellant undertook pre-application discussions with the Council in advance of the submission of the planning application. However, the concerns expressed regarding the Council's conduct during the processing of the planning application are outside the remit of this appeal decision.
34. The Framework seeks to significantly boost housing supply and indicates that substantial weight should be given to the value of using suitable land within settlements for homes. It also encourages the optimal use of underutilised land. The proposal would contribute to the local housing supply and use land in an existing urban area with access to public transport and services. These matters weigh in favour of the proposal.

35. There would be economic benefits during construction and through employment associated with this. Whilst this would be temporary it is a matter which weighs in favour of the proposal.
36. It has been put to me that the existing building is outdated and obsolete. As I have been provided with limited evidence to demonstrate this, it is a matter of limited weight.
37. I acknowledge that the site is currently vacant and that residential development in this location is acceptable in principle and the proposal may be compliant with various other provisions of the development plan. I have also found no harm in relation to matters such as highway safety and the quality of the accommodation within the proposed residential units. However, the absence of harm or development plan conflict with respect to other relevant matters is neutral and weighs neither for nor against the proposal.

Conclusion and Planning Balance

38. The Council cannot demonstrate a 5-year housing land supply. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
39. Policies 4 and 37 of the BLP and Policies D3, D6 and H2 of the LP are broadly consistent with the Framework's aim to create high quality, beautiful and sustainable buildings and places by, among other things, being sympathetic to local character including the surrounding built environment. This is considered fundamental to what the planning and development process should achieve, and paragraph 139 of the Framework advises that development that is not well designed should be refused.
40. The Framework also sets out at paragraph 130 f) that development should create places with a high standard of amenity for existing and future users. Paragraph 64 of the Framework states that where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and expect it to be met on-site. Consequently, Policies 4, 8, 11 and 37 of the BLP and Policies D3, D6, H2 and H12 of the LP are consistent with the Framework. As such they have been given full weight.
41. As described above there would be benefits associated with nine new affordable homes. However, this is tempered by the loss of the existing family sized affordable units. The Framework also gives substantial weight to the value of using suitable brownfield land within settlements for housing. I recognise that the windfall development would incorporate high-quality building insulation levels alongside renewable technologies. These all weigh in favour of the proposal.
42. The support for the principle of development within the Framework is countered by the importance it places on the provision of development that preserves character and appearance. Equally, the identified adverse impacts of the development in respect of affordable housing and living conditions of both future and existing occupiers are matters of a high order.
43. Consequently, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

44. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework and the presumption in favour of sustainable development, which outweigh this finding. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR