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# Appeal Decision

Site visit made on 20 April 2015

**by Chris Couper BA (Hons) DiP TP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 11 May 2015**

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**Appeal Ref: APP/G5180/W/14/3001656**  
**61 The Avenue, Beckenham, Kent BR3 5EE**

- 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 Steven Mooney (Denhill Properties Ltd) against the decision of the Council of the London Borough of Bromley.
  - The application Ref DC/14/03502/FULL1, dated 9 September 2014, was refused by notice dated 26 November 2014.
  - The development proposed is demolition of existing single dwelling and erection of two new blocks of 4 x 2 bedroom apartments each (8 new dwellings in total).
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## Decision

1. The appeal is dismissed.

## Procedural matters

2. The planning application form does not provide the name of the applicant. However, in an email dated 27 January 2015, the agent refers to a letter from Mr Steven Mooney (Denhill Properties Ltd), which is dated 22 January 2015, confirming that he was the applicant. I have dealt with the appeal accordingly.
  3. It transpired on my visit that many of the drawings I had been provided with had been superceded. However, emails dated 21 April 2015 from the appellant's agent and the Council, confirmed that, as well as a site location plan and a soft landscape proposals plan dated August 2014, the Council's decision was based on drawing nos. 6383 PL 001, 6383 PL 01 Rev C, 6383 PL 02 Rev D, 6383 PL 03 Rev B, 6383 PL 04 Rev B, 6383 PL 05 Rev A, and 6383 PL 06 Rev C. I have based my decision on those drawings, and the additional drawing below.
  4. The appellant has submitted drawing no. 6383 SK 01 with this appeal. That drawing shows the introduction of side screens to two first floor rear balconies. Given the relatively minor change compared to the drawings the Council's decision was based on, I am satisfied that no parties' interests would be prejudiced by my considering that drawing as part of this appeal.
  5. The Council's decision refers to London Plan Policy 3.9. However, at paragraph 1.3 of its Statement, the Council states that that was in error and that the reference should have been to policy 3.5 of the London Plan. As that policy was
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referred to in the Officer's report, and a copy of it was provided with the appeal questionnaire, I have considered it in my decision.

## **Main Issues**

6. The main issues are the effect of the proposed development on i) the character and appearance of the area, and whether it would preserve or enhance the character or appearance of the Downs Hill Conservation Area; and ii) the living conditions of neighbouring properties, with particular regard to overlooking.

## **Reasons**

### *Character and appearance*

7. The appeal site is located close to the junction of The Avenue with Downs Hill. Some properties on both roads, including this site, fall within the Downs Hill Conservation Area ('CA'), which for the purposes of the National Planning Policy Framework ('Framework') is a designated heritage asset. Paragraph 132 of the Framework requires that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Any harm requires clear and convincing justification.
8. The CA is broadly characterised by detached dwellings, which the Council's Downs Hill Conservation Area Supplementary Planning Guidance (adopted 2000) ('SPG') states are unified by their age and reference to neo-Tudor and neo-vernacular elements. The SPG describes some buildings as one-and a half storeys, whilst others are slightly larger two storey structures, with first floor dormers set into the roof to achieve a 'cottage effect'. I noted on my visit that the dwellings' set back from the road behind large landscaped front gardens contributes to a sense of spaciousness, which is sometimes re-enforced by gaps between buildings, or those parts of a building which are located close to a side boundary being single storey or having a relatively low eaves line. Typical design features include bay windows and timber framing, with finishes in render, brickwork and tiles. The form and siting of the buildings, together with their landscaped setting combine to give the CA a spacious, semi-rural quality.
9. The remainder of The Avenue outside the CA is significantly more mixed in character. As well as individual dwellings, it contains a number of larger buildings, including blocks of flats, such as those opposite the site at West Oak.
10. The appeal site is prominently located, and elevated above the road junction. The existing dwelling sits within a large plot which is well-screened from the road by trees and other landscaping. The building is described by the Council as having no particular merit, and it does not object to its demolition. I do not disagree with that conclusion.
11. The two proposed apartment blocks would be set-back from the site's frontage. They would broadly reflect the siting of their immediate neighbours at 59A The Avenue, and 67 Downs Hill. Block B would be slightly further from the northern boundary than the dwelling it would replace, and its footprint would not extend as far to the rear. Both blocks would be finished with appropriate materials, and would include design features typical of the CA such as hipped tiled roofs, bay features, dormers and porches, albeit in a more contemporary style.

12. The appellant states that the proposal also respects the character of the area by taking on the form of two detached dwellings. However, the depth of two storey development would be greater than both neighbouring properties, even taking account of the approved single storey extension at no. 67. Whilst the eaves height of Block A would be lower than no. 59A, its maximum height would be significantly greater than that property. The eaves and maximum height of Block B would also be substantially higher than no. 67. That height and depth of development, and the deep roof accommodating a second floor, would give each block a substantial bulk and scale.
13. I note that the scheme would exceed the 1m minimum side space to adjoining properties set out in policy H9 of the Bromley Unitary Development Plan 2006 ('UDP'). However, the mass of development so close to neighbouring buildings would cause the scheme to have a cramped and dominant appearance, which would contrast unfavourably with the more spacious characteristics of the CA.
14. Many trees would be retained along the site's frontage, and additional landscaping is proposed. However, two new driveways are proposed, which would open up some views into the site from the highway. The 3 driveways together with hardstanding areas for 12 cars to the front and side of the buildings, and residents' bin enclosures, would result in a more intensely-used and urban character, which would contrast markedly with the CA's established character of single detached dwellings, and its semi-rural appearance.
15. Whilst I note that there are examples of 3 to 4 storey blocks of flats in The Avenue, they do not abut the site, and are outside the CA. Summing up, it is each block's substantial massing so close to neighbouring development, together with the introduction of large areas of parking, driveways and other facilities towards the front of this prominent plot that would harm the streetscene, and make the proposal significantly at odds with other development in the CA.
16. Consequently the proposal would conflict with those parts of policies BE1, BE11 and H7 of the UDP, and policy 3.5 of the London Plan 2011, which require in general terms that development respects or enhances the quality of local places taking into account local character, complements the scale and form of adjacent buildings and areas, and provides attractive settings. It would also conflict with the Framework's objective at paragraph 60 to promote or reinforce local distinctiveness, and with guidance in the SPG which states that new development should conform to the character of the area, especially in regard to factors including scale and height, and its advice at paragraph 3.26 that the loss of front garden space to create additional vehicle hardstandings should normally be resisted.
17. Having had particular regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas, I conclude that the scheme would fail those tests. However, given that the buildings would include appropriate design features and facing materials, that harm would be less than substantial. Consequently, in accordance with paragraph 134 of the Framework, I shall weigh that harm against the public benefits of the proposal, including securing optimum viable use. I return to this later in my decision.

*Living conditions*

18. Each of the proposed apartment blocks would project further to the rear than the neighbouring dwelling, and would have rear windows and one or more rear-facing first floor balconies. From some of those windows, and from the balconies, there would be an outlook over the neighbouring rear gardens.
19. However, each proposed rear elevation would be a significant distance from the opposing garden boundary, and there would be some screening provided by retained and proposed trees and landscaping. Any views at closer quarters looking north-west from the upper floor rear windows of Blocks A and B towards the neighbours' gardens would be at an angle, and would not differ significantly from what may reasonably be expected in a residential environment such as this. Limited overlooking from the proposed balconies, which are set-in from the side boundaries, could be reduced further by the proposal to provide side screens as shown on drawing no. 6383 SK 01.
20. Consequently, I am satisfied that the limited overlooking that would result from this scheme would not cause significant harm to the adjacent occupiers' living conditions. Although the scheme may result in some additional overshadowing, having considered the relationship between the proposed buildings and the existing properties, and the sun's trajectory, I have no substantive evidence that significant harm would be caused. I am also not persuaded that reasonable use of the proposed flats and vehicular movements associated with them would cause significant noise or other disturbance to local residents. I therefore conclude on this issue that there would not be a conflict with UDP policy BE1's requirement that development should respect neighbouring occupiers' amenities.

*Other matters*

21. Whilst the appellant states that the scheme would bring a derelict and untidy site back into use, this proposal is not the only way in which that objective could be achieved. Although the appellant sets out that the retention of the existing dwelling, or the provision of additional dwellings, on the site would not be viable, I have very little evidence to assess that claim.
22. The proposal would provide 8 two bedroom flats, thus increasing the number of smaller units in the area, and contributing to housing supply and to meeting the Council's housing target. That in a relatively sustainable location. I have no doubt that those flats would be to a generally high standard and an energy-efficient construction, within a layout which has taken account of crime prevention measures. In all those regards the scheme would satisfy various aspects of the development plan policies set out at section 4 of the appellant's statement, and would accord with objectives in the Framework, including at paragraph 9, to widen the choice of high quality homes. However, those matters in favour of the scheme do not amount to the clear and convincing justification, or the substantial public benefits, necessary to outweigh the harm that I have found would be caused to this designated heritage asset.
23. I note that there was pre-application engagement, and a copy of the Officer's comments and concerns in relation to a scheme for a two to three storey block of 9 flats on this site is provided at Appendix B of the appellant's statement. The appeal scheme was supported by Officers, with no objection raised by the

Advisory Panel on Conservation Areas, and it was recommended for approval. The proposal also received a number of representations in support, citing matters such as the appropriate design and setting, and the need for smaller, more affordable accommodation in this area. Finally, the appellant has also raised concerns regarding the conduct of the Committee meeting where the application was determined. Be that as it may, and whilst I have considered those representations in support, together with letters of objection, I have determined this scheme on its merits against relevant planning policies.

### **Conclusions**

24. For the above reasons, whilst the scheme would not result in significant harm to neighbouring occupiers' living conditions, it would fail to preserve or enhance the character and appearance of the CA. Although there are matters in favour of the scheme, this proposal is not the only way in which many of those could be addressed, and they do not outweigh the harm that I have found. For that reason, the proposal is not the sustainable development for which paragraphs 14 and 49 of the Framework place a presumption in favour. Having regard to all other matters raised, the appeal is therefore dismissed.

*Chris Couper*

INSPECTOR