



Appeal Decision

Site visit made on 16 April 2024

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th April 2024

Appeal Ref: APP/G5180/W/23/3332591

97 High Street, Orpington, Bromley BR6 0LF

- 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 P Chowdhury of PKC Holdings Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/23/02993/FULL1, dated 31 July 2023, was refused by notice dated 29 September 2023.
 - The development proposed is Mansard roof extension to rear and conversion of second floor into 1 one bedroom and 1 two bedroom flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. During application determination proposed first and second floor PVCU double glazed windows were omitted, so I have removed reference to them from the parties' agreed description. The proposal is for the use of wooden windows in the extension, and retention of existing windows. It also includes changes to a neighbouring second floor flat, so I have considered the appeal on this basis.
3. Since the application was determined, the 2022 Housing Delivery Test (HDT) results and the revised National Planning Policy Framework (2023) (the Framework) were published. The Council and Appellant have had the opportunity to comment upon these during the appeal process. The references and paragraph numbering below reflect the revised Framework.

Main Issues

4. The main issues are the effect of the proposed development upon:
 - the character and appearance of the host building and the area, including the Orpington Priory Conservation Area (the OPCA); and,
 - the setting of Barn Hawe as a Grade II Listed Building.

Reasons

Character and appearance

5. Within the OPCA there is a statutory duty under section 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990 (LBCAA) to pay special

attention to the desirability of preserving or enhancing its character or appearance. Paragraph 195 of the Framework highlights designated heritage assets are an irreplaceable resource. Paragraph 205 requires that when considering the impact upon the significance of a designated heritage asset, great weight should be given to the asset's conservation. Harm to significance requires clear and convincing justification (paragraph 206).

6. The OPCA encompasses buildings lining part of the High Street reflective of the historic village form, historic planned residential buildings along Aynscombe Angle, and land west along Church Hill and Old Priory Avenue, including some high quality statutory and locally listed buildings and important greenspaces such as the Priory Gardens and the Church Yard. Its character, appearance and significance derive from the historic development pattern, the variety of well-preserved high quality statutory, locally listed buildings and other period buildings, and verdant historic open greenspaces.
7. Within the vicinity of the appeal site, the OPCA is characterised by mostly 2 and 3-storey buildings with varying roof types fronting the commercial High Street, often with subservient rear forms, with more individual and smaller groups of mostly historic and period buildings along Church Hill, and wide views including towards green spaces. As a prominently sited part two, part three storey mansard roof building, with traditional forms, materials, brick bond, and a subservient side/rear flat roof projection similar to that opposite at No. 99, the appeal site is in keeping with the character and appearance of the OPCA.
8. Though noting the significant variance in roof forms between individual and groups on High Street, many buildings I saw nearby were of an original distinctive historic form to their frontages, with clearly subservient much lower forms to their rear. This proposal would add a significant non-traditional flat roof mansard type extension above the historic subservient projection, that differs markedly from the original part-gambrel type mansard on front. It would unbalance the existing relationship between the primary and subservient building elements, also not reflecting the similar No 99 High Street opposite.
9. The loss of large more modern chimney structures would be a benefit. However, while lower than the historic mansard, the height and frontage length of the new roof extension would result in the clearly subservient historic flat roof element, no longer appearing so. It would appear a highly prominent and rather dominant element of the building, at odds with the composition of the host and similar nearby properties. The increased height and dominance of the rear projection would also appear to enclose views to the east within the OPCA.
10. Certain aspects such as the window proportions and materials could be regarded as sensitively designed. However, the specific form of the proposal including the overall shape with a flat top roof and windows close the top, would appear stridently different to the host property frontage roof, failing to complement its current composition and architectural design.
11. I noted the more modern taller flat dormered mansard on Church Hill Garage just to the rear. Though within the OPCA, it was approved nearly 20 years ago. In particular, it is a clearly separate distinct individual building and does not have the same juxtaposition with a historic roof form. Though its height means it is visible from parts of Church Hill and High Street, it is markedly further to the rear of the Church Hill frontage than the appeal proposal, so does

not have the same prominence in the street scene. Therefore, its presence does not mean an absence of harm from this appeal proposal.

12. The proposal would have a limited, less than substantial, negative effect upon the character, appearance and significance of the OPCA. This would be highly apparent from a limited section of High Street west of the host building and a significant length of Church Hill. Conditions could not mitigate the harm.
13. For the reasons set out above the proposed development would have a harmful effect upon the character and appearance of the host building and the area, including the OPCA. It would conflict with the aims of section 72 of the LBCAA. It would also conflict with Policy 41 of the London Borough of Bromley Local Plan (2019) (the LBBLP) insofar as this states that development within conservation areas will need to preserve or enhance its characteristics and appearance by respecting or complementing the scale and form of existing buildings.

