



## Appeal Decision

Hearing held on 17 February 2015

Site visit made on 17 February 2015

**by Jonathon Parsons MSc BSc (Hons) DipTP Cert(Urb) MRTPI**

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

**Decision date: 16/04/2015**

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**Appeal Ref: APP/C5690/A/14/2224091**

**1A Brockley Cross, London SE4 2AB**

- 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 Mr Paul Tuck (Parkhill Properties Ltd) against the Council of the London Borough of Lewisham.
  - The application Ref DC/10/74808, is dated 16 June 2010.
  - The development proposed is the demolition of the existing single storey shop and office building at 1 and 1A Brockley Cross. The erection of a 3 storey contemporary building containing 116 sqm of new commercial floorspace together with a 2 bedroom self-contained flat on the ground floor with 4 x 1 bedroom and further 1 x 2 bedroom flats at first and second floor level. A bin store and internal secure cycle storage at ground floor level facing Malpas Road.
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### Decision

1. The appeal is dismissed and planning permission is refused.

### Procedural Matters

2. The application was amended by the submission of revised drawings in February 2014. These plans show a four storey building with a recessed top floor comprising five residential units and a commercial unit. There would be a commercial unit of 54 sqm together with a two bedroom flat on the ground floor, 2 x one bedroom and 2 x two bedroom flats on the upper floors. Additionally, there would be bin stores/cycle stores and private outdoor private space.
3. The amendments followed discussion with Council officers and it has submitted a case against the proposal on the basis of these plans. Public consultation took place on these amendments in March 2014. Accordingly, there would be no prejudice to any party in considering these amended plans and the appeal has been considered on this basis. Additionally, the site address has been considered as 1 and 1A Brockley Cross despite the different address detailed in one part of the application form.
4. The appeal is against the failure of the Council to give a decision on an application within the prescribed period. The Council has indicated that, had it been in a position to do so, it would have refused planning permission for reasons relating to conflict of the proposal with:

- (1) Policies 15 and 16 of the Lewisham local development framework Core Strategy Development plan document (CS) 2011 and Policies DM33 and DM36 of the Lewisham local development framework Development Management Local Plan (DMLP), as the scale, bulk, mass and detailed design would detract from the appearance and character of the Brockley Conservation Area, and
  - (2) Policy DM32 of the DMLP, by reason of overshadowing and loss of outlook to the rear garden of 1 Geoffrey Road.
5. During the Hearing, the Council clarified that DMLP Policy DM36 was relevant to their first suggested reason for refusal.
  6. An executed Unilateral Undertaking dated 16 February 2015 under Section 106 of the Town and Country Planning Act 1990 (as amended) was submitted at the Hearing. This obligation would secure membership of a local car club for the occupiers of the new residential units and has been considered under other matters.
  7. At the Hearing, a further representation was submitted from the Brockley Society. Parts of this representation referred to examples of developments elsewhere. After discussion, it was agreed that this part of the representation would not be considered.
  8. Subsequent to the Hearing, the Further Alterations to the London Plan 2015 has been adopted. There have been no material changes in policy in respect of the matters raised including with regard to density and Public Transport Accessibility Level (PTAL). Accordingly, I have referred to this new development plan rather than the London Plan 2011 in my decision.

### **Main Issues**

9. The main issues are whether (a) the proposal would preserve or enhance the character or appearance of the Brockley Conservation Area and (b) the effect of the proposal on the living conditions of the occupiers of 1 Geoffrey Road, with regard to the outlook and sunlight.

### **Reasons**

#### *Character and appearance*

10. The appeal site comprises a car sales area with a small flat-roofed office building and attached to this, a disused flat-roofed shop. It lies adjacent to a two storey residential property with pitched roof at 1 Geoffrey Road. Both the appeal site and No 1 form a distinct island, together with a pair of semi-detached properties sited further along, by virtue of being surrounded by roads, Geoffrey Road, Upper Brockley Road and Malpas Road. Geoffrey Road and Upper Brockley run roughly parallel to one another on either side of this island. Malpas Road, the B218, is located alongside part of the eastern part of the appeal site before it curves away sharply in a northerly direction beyond Upper Brockley Road.
11. The appeal site and surrounding residential areas in Geoffrey Road and Upper Brockley Road are on the eastern edge of the Brockley Conservation Area. Nearby properties, many of them commercial, on Malpas Road and Shardeloes Road are outside of the Conservation Area. Some of the properties on Malpas

- Road back onto Upper Brockley Road but these are outside the Conservation Area.
12. By reason of the appeal site's inclusion within the Conservation Area, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of that area in accordance with the statutory duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
  13. The Brockley Conservation Area Character Appraisal 2005 divides up the Conservation Area into areas of distinctive character. For the appeal site, it is within Area 3a where roads are generally narrower with smaller houses than the main roads through the Conservation Area. The houses are indicated to be predominantly in short, two storey terraces in classical Italianate style, with stucco detailing and regular sash windows. The appellant's heritage statement<sup>1</sup> further confirms this pattern and style of development. The Brockley Conservation Area supplementary planning document local development framework 2007 also details the visual qualities of similarly proportioned and detailed Victorian properties in the area.
  14. Such descriptions of properties in the Conservation Area were confirmed by my site visit. In particular, they had attractive fenestration and surrounds, including bay windows, which were regularly spaced out across frontages of terraced and semi-detached Victorian properties of similar proportion and scale. In the direct vicinity of the appeal site, it was also evident that the trees in road verges and within gardens give the Conservation Area a leafy quality. Recent residential infill development has not affected the dominance of the older Victorian housing within the area nor has the garage on the corner of Geoffrey Road and Upper Brockley Road to the west of the site. Indeed, it is the general uniformity of property design, along with trees, which contribute significantly to the character and appearance of the Conservation Area.
  15. The Council has acknowledged that the car sales use is established but considers this use and the site buildings to have a neutral impact on the character and appearance of the Conservation Area. Nevertheless, I find that the site has a negative impact by reason of the transient appearance of the car sales use and the unattractive flat-roofs of the buildings. The single storey scale of the buildings also appears out of keeping within an area characterised by properties of greater height. The disused retail unit has an original traditional shop front but this was hidden by an unpleasant looking steel roller shutter and so was not attractive.
  16. The proposal would result in the demolition of the buildings and the cessation of the car sales use on the appeal site. In its place, the appellant maintains that there would be a high quality contemporary designed development that builds upon the attractive qualities of the Conservation Area. The detailed design shows a curved building with modern materials and balconies at junction of Malpas Road and Geoffrey Road. At the same time, the appellant indicates that bays and windows mirror typical width and patterns of traditional properties in the surrounding area<sup>2</sup>. As well as modern materials, render and brick would be used to match materials used in the surrounding area.

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<sup>1</sup> Murphy Associates Planning, Urban Design, Conservation Statement of Heritage Significance January 2014.

<sup>2</sup> Murphy Associates Planning, Urban Design, Conservation Addendum to Design and Access Statement, February 2014.

Although the detailed design is different to the surrounding properties, the site's unique island position provides scope for this contemporary approach with its cues drawn from the character and appearance of the Conservation Area.

17. The submitted photographic montage shows a view from near to a modern development known as the Tea Factory on Endwell Road from outside the Conservation Area. With some tall buildings within the foreground at the corners of Shardeloes Road and Malpas Road, and Endwell Road and Brockley Road, views of the development across Brockley Cross would not be intrusive. There would be a loss of view to the car sales use and buildings on the appeal site, the flank of 1 Geoffrey Road and to a partial extent, the two storey semi-detached dwellings behind this. However, the appearance of the appeal site is a negative influence on existing views. The development, with its contemporary design, would provide an improved appearance in this view whilst not significantly hiding the trees within the Conservation Area. The scale and height of the building would also not be noticeably prominent in relation to the Victorian residential terraces in Geoffrey Road and Upper Brockley Road by reason of the separation provided by these roads.
18. However, 1 Geoffrey Road has a relatively low pitched roof compared to many properties in the area and this would be lower than the eaves of the 3<sup>rd</sup> floor of the appeal building when viewed from the two streets immediately either side of the appeal site. The appeal building would be single storey immediately adjacent to No 1 but in relation to this property, it would increase in scale to two storeys within approximately 3.5m, three storeys within approximately 7m and four storeys within a distance not much greater than the 7m. Additionally, the extent of the proposed building to the front and rear, and above the neighbouring property at No 1 would be considerable when looking at the appeal site from the west. The gaps at different levels would do little to reduce the apparent scale, mass and bulk of the appeal building in relation to its neighbour. As a result, the appeal building would be visually at odds with the attractive uniform character and appearance of the Conservation Area.
19. The redevelopment of the site would result in the removal of unattractive buildings and use on the site, which is of some modest benefit especially in views from outside the Conservation Area. However, for the reasons previously stated, the appeal building would be substantial in comparison to No 1 when seen from the immediately adjacent streets within the Conservation Area outweighing this benefit. For this reason, the proposal would fail to preserve or enhance the character or appearance of the Conservation Area.
20. The site has a Public Transport Accessibility Level rating of 3/4 which, under the Further Alterations to the London Plan 2015, falls within a recommended development density level of 200-450 habitable rooms per hectare. The proposal would equate to a density of 352 habitable rooms per hectare which would fall within this permitted range. Although the density levels take into account character and typologies, judging the impact of the proposal in this way is too narrow in its assessment because it does not take into account the scale, massing and bulk of the proposed development. For these reasons, I attach limited weight in assessing this proposal.
21. Paragraph 134 of the National Planning Policy Framework (the Framework) states where a development would lead to less than substantial harm to the

significance of a designated heritage asset (such as a Conservation Area), this harm should be weighed against the public benefits of the proposal.

22. It has been indicated that the redevelopment of the site could help regenerate this part of Brockley Cross and provide additional housing and employment for people. Brockley Cross is identified as a local hub within the CS where the intention is to promote the area's viability and vitality. The floorspace of the proposed five residential units would provide high quality living accommodation which would meet Lifetime Homes Standards and be sustainably constructed. It has also been indicated the proposal would encourage more sustainable modes of transport in compliance with National Planning Policy Framework. The site would re-use a brownfield site in a highly accessible location with regard to the public transport and services. However, while the harm to the significance of the Conservation Area is less than substantial, the public benefits would not be sufficient to outweigh that harm.
23. In conclusion, the development would fail to preserve the character or appearance of the Brockley Conservation Area. Accordingly, the proposal would be contrary to Policies 15 and 16 of the CS and Policies DM33 and DM36 of the DMLP, which collectively and amongst other matters, require development on infill sites to make a high quality positive contribution to the area, preserving the special characteristics of the Conservation area.

#### *Living conditions*

24. The property at 1 Geoffrey Road has private outdoor space to the front and rear. It also has a first floor window facing the development which was raised by the Council at the Hearing. The appellant pointed out that the window affected is secondary in nature which the Council did not dispute. The appeal building would be sited to the east of this neighbouring property.
25. The proposed development would be single storey where it is adjacent to the neighbouring property. In respect of the outdoor space on Geoffrey Road, the single storey part of the new building would not project forward of the front face of the neighbour's property. On the Upper Brockley Road frontage, the single storey ground floor would project slightly beyond the rear face of this property but would not extend as far back as the existing single storey former shop. Although the building would be higher than that currently on site, the upper levels would be set away from the boundary and would not be experienced by occupiers of the neighbouring property from their private outdoor space as unduly overbearing. There would be some loss of outlook to the flank window but this would not be significant given its secondary nature.
26. For similar reasons, the building, with its widening gaps with the side of No 1, would be set at a sufficient distance to prevent unacceptable over-shadowing of the private outdoor space of the neighbouring property. In the case of the flank window, this would be set at sufficient distance from the boundary to prevent any significant loss of sunlight.
27. In conclusion, the proposed building would not harm the living conditions of the occupiers of 1 Geoffrey Road. Accordingly, the proposal would comply with Policy DM32 of the DMLP, which amongst other matters, seeks to ensure outlook and natural lighting for neighbouring residents.

#### *Other matters*

28. A planning obligation in the form of a unilateral undertaking has been submitted to provide occupiers with membership of the local car club in accordance with Policy C14 of the CS. The Council are happy with the form and content of the Obligation. As there is a substantive reason to dismiss this appeal, I have no need to consider the adequacy of it.
29. The appellant's comments about the way the Council allegedly handled the application are noted. However, these are matters of local government accountability that have little bearing on the planning merits of the appeal.

### **Conclusion**

30. I have found that the proposal would no significant detrimental effect on living conditions of the occupiers of the neighbouring property, having regard to outlook and sunlight. However, it would fail to preserve the character or appearance of the Brockley Conservation Area for the reasons referred regarding development within Conservation Areas.
31. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed and planning permission refused.

*Jonathon Parsons*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT

Paul Tuck	Appellant
John Blackwell BA (Hons) DipTP MRTPI	Town Planning Consultant
Chris Barnes Dip (ACH)	Architectural Design

### FOR THE LOCAL PLANNING AUTHORITY

Jan Mondrzejewski BA(Hons) MRTPI	Royal Borough of Lewisham
Regma Jelszinski MA MSc	Royal Borough of Lewisham

### INTERESTED PARTIES

Obajimi Adefirange	Borough councillor
Clare Cowen	Brockley Society
Jonathan Stainsby	Interested party

## **Documents**

1. Unilateral Undertaking, dated 16 February 2015, on behalf of appellant.
2. Brockley Society letter dated 16 February 2015, enclosing email representation dated 8 February 2015.
3. The Brockley Conservation Area Character Appraisal 2005.
4. The Brockley Conservation Area Supplementary Planning Document Local Development Framework 2007.
5. Photographic montage of the site taken from near the Tea Factory building on Endwell Road looking east submitted by the appellant.

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