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# Appeal Decision

Site visit made on 19 December 2023

**by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI**

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

**Decision date: 4 March 2024**

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**Appeal Ref: APP/C5690/W/22/3308260**

**Land to the rear of 14-48 Geoffrey Road, London, SE4 1NT**

- 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 Kevin Clark of Skillcrown Ltd against the decision of London Borough of Lewisham.
  - The application Ref DC/22/126149.
  - The development proposed is the demolition of existing structures and construction of a development comprising of residential accommodation (Class C3), with associated landscaping, refuse and recycling storage and cycle and car parking.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The Revised National Planning Policy Framework (the Framework) was published on 19 December 2023, after the appeal was lodged. However, the changes to the Framework are not material to the appeal. Consequently, whilst I have had regard to the Framework in reaching my decision, I will not prejudice any party by taking this approach.
3. The Council has raised concerns surrounding some of the documentation that the appellant has submitted as part of their submission. These concerns specifically relate to evidence in relation to reason for refusal (RfR) nos 3, 4 and 5 on the Council decision notice, regarding trees, ecology/biodiversity and highway safety respectively.
4. I am conscious that the appeal process should not be used to evolve a scheme that has been refused. Under the 'Wheatcroft Principles' established under *Bernard Wheatcroft Ltd v SSE* 1982, I am satisfied that the information submitted with the appeal does not fundamentally change the nature of the proposed development. For this reason, and noting that the Council and other interested parties were able to consider this additional information before the submission of their own statement/representations, I consider that nobody would be prejudiced through the acceptance of evidence in the appellant's submission, or that any justification exists for re-consultation.
5. Therefore, following the confirmation from the Council in its statement that should the appellant's submission be accepted, it considers that the information provided in relation to ecology/biodiversity and highway safety satisfies RfR nos 4 and 5, subject to the imposition of planning conditions. I have dealt with the appeal on this basis.

## **Main Issues**

6. The main issues of this appeal are:

- whether satisfactory accommodation would be provided for future occupiers of the scheme, with particular regard to the provision of private outdoor amenity space;
- whether the proposed development would preserve or enhance the character and appearance of the Brockley Conservation Area (BCA); and,
- whether the proposed development would result in the unacceptable loss of trees.

## **Reasons**

### *Living conditions*

7. The proposed development comprises 9no. residential units, where unit no.1 would be a 2-bedroom, 4no. person dwelling, 2-storeys in height. Units 2 to 9 would all be a 3-bedroom, 6no. person dwellings, 2.5-storeys in height. There is agreement between the parties that the proposed areas of private outdoor space are all in excess of the minimum requirements set out in Policy D6 of London Plan 2021 (LonP) and the Council's Small Sites Supplementary Planning Document 2021 (the SPD).
8. Nonetheless, LonP Policy D6 advises that care should be taken to ensure that private open space offers good amenity. Whilst, LonP Policy D3 requires a delivery of appropriate amenity and achieve indoor and outdoor environments that are comfortable and inviting for people to use, amongst other things. Policy 32 of the Lewisham Development Management Local Plan 2014 (LP) seeks new build housing development to be provided with a readily accessible, secure, private and usable external space and include space suitable for children's play. Similar requirements are sought in the LonP Housing Supplementary Planning Guidance (the LonP SPG) and the SPD. Furthermore, paragraph 135 f) of the Framework requires development to have a high standard of amenity for existing and future users, amongst other things.
9. Consequently, whilst I accept that all the external area of the private outdoor areas are in excess of the minimum standards, I am not convinced that they would necessarily be inviting for people to use or particularly usable. The depth of the outdoor spaces proposed at all units with the exception of Unit nos 1 and 9, would be modest. Even when taking into account the evidence in relation to private garden quality, I still cannot be certain that the effectiveness of the private outdoor space would not be compromised, especially given the requirement for substantial planting, including replacement trees, on the southern boundary of the site adjacent to the railside SINC<sup>1</sup>/green corridor.
10. For the reasons given above, I conclude that the proposed development would not provide satisfactory living conditions for future occupiers, with particular regard to private outdoor space. Consequently, it fails to comply with the amenity aims of LonP Policies D3, D6; LP Policy 32, the LonP SPG, the SPD and the requirements of the Framework.

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<sup>1</sup> Sites of Importance for Nature Conservation