Setting of Barn Hawe

14. Section 66 of the LBCAA requires special regard is had to the desirability of preserving the setting of a listed building or any features of special architectural or historic interest it possesses. Paragraph 206 of the Framework confirms that harm to the significance can include development within its setting, which would require clear and convincing justification.
15. Barn Hawe is between approximately 15m – 20m south of the appeal site on the opposite side of Church Hill with strong intervisibility. It is a restored scored stucco two and three storey residential building of late 18th and early 19th century origins, with past commercial and residential uses. It includes wooden window ranges within architrave surrounds, large chimneys, hipped and gambrel tiled roof forms, with a southern yellow stock brick extension dating from the mid to late 19th century. It is understood to house various historic internal features reflecting its evolution and uses over time.
16. Its special architectural and historic interest, and significance, derive from the architectural and historic values of its construction, forms, prominence, scale, eminence, and evolution. It is also from its local historic associative and communal value with gentleman butcher Thomas Mosyer and with a dairy in the late 20th century when it was used as part of the working depot.
17. The setting of Barn Hawe includes the relatively open surrounds of its plot, the verdant eastern views along Church Hill and the townscape views of High Street to the west. The relatively spacious part open surrounds, space, and subservient buildings in its proximity contribute positively to its setting and significance. The appeal site contributes to this by virtue of its proximity, its historic forms, including its limited subservient height and relationship to what is a locally prominent and important building.
18. The proposed development would increase the prominence and dominance of the subservient rear projection with a non-traditional roof form projecting forward of Church Hill garage. Its scale and proximity would be prominent within its setting, compete with Barn Hawe, and enclose the setting to a small degree. The proposed development would neither sustain nor enhance the way in which the asset is experienced. It would have a less than substantial negative effect upon the setting and significance of Barn Hawe. This would be

apparent from a limited section of High Street west of the building and moderate lengths of Church Hill to its east and west. Conditions could not mitigate the harm.

19. For the reasons set out above the proposal would have a negative effect upon, and therefore not preserve the setting and significance of Barn Hawe. This would conflict with the aims of section 66 of the LBCAA set out above, as well as the aims of Policy 38 of the LBBLP insofar as this states that development will be permitted which does not harm the setting of a listed building.

Planning & Heritage Balance

20. The proposed development would result in less than substantial harm to the character, appearance and significance of the OPCA and the setting of Barn Hawe. Paragraph 208 of the Framework states where a development would lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits. However, great weight should be given to an asset's conservation, and less than substantial harm should not be equated with a less than substantial planning objection.
21. The appeal site is well-located for access to and supporting local services and facilities. It would result in limited economic benefits during construction and once complete minor on-going benefits to the local economy through on-going spend and to the vitality of local services and facilities. The first floor of the appeal building obtained prior approval for two two-bedroom dwellings, and the plans suggest the second floor comprises a two-bedroom flat. It is not clear whether these are in place, but there is nothing of substance to suggest the recently approved dwellings would be unviable without the appeal proposal.
22. The proposal would add to and improve accommodation in the second floor flat and provide an additional one-bedroom dwelling to meet demand, although a single further dwelling would make only a minor contribution to supply. Noting the proposals and that it is likely the Council can only demonstrate an approximately 3.28-year housing land supply, the proposed development would result in a limited social benefit overall.
23. Were I to agree the proposed development would, or subject to the imposition of suitably worded planning conditions, could comply with policies such as those in respect of highway safety, vehicle and cycle parking, refuse storage and collection, energy and resource efficient design, and the living conditions of future and neighbouring occupiers, these would be neutral matters.
24. Overall, the policy compliance and benefits of the proposal attract limited weight in favour of the appeal proposal. When giving considerable importance and weight to the special regard I must have to the desirability of preserving the setting of a listed building and preserving or enhancing the character or appearance of the OPCA, the harm that would arise from the appeal development would not be outweighed by its cumulative benefits.
25. Therefore, there would also be a conflict with paragraph 206 and 208 of the Framework as the harm to designated heritage assets is not outweighed by the benefits and it would not have a clear and convincing justification. The proposal would also conflict with Policy 38 of the LBBLP which states that where a proposal causes harm to the setting of a listed building, it will be assessed against the relevant Framework tests. Though the Council has referred to

Policy HC1 of the London Plan in evidence and I have had regard to it, as it is not referred to in the reason for refusal, I have not found against it.

26. In-light of my findings above, in accordance with paragraph 11d)i) of the Framework, the application of policies that protect areas or assets of particular importance provide a clear reason for refusing the development, for which the policies of the Framework have not been met. Consequently, the tilted balance does not apply. Furthermore, the harm from the development significantly outweighs the policy compliance and benefits.

Conclusion

27. For the reasons set out above, the proposed development would conflict with the development plan read as a whole, the Framework read as a whole, and the aims of sections 66 and 72 of the LBCAA. There are no material considerations advanced that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR