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## Appeal Decision

Hearing and site visit held on 23 April 2014

**by Paul Jackson B Arch (Hons) RIBA**

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

Decision date: 21 May 2014

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**Appeal Ref: APP/G5180/A/14/2212123**

**Oakfield Centre, Oakfield Road, London SE20 8QA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by London & Quadrant Housing against the Council of the London Borough of Bromley.
  - The application Ref 13/01872/FULL1, is dated 7 June 2013.
  - The development proposed is demolition of the existing building and the redevelopment of the site for residential development along with amenity space, parking and access from Oakfield Road.
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### Preliminary matter

1. On 6 March 2014 the Department for Communities and Local Government published web based National Planning Practice Guidance (hereafter referred to as planning guidance), previously in draft, which replaces a wide range of previous planning guidance documents. The implications of the issue of planning guidance were discussed at the Hearing where relevant and have been taken into account in this Decision.

### Decision

2. The appeal is allowed and planning permission is granted for demolition of the existing building and the redevelopment of the site for residential development along with amenity space, parking and access from Oakfield Road at the Oakfield Centre, Oakfield Road, London SE20 8QA in accordance with the terms of the application, Ref 13/01872/FULL1, dated 7 June 2013, and the plans submitted with it, subject to the conditions in the schedule at the end of this Decision.

### Application for costs

3. At the Hearing an application for costs was made by London & Quadrant Housing against the Council of the London Borough of Bromley. This application is the subject of a separate Decision.

### Main Issue

4. The main issue in this case is the effect of the proposed development on the character and appearance of the area.

## Reasons

5. The proposal comprises the erection of a row of 8 terraced houses and a block of 24 flats on the site of a redundant and unused single storey day centre. There is no objection to demolition of the day centre. The appellant organisation is a registered affordable housing provider and it is the intention that all the units would be affordable and shared ownership, subject to funding.
6. The Council failed to make a decision on the planning application in the required amount of time. Had it been able to do so, it would have refused the application for the following putative reasons:
  - 1) *The development by reason of the number of units, height, bulk and massing would result in an overdevelopment of the site, poorly related and out of character with nearby development and the wider area, contrary to Policies BE1 and H7 of the Unitary Development Plan.*
  - 2) *The design of the development, by reason of its appearance, would be out of character with the existing development in the area contrary to Policy BE1 of the Unitary Development Plan.*
  - 3) *The number of car parking spaces proposed would be insufficient to meet the needs of the development resulting in an unacceptable increase in on-street parking which would be detrimental to the visual appearance of the area.*
7. Prior to the Hearing, the 3<sup>rd</sup> reason for refusal relating to car parking provision was withdrawn and this reason for refusal was not defended.
8. The development plan consists of the London Plan with Revised Early Minor Alterations of October 2013 (LonP) and the Bromley Unitary Development Plan of 2006 (UDP). The replacement Bromley development plan is at a very early stage and cannot be given any weight.
9. The thrust of the relevant strategic LonP policies is to increase housing supply with well designed development, particularly in areas with good public transport links and local services. Affordable housing is also a priority. Those aims are common ground between all the parties and are also repeated in the UDP. The relevant policies of the UDP are in concert with national guidance set out in the 2012 National Planning Policy Framework (NPPF). The matters in dispute relate solely to the proposed density and design of the development in the context of the local area. Policy BE1 of the UDP is a generic design quality policy which amongst other things, seeks development which is imaginative and attractive to look at and complements the scale, form, layout and materials of adjacent buildings and areas; and which should not detract from the street scene. Development should provide opportunities to create attractive settings with hard or soft landscaping.
10. Policy H7 of the UDP concerns housing density and design and seeks a density range that is set out in table 4.2 attached to the policy. This is similar in its aims to table 3A.2 of the LonP which relates levels of density in terms of habitable rooms/hectare (hr/ha) to the Level of Public Transport Accessibility expressed as 'PTAL'. At the Hearing, further common ground was established when it was clarified that the site lies about 10 metres (m) from 2 areas of PTAL level 4 in opposite directions along Oakfield Road, but in strict terms is PTAL level 3. It seems reasonable to me that future residents would appreciate

the benefits of being near to different public transport options and that the site could be considered to lie in an area of PTAL 4.

11. Table 4.2 and table 3A.2 also distinguish between 'suburban' and 'urban' areas. The LonP helpfully provides definitions and in my opinion, having spent some time walking around the locality, the site falls well within the 'urban' designation, defined as 'areas with predominantly dense development such as for example terraced houses, mansion blocks, a mix of different uses, medium building footprints and typically buildings of two to four storeys, located within 800 metres walking distance of a District centre or along main arterial routes'. There are several 4 storey blocks peppered around the local estates and one 16 storey development in the vicinity which are surrounded by mainly 2 storey terraced housing and some of 3 storeys. There is a local concentration of industrial and retail shed activities on Oakfield Road as well as community uses.
12. Table 4.2 indicates that in these circumstances an acceptable density range would be 200-450 hr/ha for houses and 450-700 hr/ha for flats. The proposed overall density of around 301-315 hr/ha falls much closer to the lower range considered consistent with a reasonable level of quality and a sustainable pattern of development; and well short of the maximum that could be acceptable. Moreover, even if the site has PTAL level of 3 (as had been considered prior to local infrastructure improvements) the proposed density still falls within an acceptable range for a scheme with houses and flats. This conclusion is supported by the fact that there is no suggestion that there would be any unacceptable overbearing, amenity or privacy issues.
13. The scheme itself includes a large area of open recreational space and a car parking area as well as green space in front and to the side of buildings, so although there would be a 4 storey (or 3.5 storey, considering the 'rooms in the roof' design approach) block, the massing overall would appear reasonably spacious. As such, it would not be 'overdevelopment' in the normal understanding of that term. The apartment block would be of significant bulk, but it would be seen in the context of the builders merchant's warehouse next door and a high railway embankment as well other residential blocks of similar height. Oakfield Road itself has generous grassed verges on the north side which would reduce its visual impact in the street scene. The small development of 2 storey houses behind the site in Lakefield Close does not do a great deal to define the character of the area, which is essentially mixed. The mainly 2 storey terraced dwellings on the opposite side of Oakfield Road do not alter the impression that in townscape terms, a 4 storey block and a 2 storey terrace would appear in keeping in the locality and would only reinforce the existing 'sense of place'.
14. Turning to the detail of the design and the materials proposed for the scheme, the Council's concerns relate primarily to the 4 storey block. However its mass would be visually relieved by the layout of the window fenestration, the addition of large balconies, the articulation of the eaves and brickwork and roof planes. It is debateable whether the block would be 'imaginative and attractive' as required by policy BE1 but the NPPF advises that decision makers should not attempt to impose architectural styles or particular tastes. The architecture in the neighbourhood is not of particularly high quality but is typical of many post war areas of housing; it would absorb the appeal development without any harm.

15. Attention was drawn to the lack of significant visual interest in the main flank walls facing Oakfield Road and Lakefield Close, which is a concern of the Council. I was told this derives from the stringent controls imposed on building openings by the 'passivhaus' design regimen which means south facing openings are undesirable. Passivhaus, in principle, is a laudable design methodology on the part of the appellant which should help in meeting long term sustainable building objectives with low costs for the occupiers. It has not been explained why the opportunities for a somewhat more permeable brickwork in the Oakfield Road wall facing south east and the Lakefield Close elevation have not been taken for the benefit of future residents in the end properties and the character of the area generally. This matter is not a reason to refuse planning permission, but is something that would improve the street scene. It would also address, to some extent, the concern of the Council that the mistakes of the past should not be repeated. I observed a number of featureless flank end walls on older schemes in the area.
16. No amenity concerns arise. There is no issue over the layout of the scheme which provides for private and communal amenity space with hard and soft landscaping. I conclude that the proposed development would make a very useful contribution to the housing stock and would not conflict with the design quality and housing density aims of policies BE1 and H7 of the UDP, policies of the LonP or the aims of national policy in the NPPF.

#### **Other matters**

17. A Section 106 Agreement has been prepared with the aim of contributing towards health and education in the Borough, and to restrict occupation of 35% of the dwellings for affordable housing purposes (the minimum, pending confirmation of funding) in line with policy H2 of the UDP. The education and health contributions are consistent with the schedule set out in Bromley's supplementary planning advice and are agreed. The provisions of the Agreement are directly related to the proposed development, fairly and reasonably related in scale and kind, and would be necessary to make the development acceptable. They meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations (2010) or paragraph 204 of the NPPF.
18. I have taken into account all the other matters raised including highway safety on the access to a builders merchant's yard and a metal fabricators in Limes Avenue, but do not find any concerns that lead me to consider the appeal proposal would introduce an unacceptable level of risk or that it would not comply with development plan policy on that matter.

#### **Conditions**

19. Details of external materials and hard and soft landscaping need to be submitted for approval and I impose the model conditions from the annex to Circular 11/95, *The Use of Conditions in Planning Permissions* which remains extant. Details of surface water drainage are necessary to avoid a risk of flooding. It is necessary that the parking spaces are provided with turning areas before occupation, to avoid unnecessary risks to highway safety. Sight lines over the verge are under the control of the Council and no condition controlling visibility splays is necessary. Bicycle storage areas need to be provided before occupation. Details of external lighting and boundary treatment are included in the landscaping condition. The scheme has been

designed with the co-operation of the Metropolitan Police Design out Crime advisor and no further condition is necessary on this point.

20. A construction management plan including details of site storage, wheel washing, traffic management, temporary car parking and other matters is required in the interests of the continuing operation of local businesses and the amenity of nearby occupiers. A restriction on working hours is required for similar reasons. In view of the sloping nature of the site, slab levels need to be controlled to prevent the buildings being any higher than they need to be. There is no evidence of any previous hazardous use on the site and a condition requiring a desk assessment for contaminated land with a site investigation strategy followed potentially by a remediation strategy, going beyond the statutory responsibilities of the contractor, is unnecessary. A restriction on permitted development is requested but garden sheds are shown on the drawings and there is very limited scope for further extension or modification of the dwelling houses; it has not been shown that such a restriction is necessary. A requirement for an energy assessment and action to reduce carbon dioxide emissions conforms to LonP and UDP requirements and 'Passivhaus' accreditation has been added as a means of achieving this objective. Electric car charging points conform to current strategic policy objectives. A restriction on the nitric oxide (NOx) is requested in the interests of air quality and in my view is desirable and enforceable. Finally, it is necessary that the development is carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning.

