

**Appeal against London Borough of Bromley's
refusal of planning application 17/00812/FULL1**

24 Downs Hill, Beckenham

BR3 5HB

Statement of Case

June 2017

Introduction

On 22 February 2017 Mr and Mrs Bloomer submitted an application for planning permission from the London Borough of Bromley (LBB) for 24 Downs Hill, Beckenham BR3 5HB. The application was registered on 9 March – application number 17/00812/FULL1. It was for:

Demolition of the existing two-storey building and redevelopment to construct a two-storey, residential dwellinghouse, with second-floor accommodation in the roof; to contain six bedrooms, two reception rooms and guest room, with associated refuse storage, secure bicycle store, existing front and rear gardens, amenity space and off-street parking spaces

The design, scale and layout of the proposed new house was substantially changed during the planning process and revised drawings, together with an updated Design and Access Statement and supporting documents, were submitted to the Council on 19 April 2017. The application was re-consulted on by the Council.

The application was requisitioned by one of the ward Councillors to be determined by committee. It was recommended for approval by the professional officers of the Council (both Case Officer and Conservation Officer) but was subsequently refused by a meeting of the Plans Sub-Committee No.1 on 13 June 2017. There was just one ground for refusal.

Reason for Refusal

1 The proposed development by reason of its excessive massing and design would constitute an overbearing and dominant form of development, failing to either preserve or enhance the character and appearance of the Conservation Area and would be detrimental to the amenities that neighbouring properties could reasonably expect to be able to continue to enjoy contrary to Policies BE1 and BE11 of the Unitary Development Plan, adopted SPG1 and SPG2, Policies 3.5, 7.4 and 7.8 of the London Plan, the London Housing Supplementary Planning Guidance and the National Planning Policy Framework.

Mr and Mrs Bloomer wish to Appeal this decision and suggest that written representations are appropriate for a scheme of this size and location.

Background

The proposed redevelopment is in the Downs Hill Conservation Area (DHCA) in suburban Beckenham. The DHCA characterises the area as consisting of detached houses in generous plots of land. It recognises that *Design and the use of materials vary somewhat throughout the area. However, several unifying factors can still be identified.* There is one locally listed building of townscape merit in the conservation area, the flat-roofed, art deco design at nearby 117 Foxgrove Road, although this is atypical of the predominant design style of the DHCA.

The Appellants, Mr and Mrs Bloomer, bought the property at 24 Down Hill in late autumn 2016 with the express intention of remodelling it as a permanent home for their own young family.

Initially the Bloomers considered a highly sustainable, contemporary design that borrowed heavily from the art deco features of the locally listed building in Foxgrove Road and the more modern design of the neighbouring properties at 20 and 18 Downs Hill. However, following helpful pre-application advice from the Local Planning Authority (LPA), that initial design was modified to better blend with the general style of the conservation area.

It was helpfully acknowledged by the pre-application advice that the existing house (built in 1951) does not contribute to the conservation area and that its replacement maybe worthwhile. The appellants followed the advice, and have sought to create a modern house, with flexible accommodation, in a contemporary, but complementary design that can provide quality family living and make a positive contribution to the local built and natural environment.

After the initial consultation and discussions with the neighbours to both sides, it was decided to revise the initial proposals. The planning application was amended on 19 April and the Council re-consulted on the new plans.

The revised proposal reduces the scale of the original application by reducing the footprint of the new house, and removing the previously proposed basement. The smaller footprint of the revised proposal meant that it would no longer be possible to reuse the foundations or walls of the existing buildings. However, it will still be possible to recycle much of the existing building onsite during the redevelopment.

The new house now being proposed draws in still further at the sides (compared to the original application) to create a significant separation gap of 4.1m at the northern boundary with 26 Downs Hill and 1.1m from the southern boundary, 3.3m between houses. The proposed new house will now sit very separately and distinctly in its own plot (the existing building runs the full width of the plot, including a side extension to the north and garage to the south).

Given that Mr and Mrs Bloomer bought the property to create the ideal home for their young family, the revised application creates a more sustainable, modern home that will provide much improved and more flexible accommodation and will make a far greater contribution to the Downs Hill Conservation Area than the existing building does. This revised approach was supported by the case officer and via her with the Conservation Officer who believes the proposed new house, in terms of its style, scale, design and materials, is in keeping with the street scene and its neighbours, and will make a positive contribution to enhance the conservation area. All this was supported by the officer's report following a site visit and careful consideration over many weeks.

