



# Appeal Decision

Site visit made on 17 April 2024

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 17 MAY 2024**

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**Appeal Ref: APP/G5180/W/23/3332048**

**8 Green Close, Shortlands, Bromley, BR2 0HJ**

- 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 T Halil & Miss S Boothby against the decision of the London Borough of Bromley.
  - The application Ref is DC/23/02932/FULL1.
  - The development proposed is demolition of existing dwelling and erection of a replacement building containing 9 flats, associated car parking, cycle parking, refuse facilities and landscaping.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The appeal site has been the subject of a previous application and appeal for the demolition of existing dwelling and erection of a part 3/part 4 storey building containing 9 flats, associated car parking, cycle parking, refuse facilities and landscaping (Ref: APP/G5180/W/22/3311121). The application which is subject of this appeal sought to address the concerns of the Inspector in the earlier appeal in relation to the effect on the character and appearance of the area, the living conditions of existing and future occupiers, and the effect of the proposal on highway safety.

## Main Issues

3. The main issues are:
  - the effect of the proposal on the character and appearance of the area including upon the setting of the Shortlands Village Conservation Area;
  - the effect of the proposal on the living conditions of neighbouring occupiers, having particular regard to light and outlook within the garden of Orchard Court;
  - whether the proposal would provide satisfactory living conditions for future occupiers, with particular regard to internal accommodation; and
  - the effect of the proposal on highway safety, with particular regard to the proposed car parking and access arrangements and cycle parking provision.

## Reasons

### *Character and appearance*

4. The appeal relates to a corner plot on the northern side of Kingswood Road at its junction with Green Close. The surrounding area is residential in nature. Kingswood Road features a mix in the style and age of buildings, including large, detached properties, modern terraced properties and purpose built flats. Properties generally have generous plots which provide attractive green buffers to the residential development creating a spacious suburban character and appearance. Properties on Green Close are single storey bungalows, generally located within smaller plots.
5. The appeal property is a two-storey detached dwelling with a gabled front elevation. It is positioned centrally within a large, rectangular plot with garden and garages on the Green Close side of the plot, and an additional area of garden which extends up to Kingswood Road. This garden area is verdant and marked by mature trees. The site's corner location and the sloping land along Kingswood Road and into Green Close means the appeal site is highly visible in public viewpoints from both roads. The appeal site therefore contributes positively to the character and appearance of the area.
6. The main parties agree that the site is not within the Shortlands Village Conservation Area (CA). The boundary with the CA is on the other side of Green Close to the west and includes 4 Kingswood Road (no. 4) a grand, three-storey Victorian house which has been sub-divided into flats. From the submitted evidence and my observations on site, I agree with the previous Inspector that, given its proximity, the site forms part of the setting of the CA.
7. The existing dwelling has a neutral effect on the character and appearance of the CA. However, the spacious and green character of the property's gardens, which are visible in views within, and into the CA, contributes to the overall special features and characteristics of this part of the CA, where the sense of openness and verdant plots are an important element that positively contribute to the special character of the CA.
8. The depth and width of the building's footprint would be reduced in comparison to the previous appeal proposal, and I note that a 2-metre separation is maintained between the proposal's elevation and the site boundaries. However, the overall impression would still be of a building that would have a very large footprint which would occupy a significant proportion of the site. Its design would also result in significant height close to the site's side boundaries, which would appear as an excessive mass that would have a harmful effect on the street scene. Similarly, despite the roof being stepped to the rear, the overall height and massing would contrast markedly with the lower scale bungalows within Green Close. Overall, the layout of the building would create a cramped form of development which is indicative of overdevelopment, and which would not reflect the spacious characteristics of the area.
9. Whilst the proposal would respect the building line of Orchard Court, an adjoining block of flats, it would be positioned noticeably forward of no. 4, which has a generous set back from the highway. Given the significant scale, massing and height of the proposal on the part of the site closest to Kingswood Road, and its prominent siting on the corner, it would be a dominant feature

- when arriving into this part of the CA. In addition, large areas of hardstanding allocated to car parking would cover a substantial area of the plot, having an uncharacteristic urbanising effect. The relatively sparse landscaping areas along the site's edges would provide limited mitigation, and the contribution that the site makes to the verdant setting of the adjoining CA would be eroded.
10. The proposal would have a more traditional design than the previous appeal, incorporating a series of pitched roof forms and additional fenestration to provide some articulation on the side elevations. Even with the proposal's articulated roof form with gable ends, dormer windows, and reduced height to the rear of the site, the combined roof forms, including crown roofs with large flat roof areas, would appear as a large, heavy and somewhat unrelenting mass. When viewed from Green Close and Kingswood Road the proposal would not be screened by neighbouring properties, thereby emphasising the combined roof forms as an uncharacteristic feature within the street scene.
  11. At first and second floor level particularly tall, angled balustrade features would surround the balconies on the proposal's rear elevation. These would create large enclosures which would be strident and unusually prominent features projecting from the building.
  12. It has been put to me that the appeal proposal would make an efficient use of the site. I also note that the National Design Guide (2021) does not require proposals to copy nearby development. However, the development plan is explicit that development will only be permitted if it achieves a high standard of design and layout whilst enhancing the quality of local places. I have found that this would not be the case.
  13. I have had regard to other developments of flats within the area, including the examples submitted by the appellant. However, I do not have the details such as submitted drawings and officer reports of these cases before me to enable me to draw comparisons with the appeal proposal. In any event, their existence does not indicate that the proposed development is acceptable.
  14. For the above reasons, I conclude that the proposed development would harm the character and appearance of the area. I therefore find that it would conflict with Policies 4, 8, 37 and 42 of the Bromley Local Plan (2019) (BLP) and Policy D3 of the London Plan (2021) (LP). Amongst other aspects, these policies seek to secure development of a high standard of design which positively contributes to the existing character, appearance and context of the area, whilst preserving and enhancing the setting of conservation areas.
  15. In failing to preserve the setting of the CA, I find that the proposed development would, in the words of the National Planning Policy Framework (2023) (Framework), result in less than substantial harm to the significance of a designated heritage asset. In such circumstances, the Framework requires that the less than substantial harm should be weighed against the public benefits. The proposed development would provide eight (net) additional windfall dwellings which would contribute to the under-supply of housing in the borough, to which I give significant weight. The design of the building would be energy efficient, designed to comply with current standards, and would incorporate new landscape planting. As noted, it has been put to me that the appeal proposal would also make an efficient use of the site. Be that as it may, and despite the significant shortfall in housing land supply, the nature and scale of the proposed development indicates that the public benefits would be

limited. The benefits do not therefore outweigh the harm I have identified to the character or appearance of the CA and the great weight given to the conservation of designated heritage assets. The proposed development therefore conflicts with the provisions of the Framework in relation to conserving and enhancing the historic environment.

*Neighbouring occupiers*

16. The appeal site shares a side boundary with Orchard Court which is a three storey block of flats, and 28 Mays Hill Road which is a detached house located to the rear of Orchard Court. 7 Green Close, which is a detached bungalow adjoins the site's rear boundary.
17. The proposal would maintain a 2-metre separation from the shared boundary with Orchard Court. This would be a slightly greater separation than that provided by the previous appeal proposal. However, as with the previous appeal proposal, the new building would project a significant distance beyond Orchard Court's rear elevation.
18. As the side of the building would be positioned close to the shared boundary with Orchard Court its depth and height have the potential to impact the outlook for neighbouring occupiers from the communal garden. Communal gardens are likely to be used as frequently as private gardens, and occupiers of properties with communal gardens can be equally impacted by proposed developments.
19. The roof of the building would be pitched, and the second floor of accommodation would be contained within the pitched roof. However, this pitched roof element would project further to the rear of the site than the previous appeal scheme.
20. Notwithstanding the proposal's slightly increased setback from the shared boundary, views from Orchard Court's garden would look directly onto the building's side elevation with limited separation distance. Consequently, the proposal would have a looming presence over the neighbouring garden. The combined depth, height and proximity of the proposal to the neighbouring property means that it would be a dominant and oppressive feature for neighbouring occupiers.
21. The third edition of the BRE Site layout planning for daylight and sunlight – A guide to good practice, dated 2022 (the BRE Guide) recommends that for it to appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on 21 March. The appellant's Sunlight and overshadowing of gardens addendum (4 July 2023) confirms that 59% of Orchard Court's garden would receive more than 2 hours of sunlight on 21 March. This complies with the BRE Guide, and the proposal would not have a harmful effect on the sunlight to Orchard Court's rear garden.
22. However, I have found that the proposal would adversely affect the living conditions of occupiers of Orchard Court in terms of outlook. The proposal would therefore conflict with Policy D3 and D6 of the LP and Policy 37 of the BLP insofar as they require development to respect the amenity of existing occupiers of neighbouring buildings.
23. The Council also alleges a conflict with Policy 4 of the BLP with regards to this matter. However, my attention has not been drawn to any words in the policy