### *The BCA*

11. The site is located to the rear of properties on Geoffrey Road, between the rear gardens of the residential properties and the railway line. Access to the site is taken from Geoffrey Road and between no's 32 and 34 Geoffrey Road. The site forms part of the BCA, which was first designated in 1973, with further extensions occurring in 1991, 1993 and 1995. The BCA comprises 7no. character areas, with the site being located within Character Area 3a: Western ends of Harefield and Cranfield Roads, as set out in the Council's BCA Character Appraisal (BCACA).
12. In accordance with Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The significance of the BCA originates from its architectural and historic interest. The origins of the area as part of the Victorian development of this part of south London, when relatively high-status, middle-class housing was developed forms the historic interest of the area. The BCA contains good and, in some cases, fine examples of 19th century terraces, semi-detached houses and villas.
13. I accept that the existing structures on site possess no architectural merit, with some in poor condition. However, given the verdant character of the site and the single storey nature of the existing buildings, they do not form a prominent feature in the BCA. Consequently, the site currently has a relatively neutral effect on the BCA. Nonetheless, I recognise that in principle, there is potential to enhance the BCA through the re-development of this site.
14. The plot sizes of the appeal scheme in this location appear significantly smaller than the surrounding properties. These properties are all situated in generous plots, with long rear gardens and positioned in an orderly arrangement fronting Geoffrey Road. Whilst I do not find the backland nature of the proposed development to be particularly harmful, there is a distinct sense of spaciousness and ordered pattern of development to the immediate surroundings. In particular, the generous plot sizes contribute to a regular rhythm of development, making a positive contribution to the surrounding BCA.
15. Although I have little doubt that some densification of the site would be possible, I consider that in the context of the area surrounding the site, the appeal scheme would be distinctly at odds with the character of neighbouring dwellings and the BCA, as it would appear more cramped in its appearance. Additionally, this harmful effect would be heightened through the scale and design of the proposed houses. Whilst the visual connection to the street would be limited by existing features, including properties on Geoffrey Road itself, the views of the scheme, albeit glimpsed in some cases would still result in a significant adverse impact on the character of this part of the BCA. Additionally, these harmful effects would be visible from the adjacent SINC, green corridor.
16. In accordance with paragraphs 205 and 208 of the Framework it is for the decision maker having identified harm to the designated heritage asset, to consider the magnitude of that harm. In this case I conclude this should be considered as less than substantial when considered in the context of the asset. In such circumstances the Framework requires that any identified harm is weighed against any public benefits the works might secure. Although, I consider the harm to the BCA would be less than substantial, it is nonetheless a

level of harm to which significant weight should be attached.

17. The appellant considers that the proposed development would deliver sustainable redevelopment of a brownfield site, the delivery of much needed housing, including family homes, removal of the existing structures/buildings and hard standing, protection of the living conditions currently afforded by neighbouring occupiers, replacement of poorer quality trees, management and mitigation to ensure the integrity of the SINC and protected species is ensured, car free development and financial contributions which would benefit the borough and wider London, amongst other things. While the proposed development may result in the benefits listed, and thus ultimately be public benefits, those benefits individually or combined do not outweigh the harm I have identified to the heritage asset.
18. For the reasons given above, I conclude that the proposed development would fail to enhance or preserve the character and appearance of the BCA. In the absence of sufficient public benefits to outweigh these harms I conclude the works and development would be contrary to the design, heritage, character and appearance aims of LonP Policies D3, HC1; Policies 15, 16 of the Council's Core Strategy Development Plan Document 2011 (CS); LP Policies 30, 31, 36, the SPD and the requirements of the Framework.

### *Trees*

19. The proposed development would require the removal of 7no. trees to facilitate it. The appellant's submission indicates replacement planting is proposed, comprising 10 no. small to medium trees and 10 no. medium trees, all native species. Normally, I would be satisfied that otherwise unacceptable development could be made acceptable, through the imposition of suitably worded conditions. However, given the concerns raised above, surrounding the amount of development proposed and the remaining available space within the site for such planting, I am not convinced that such an approach is possible in this instance. This would likely have long term implications for the BCA and the SINC, green corridor.
20. For the reasons given above, I conclude that the proposed development would have an unacceptable effect on trees. Consequently, it fails to comply with the environmental and amenity aims of LonP Policy G7; CS Policies 7, 12; LP Policy 25; the SPD and the requirements of the Framework.

### **Other Matters**

21. An alternative scheme<sup>2</sup> has been brought to my attention by the appellant, which was submitted to the Council during the course of this appeal. This revised scheme has a resolution for approval, subject to the completion of a legal agreement. However, the revised scheme is for 8no. residential units, reduced in scale and massing. Therefore, whilst this alternative scheme is not for consideration on this appeal, I believe that it only serves to highlight the concerns raised and does not alter my conclusions on the main issues. Additionally, I have considered the other schemes referenced by the appellant that have been approved by the Council, but I am not satisfied that similar conditions/constraints to those on the appeal scheme exist. I have considered this appeal scheme on its own merits and concluded that it would cause harm

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<sup>2</sup> DC/23/131277

for the reasons set out above.

22. I have had regard to the objections received from interested parties, as part of the original planning application and this appeal, expressing a wide range of concerns including, but not limited to the following: living conditions, including noise, dominance and privacy; viability and pollution, amongst other things. Other matters such as loss of a view has been referenced, but these are not material planning considerations. However, I note that these matters were considered where relevant by the Council in the determination of the planning application. Whilst I can understand the concerns of the interested parties, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.

### **Planning Balance and Conclusion**

23. I accept an absence of other harm arising from the proposed development. There would also be a modest contribution to the Council's supply of homes and economic and social benefits through the construction phase and subsequent occupation of the scheme, amongst other things. Nonetheless, these factors do not outweigh my assessment on whether the scheme would provide satisfactory private outdoor space for future occupiers of the scheme, preserve or enhance the character and appearance of the BCA, which is a designated heritage asset or the adverse effect on trees.
24. Given my findings above, the proposed development conflicts with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. It is also at odds with the requirements of the Framework. For the reasons given above, I conclude that the appeal should be dismissed.

*W Johnson*

INSPECTOR