It should be noted that there was only one objection to the revised plans from 20 Downs Hill to the south of the application site. Number 26 on the other side, to the north, raised no objections to the proposals following discussions with the applicant's architects, and the neighbours at number 28 wrote in support of the application.

As agree by the Council's professional officers, the revised proposal, including the design element of the development, is in line with the National Planning Policy Framework (NPPF), London Plan policies, including 3.5, 7.4 and 7.8 and the London Borough of Bromley's local planning policies and documents, including BE1 and BE11, as set out in the officer's report and recommendation to approve the application.

The planning process

Mr and Mrs Bloomer bought the property in autumn last year. They very much like the area, perfectly located not far from town and community facilities, yet calm and tranquil, an ideal environment in which to raise their young family of five.

Their initial intension was to partially demolish and substantially remodel and extend the existing house reusing much of the original foundations and external walls. They spent a few months with

architects and builders working on what might be possible and then tested those early ideas with the local planning authority through the pre-application process.

The Council's main feedback was that whereas the current house does not add anything to the character of the conservation area however, the overtly modern design initially being explored by the Bloomers was felt by the planners not to sufficiently respond to the prevailing character of the conservation area. The pre-app advice did however contain very helpful advice so, the Appellants went back to the drawing board before submitting a planning application.

One of the things that had attracted the Bloomers to the area in general, and the site in particular, was that Downs Hill is characterised by substantial family houses in generous plots of land. The prospect of being able to create their ideal home was still entirely possible and working with the pre-application advice from the Council they carefully studied design features, scale and finishes that typified the area – see the revised Design and Access Statement, pages 16-18 for details.

The planning officer who gave the pre-application advice went on to be the case officer for the duration of the planning application and the Bloomers' planning consultant established a very helpful dialogue with that officer throughout the planning process.

When the planning application was first submitted and formally consulted on, Mr and Mrs Bloomer were pleased to receive feedback and comments from the neighbours to either side. The Appellants, and their architect and planning consultant, entered into detailed conversations, in person, over the phone and via email (see Appendix A). As a result of this neighbourly dialogue the Appellants substantially reviewed their application changing the layout and design of the new home. As a result, the new house would no longer be a partial demolition and none of the original structure would be reusable.

Comments from the neighbours on the new design continued to help shape the Appellants' thinking. Before re-submitting the revised design (the version that was eventually determined and is now being appealed) the building was 'flipped' so that the greater rearward projection (3.17m) was towards the northeast and away from the neighbours at number 20. A number of side windows were also amended or removed to eliminate the possibility of overlooking, and a sunlight study was produced to demonstrate the limited shadowing effect to the rear to the satisfaction of number 26.

When the Council re-consulted on the revised application in late April only the neighbours at 20 Downs Hill objected to the new proposals. This is not to minimise the concerns that they expressed, but through dialogue directly with them and via the planning officer the Appellants genuinely believed that all their concerns had been addressed. For example, although they continued to believe that the daylight received by some of their windows would be affected, the Appellants were able to disprove this and the planning officer was aware of this fact too. This, and other issues raised, were discussed with the neighbours through an email exchange (see Appendix A).

Although applications of this type are normally determined under delegated authority, one of the ward Councillors was asked to 'call in' the application and have it determined by the Plans Sub-Committee. The committee met on 13th June 2017 and refused the application.

The planning case officer was not present at the committee and no professional officer introduced the item to committee. Both the objector from 20 Downs Hill and the Appellant's planning consultant briefly addressed the committee, the ward Councillor (Cllr Michael Tickner) who had called in the application then spoke, agreeing with the objector but offering no evidence. A second ward Councillor, who was a substitute member of the committee, then spoke in agreement with his

colleague, but again offering no evidence. The Chair of the Committee then intervened to basically direct the committee against the application. There was a short factual question from another member of the committee, about the original application before the revised plans under discussion were submitted, and the Chair then put the application to the vote. At no time were any facts discussed, the detail of the application and the planning officer's recommendation to approve it was never mentioned. It appeared that a handful of key Councillors has agreed between them beforehand and forced the refusal through in a few minutes without any real debate, without any input from a professional planning officer and certainly without any discussion of the facts.

Introduction to Statement of Case

Mr and Mrs Bloomer wish to appeal the decision to refuse planning permission on the following grounds:

The only reason given for refusal, *"by reason of its excessive massing and design would constitute an overbearing and dominant form of development, failing to either preserve or enhance the character and appearance of the Conservation Area and would be detrimental to the amenities that neighbouring properties could reasonably expect to be able to continue to enjoy"* is not explained in any detail by the refusal notice and neither was it explained or properly discussed by the committee.

It is the Appellants' contention that, through the evolution of the earlier parts of the planning process the design, massing and appearance of the proposed new home, were objectively and satisfactorily resolved with the professional planning officers of the Council. This, together with the detailed report of the planning officers, its reference to the policies of the Council and the London Plan, the relevant SPD for the DHCA and other recently permitted developments in the immediate vicinity of the site all point to a logical acceptance of the application. Details are set out in the full Statement of Case below

Detailed Statement of Case

This detailed Statement of Case concentrates on the single reason for refusal. It addresses the policies cited in the reason for refusal and states the facts regarding the size and mass of the proposed new house in relation to its immediate neighbours and the general streetscene.

Mass and design

It is objectively the case that in terms of its footprint area, its overall volume, its height, width, boundary separation distances and position within its plot, the proposed new house for 24 Downs Hill is in keeping with the general size, scale and mass of houses within the DHCA in general and with its immediate neighbours.

The modern, 1960s design of the properties at 20 and 18 Downs Hill make them unusual in the area. The very clear steer the Appellants were given by the Council, as the design of the proposals evolved during the pre-application stage and the initial stage of the planning application process, was that the proposed new house for 24 Downs Hill should echo the design features and finishes typically found across the DHCA and of neighbouring houses at 26 and 28 Downs Hill in particular.

As mentioned in the revised Design and Access statement and supported by this quote from the planning officer's report, *"It is considered that the proposed replacement dwelling would complement the form, materials and layout of the development within the conservation area and*

would sit quite comfortably within the street scene and in the context of the dwellings to either side of the property.”

Character of the Conservation Area

It was clear from the advice given by the Council at pre-application that a more modern design that borrowed elements from the locally listed 117 Foxgrove Road, or from the properties at 20 and 18 Downs Hill, would not be felt to be appropriate for this location or in keeping with the character of the DHCA.

The double gable feature of the proposed new house complements similar features at both 26 and 28 Downs Hill. As the planning officer’s report points out, *“... it is noted that the development granted planning permission at No. 28 also provided prominent front gables with second floor windows.”* The site at 24 Downs Hill is higher up the hill than the neighbouring site at number 20 and consequently the new house will appear taller, just as the houses on the opposite side of the road are much higher up and therefore appear taller than any of the even numbers in this section of the road.

As the Conservation Officer comments in the committee report, *“The proposed house would be more conspicuous than the existing house in the streetscene due to its height and projecting gables, but nonetheless I believe the design recognises the existing context and is a big improvement on the previous designs. The gables clearly reference other houses on the road and while the twin gables are slightly more assertive than some of the older houses the impact is lessened by having one slightly set back and the site is set very low on that side of the road which also lessens the impact. The rendered finish would also reference existing finishes but would no doubt be sharper and more modern in its execution.*

“The side space is sufficient and in CA terms will be generally read at first floor level and above so there will be no feeling of being cramped.”

Both objectively, and clearly in the opinion of the Council’s professional Conservation Officer, the proposed new house will both respect and complement the character of the DHCA in support of policy BE11.

Amenity of neighbours

The objections of the neighbours focus on four points:

- Outlook – the main outlook from the principle rear windows (northeast facing) of 20 Downs Hill will be hardly effected at all by the scale, height, or position of the proposed new house. The side, secondary window at ground-floor currently looks out onto the boundary fence and landscape planting that lies between numbers 20 and 24. This outlook will not be substantially changed by the proposals. The side, secondary window above it at first-floor currently looks out over the private terrace of the existing house and the rear garden of number 24. The outlook from this first-floor window will be slightly obstructed by the 1.54m rearward projection of the proposed new house, but the separation distance between this window and the new house will be 7.2m. The remainder of the outlook from this window will be exclusively of the rear garden of number 24 as at present.

As the planning officer's report concludes, *"... in view of the main aspect from the rooms being to the rear and taking into account the separation between the flank facing windows and the boundary and the quite modest rear projection of the proposed dwelling closest to the south-eastern boundary it is not considered that the refusal of planning permission on these grounds would be warranted."*

- Amenity – as agreed by the professional planning officer's report, *"... while it is acknowledged that the development would be visible from neighbouring sites and that the development would be bulkier than the existing dwelling, it is not considered that the proposal would have a significant detrimental impact on the residential amenities of neighbouring properties such that would warrant the refusal of planning permission on this basis."*
- Privacy – as the planning officer's report points out, *"The existing dwelling incorporates a first floor bedroom window which is positioned approx. 6.5m from the boundary. Taking into account the field of vision from the proposed first floor bedroom window it is not considered that the proposal would have a significant increased potential for overlooking and loss of privacy to the rear garden at No. 20."*
- Daylight – as mentioned in the revised Design and Access Statement; in the exchange of emails between the Appellants' planning consultant and the neighbours and supported by the professional planning officer's report, *"... in view of the orientation of the dwellings in relation to each other and scale and design of the proposed dwelling it is considered that the impact of the proposal would not be significantly adverse."* The Appellants have tested all windows against the 45° rule and none are in breach

To be clear, the proposed new house at 24 Downs Hill will extend just 1.54m rearward of the nearest part of number 20. The two buildings are 3.3m apart at their closest. The slight rearward projection of the new house will be 7.2m away from the secondary side windows mentioned in the neighbour's objection – see the revised block plan for relational positioning of the new house with its neighbours and the distances in question. See also the relative streetscape perspectives in the revised Design and Access Statement, pages 7-10.

As is repeatedly pointed out by the planning officer's report, none of these issues should be considered adversely impactful on the neighbours at number 20 and none would warrant reasons for refusal.

Planning policies

BE1 and BE11 of the LBB Unitary Development Plan:

Policy BE1 of the UDP sets out overarching criteria for the design of new developments, including local character and appearance. It states that developments should be imaginative and attractive to look at, should complement the scale, form, layout and materials of adjacent buildings in the areas. Development should not detract from the existing street scene and/or landscape and should respect important views, skylines, landmarks or landscape features. Space about buildings should provide opportunities to create attractive settings with hard or soft landscaping and relationships with

existing buildings should allow for adequate daylight and sunlight to penetrate in and between buildings.

Policy BE11 states that in order to preserve or enhance the character or appearance of conservation areas, a proposal for new development will be expected to respect or complement the layout, scale, form and materials of existing buildings and spaces and incorporate in the design existing landscape or other features that contribute to the character, appearance or historic value of the area; and ensure that the level of activity, traffic, parking services or noise generated by the proposal will not detract from the character or appearance of the area.

As agreed by both the planning case officer and the Council's Conservation Officer and supported in the Plans Sub-Committee report, *"The proposals would preserve the character and appearance of the conservation area."* and *"... the approach is considered reflective of buildings in the locality by using a complementary palette of materials and building design features."* and *"The rendered finish would complement the palette of materials used in the immediate locality."*

Policies 3.5, 7.4 and 7.8 of the London Plan:

These policies make the same points regarding design quality, local character and heritage assets at a regional level to help the London Boroughs shape their Local Development Frameworks.

There are no substantive points in any of the planning policies that the Committee cited during the Plan Sub-Committee meeting that refused the application, neither were any substantive points stated in the written reason for refusal.

Relevance of 28 Downs Hill (application 14/03219/FULL1)

The Downs Hill Conservation Area SPG advises that the Council will expect all proposals for new development to conform to the character of the area, especially in regard to scale and height of construction, location within the plot and the design and materials used.

Just as it was considered that the design and approach to the dwelling at number 28 was acceptable so should the similar approach be when applied to the proposals for 24 Downs Hill. This is referred to in the officers' supporting documents for the 24 Downs Hill application and it was concluded in the committee report for number 28, *"... it is considered acceptable in that it would not result in a significant loss of amenity to local residents and would preserve or enhance the character of the conservation area."*

As this approach and these policies applied to number 28 three years ago and given the similarities in scale and design of the that proposal and those put forward for 24 Downs Hill now. It is very hard to see how the Plans Sub-Committee's subjective reasoning for refusal can be sustained.

Conclusions

The Appellants argue that, for all the reasons stated above and as supported by the professional planning officers' report, the application should have been approved.

The mass and design of the proposals are in keeping and in scale with the area and the neighbouring properties.

As supported by the Conservation Officer, the proposals will be in character with, and complementary to, the Downs Hill Conservation Area.

The amenity of neighbours will not be unduly affected in terms of outlook, amenity, privacy or daylight.

As the well-considered report of the planning officers demonstrates, the proposals are in keeping with, and in support of, policies BE1 and BE11 of the LBB Unitary Development Plan and policies 3.5, 7.4 and 7.8 of the London Plan.

The Appellants' case should therefore be supported and the Appeal granted.