### **Conclusion**

21. The appeal should be allowed.

*Paul Jackson*

INSPECTOR

Schedule of 15 conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; boundary enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; refuse and other storage units and signs and external lighting.
- 3) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.

- 4) If within a period of five years from the date of the planting of any tree or shrub, that tree or shrub, or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written approval to any variation.
- 5) No development shall take place until details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until details of drainage works have been submitted to and approved in writing by the local planning authority. Prior to the submission of those details, an assessment shall be carried out into the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles of sustainable drainage systems set out in the NPPF and planning guidance and the results of the assessment provided to the local planning authority. Where a sustainable drainage system scheme (SuDS) is to be implemented, the submitted details shall:
  - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and / or surface waters;
  - ii) specify the responsibilities of each party for the implementation of the SuDS scheme, together with a timetable for that implementation; and
  - iii) provide a management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.The scheme shall be implemented and retained in accordance with the approved details.
- 7) Before any part of the development hereby permitted is first occupied, the parking spaces and turning space shall be completed in accordance with the approved drawings and thereafter shall be kept available for such use.
- 8) Before any part of the development hereby permitted is first occupied, bicycle parking including covered storage facilities shall be provided in accordance with details to be submitted to and approved in writing by the local planning authority. The bicycle parking/storage facilities shall be retained thereafter.
- 9) Demolition or construction works shall not take place outside the hours of 0800 - 1800 Mondays to Fridays and 0800 - 1300 hours on Saturdays, and not at all on Sundays or Bank Holidays.
- 10) Prior to the commencement of the development hereby permitted a Construction Management Plan (CMP) shall be submitted to and approved in

writing by the local planning authority. The CMP shall include measures to control construction activities including but not limited to traffic accessing and leaving the site safely and how potential traffic conflicts can be minimised; the arrangements for parking of site personnel; the route construction traffic shall follow for arriving at and leaving the site; the hours during which deliveries will occur; and the means by which vehicle wheels will be cleaned on exiting the site to avoid mud being deposited on the highway. The development shall be carried out in accordance with the measures set out in the approved CMP.

- 11) Details of the proposed slab levels of the buildings relative to the existing site levels shall be submitted to and approved in writing by the local planning authority before work commences. The development shall be completed in accordance with the approved slab levels.
- 12) Before any work on site is commenced, a site-wide energy strategy assessment and strategy for reducing carbon emissions, which may include Passivhaus accreditation, shall be submitted to and approved by the local planning authority. The strategy shall include measures to achieve an agreed reduction in carbon dioxide emissions to meet the requirements of the Mayor of London's Energy Strategy. The measures identified in the approved strategy shall be incorporated into the buildings prior to first occupation and maintained and retained thereafter.
- 13) Except as otherwise specified in this decision and conditions, the development hereby permitted shall not be carried out otherwise than in accordance with the plans numbered: 1108-099, 1108-110 rev C, 1108-111 rev D, 1108-115 rev C, 1108-116 rev E, 1108-150 rev G, 1108-151 rev A, 1108-152 rev B, unless otherwise previously agreed in writing by the local planning authority.
- 14) Details of electric car charging points shall be submitted to and approved in writing by the local planning authority and the charging points shall be installed in accordance with the approved details prior to first occupation of any of the residential units hereby permitted. The electric car charging points shall be permanently retained in working order.
- 15) No gas boilers installed in the development hereby approved may exceed a dry NOx emission rate of 40 mg/kWhm.

## APPEARANCES

### FOR THE APPELLANT:

A Gunne-Jones MRTPI	Planning & Development Associates
Frank Reynolds BA (Hons) Dip Arch RIBA APMP	Frank Reynolds Architects
Jeremy Butterworth BSc (Hons) MA MRTPI	Planning & Development Associates
John Wafer	London & Quadrant
Ian Cooper	London & Quadrant

### FOR THE LOCAL PLANNING AUTHORITY:

Eoin O'Connor	tp bennett
Cllr Peter Fookes	

## DOCUMENTS

- 1 Notification of Hearing time and date
- 2 Plan and schedule showing proportions of green, hard and built upon areas, provided by the appellant
- 3 Schedule of gable and proximity examples in the area, provided by the appellant
- 4 Copy of correspondence between the Design out Crime Officer at the Metropolitan Police and the architect, dated 18 June 2013, provided by the appellant
- 5 Definition of family housing, from the London Plan, provided by the appellant
- 6 Drawings 1108/130 and 131 to be read with Doc 3, provided by the appellant
- 7 Aerial view with 2, 3 and 4 storey buildings highlighted, provided by the Council
- 8 Proposed elevations of Penge Primary Care Development at Penge Clinic, Oakfield Road, provided by the appellant
- 9 Signed and dated S106 Agreement