that are relevant to this issue. It has therefore not been determinative in my decision.

*Future occupiers*

24. The submitted drawings indicate that the balconies to flats 5, 6 and 8 would be surrounded by angled balustrade features which would prevent views towards the gardens of 28 Mays Hill and 7 Green Close. They would, however, allow angled views looking westwards down Green Close. The balustrade features would be tall and positioned outside windows serving the kitchen/living/dining areas of the three flats. Flat 5 would have a second window providing unrestricted outlook within the proposal's side elevation. This would, on balance, provide a satisfactory level of outlook for the future occupiers of this unit.
25. However, the windows onto the balustrade features would be the only windows serving the kitchen/living/dining areas of flats 6 and 8. The balustrades would be opaque from many viewpoints within the kitchen/living/dining areas of flats 6 and 8. As a result, views out from these rooms would be dominated by the balustrades positioned at close proximity to the windows. This would result in a sense of enclosure that would be unduly oppressive.
26. The appellant indicates that future occupiers would be 'buying into' the view from these rooms. However, the development plan is explicit that development will only be permitted if it provides an acceptable standard of accommodation for future occupiers. I have found that this would not be the case.
27. The relevant sunlight and daylight guidelines for new buildings are set out in BS EN17037 and the UK Annex to BS EN17037 and reflected in the BRE Guide. For daylight, the most relevant measurement in the BRE Guide is whether 50% of a room's area would meet the recommended minimum target illuminances of 100 lux in bedrooms, 150 lux in living rooms and 200 lux in kitchens.
28. The submitted Daylight and Sunlight Impact Report (May 2023) (DSIR) indicates that, each of the kitchen/living/dining rooms, where future occupiers are likely to spend the majority of their time, would exceed the minimum 200 lux target for 50% of the time. However, the drawings within the appendices to the DSIR do not include the angled balustrade features to flats 5, 6 and 8, and it is unclear whether these were factored into the daylight assessment of the flats.
29. For sunlight, the BRE Guide recommends that a space should receive a minimum of 1.5 hours of direct sunlight on the 21 March with cloudless conditions. The three-dimensional model (Figure 5) within the DSIR does not depict the windows serving the kitchen/living/dining rooms within flats 5, 6 and 8.
30. Without sufficient detailed evidence in relation to the daylight and sunlight that the proposed rooms would, for example, be BRE Guide compliant, it seems to me that sunlight and daylight to the kitchen/living/dining rooms within flats 5, 6 and 8, would be limited and is likely to result in gloomy conditions.
31. Consequently, the proposed development would result in poor quality accommodation for future occupiers. This would be contrary to Policy D3 and D6 of the LP and Policies 4 and 37 of the BLP insofar as they require

development proposals to be of a high standard of design and layout for future occupiers, including providing sufficient daylight and sunlight to new housing.

*Highway safety*

32. Seven car parking spaces would be provided on-site, with five spaces located in the rear parking area adjacent to the boundary with 7 Green Close, and two spaces to the front of the site.
33. The submitted Highways Technical Note (26 July 2023) contains a swept path analysis for the proposed parking area. This shows that, in order to exit the site in a forward gear, drivers of cars accessing parking space 7 are likely to override the area of landscaping immediately outside the terrace to flat 3. It also shows that drivers accessing parking space 1 would need to undertake excessive 'back and forth' manoeuvring in order to leave the site in a forward gear. In both instances, this is likely to lead to driver frustration which would result in drivers reversing vehicles out of the site.
34. Based on the submitted drawings and my observations on site, it is my view that reversing in or out of the appeal site onto Green Close from the front parking area would present an unacceptable risk to highway safety. This is because the access would be located very close to the junction with Kingswood Road. Consequently, the effects on the safety of highway users would be unacceptable. In coming to this conclusion, I have taken into account that there is an existing gated access in a similar location, and that speeds and frequency of traffic accessing this junction are generally low. However, from my observation on site the access does not appear to be in frequent use as the existing dwelling's off-street parking area is located away from the junction next to its garage. Therefore, it seems to me, that the proposal, which would provide parking spaces for two different flats in this location, would result in an intensified use of the access by future occupiers and visitors with a consequent risk to highway safety.
35. Policy T5 of the LP requires proposals to make provision for appropriate levels of cycle parking which should be fit for purpose, secure and well-located.
36. Whilst the submitted drawings indicate two cycles per store, the narrow depth and constrained size of the stores suggest that they would be awkward to use. In particular, it would be difficult for users to access a second bicycle parked closer to the site boundary, as this would be blocked by a bicycle parked in the cycle stand directly in front. It would therefore not be possible for users to access each bicycle independently.
37. The appellant has indicated that a planning condition could be imposed to require the submission of further details relating to the cycle storage. However, given the constrained nature of the site, I cannot be certain that there would be a suitable location for cycle parking, which meets the requirements of Policy T5, to be provided. Therefore, it would not be possible to deal with this matter through the use of a planning condition.
38. In view of the above, the proposal has failed to demonstrate adequate car parking access arrangements and cycle parking storage arrangements. Consequently, the proposal would be contrary to Policies 4, 30 and 32 of the BLP and Policy T5 of the LP, insofar as they require development to safeguard highway safety and require the provision of sufficient cycle parking.

## **Other Matters**

39. A number of concerns from third parties have been raised in relation to the development. These include its effect on trees, local traffic, on-street car parking, the methodology of the submitted car parking survey, ecology and biodiversity and privacy of neighbouring occupiers. However, given my conclusions on the main issues and that the appeal is dismissed, there is no need for me to address these in further detail.
40. The appellant has identified development plan policies and Framework paragraphs relating to matters including making the best use of land, which it is contended that the proposed development would accord with. I have also found no harm in relation to matters such as the impact on the light received within the habitable rooms of neighbouring properties. 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.
41. The appellant has directed me to policies D3 and D6 of the LP, which encourage development to optimise capacity on sites. These are consistent with the Framework and weigh in favour of the proposals. However, I have identified conflict with the parts of the LP which aim to ensure development respects local distinctiveness. This outweighs the support from Policies H1 and H2.

## **Planning Balance and Conclusion**

42. The main parties agree that the Council is unable to demonstrate a five-year supply of deliverable housing sites. Furthermore, the submitted evidence confirms that the Council's Housing Delivery Test 2022 (HDT) results (published in December 2023) indicate that housing delivery against the Council's housing requirement has fallen below 85% over the HDT period. This requires the addition of a 20% buffer to the Council's housing requirement in accordance with Footnote 8 of the Framework. Applying this buffer now gives a supply of 2.96 years, which is a significant undersupply.
43. However, in relation to Framework paragraph 11 d), and having regard to footnote 7, the harm to the designated heritage asset provides a clear reason for refusing the proposal.
44. The provision of eight (net) dwellings would assist in boosting the supply of homes as supported in paragraph 60 of the Framework. As a small site, it could be developed quickly and support for such sites, particularly windfall sites within existing settlements, is provided by paragraph 70. The fact that the site is within walking distance of a range of shops and public transport facilities is also a benefit supported by paragraph 110. There would also be modest economic benefits from the construction and the addition of new households to the local area. The Framework also encourages the optimal use of underutilised land. Combined, I give these factors significant weight.
45. However, the Framework also sets out, in paragraph 131, that the creation of high quality and beautiful places is fundamental to what the planning process should achieve. The failure of the proposals to represent a high-quality form of development carries substantial negative weight. In addition, paragraph 135 identifies that development should provide a high standard of amenity for existing and future users, and paragraph 115 states that development should only be prevented or refused on highways grounds if there would be an

unacceptable impact on highway safety. These factors weigh heavily against the proposal, and consequently, the harm resulting from the development would significantly and demonstrably outweigh the benefits of the scheme.

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

*B Pattison*

INSPECTOR