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5th March 2024

Director of Development
Planning Department
Haringey Borough Council

Our Ref: JEA/DS7699

By email only

For the attention of the responsible Planning Officer - Nathan Keyte

Dear Sir

Town and Country Planning Act 1990 (as amended)
Residential Proposals – Land at 28 Shepherd’s Close, Highgate, N6 5AG
Application Reference HGY/2023/3217

We act for Candice Lake, the Applicant in relation to the above referenced application.

We have been instructed to review the representations presented to the Council in respect of the above application proposals. We have accordingly considered the comments that have been made and set out briefly the Applicant’s response as below.

1. It is noted that there is a significant level of support for the proposed development from many individuals living in the vicinity of the site and within the Highgate Conservation Area. Amongst many noteworthy points raised from the high number of these locals, there is recognition given to the fact that the development incorporates a high-quality design that reflects similar characteristics to other dwellings in Shepherd’s Close and sensitively compliments the Harley Sherlock houses; that there is a severe shortage of housing in the borough and the scheme responds to meeting a local housing need; that there are environmental improvements arising from the development, including the provision of landscaping and biodiverse roofs; that there is a positive contribution being made to the Highgate Conservation Area; and that there are important benefits of this small scale infill development including making effective use of a vacant and boarded up site which has lost its former purpose. Experience has proven that individuals are far more proactive in seeking to object to development than support it. The plethora of support demonstrates that many appreciate the merits of this proposed development and the importance of putting derelict sites back into beneficial use.

2. Objections have also been raised. The Applicant submits that this is inevitable in the light of the history attached to the site and the strength of feelings held by some residents in the Close against the Applicant and architect. The vitriolic nature of some of the objections raised speaks for itself and, as a consequence, is deemed to be wholly unacceptable and improper. It is contended to be extremely sad that individuals seek to make personal attacks which are not only unfitting and improper, but erroneous in content.
3. Notwithstanding the above, it is evident from the submissions presented by some objectors that much reliance is being inappropriately placed on the planning history and the former physical characteristics of the site. The planning history has been comprehensively addressed within the Applicant's Planning and Design and Access Statements and will not accordingly be rehearsed here. The main consideration in this respect is how the new proposals have been addressed against former comments raised, giving consideration to their individual merits and against fundamentally different site characteristics.
4. The criticism levied against the Applicant over loss of trees is both unfair and incorrect. This is addressed by the architect, but it should be noted that under the last scheme, dismissed on appeal, the Applicant chose not to fell the trees at that time as a matter of goodwill pending development. The trees were subsequently removed, but only following Council approval and even then, properly awaiting the end of any bird nesting period. The Applicant was perfectly entitled to remove the trees and vegetation and there were no TPOs or any requirement for replacement planting to take place. The claims made by objectors over unlawful removal are wrong and it is evident that a grudge is being held against the Applicant for undertaking these works. Indeed, it is noted that around 25 of the objections made concentrate on false allegations of illegal or deceptive destruction of trees and this is deemed by the Applicant to be highly offensive. The site was a cause for crime (with police involvement and crime reports) and appropriate action had to be taken, which also included the necessity of having to board it up by what is now claimed by an objector as an 'oppressively high wooden perimeter fence.' Objectors seek to deny problems with the site, but crime is highly prevalent in the immediate vicinity and the site itself has suffered from significant criminal issues, including fly tipping which is costly to clear up and environmentally damaging. Details have been provided by the architect and it is simply wrong of these objectors to deny crime is not an issue. It is, and has been, very real and a significant problem on this site. The proposals look to rectify this by putting the land back into use. The new dwelling will provide passive surveillance and security, directly supported by 'Secure by Design' advice from the Metropolitan Police.
5. The Applicant considers there has been inappropriate orchestration of objections, noting the similar content, some of which is unnecessarily acerbic in nature. Furthermore, misunderstandings have arisen over the alleged use of public land as part of the application site. This is factually incorrect and the Applicant confirms that the site has been accurately measured and does not include public land. The Applicant has offered to improve the setting outside the site, but this is not promoted as part of the development itself and would require liaison with the relevant authorities. It is, however, another opportunity to materially improve the appearance of this part of Shepherd's Close, besides the benefits arising from reusing a 'plot of land', a site that looks 'like a brownfield site' and removing an 'eyesore' – all as described by objectors.

6. Objection has been raised against the Applicant's assertion that the site is brownfield. The Applicant submits the land is brownfield for all the reasons set out in its main submissions. However, regardless of the definition, the site sits within the urban confines and is a derelict, non-accessible, boarded up plot, devoid of any important environmental/biodiversity features. The NPPF (paragraph 124 c) requires decisions to 'support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;' and paragraph 124(d) goes on to require decisions to 'promote and support the development of under-utilised land ... especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example ...building on... car parks...). Development does not therefore have to relate directly to brownfield land with permanent structures on it in order to be supported under policy, but in this case the Applicant contends it is brownfield and lies in a highly sustainable location. The application site was historically part of the garden of No. 27 Shepherd's Close, but it was sub-divided from that curtilage in the 1980's. If the objectors seek to claim it remains as garden land then the associated curtilage relates to No. 27 itself with its permanent structure.
7. The Applicant has already provided many examples in the vicinity of the application site and within Haringey's administrative area where land, including those without permanent structures, have been approved for residential development. Many of these relate to new dwellings in gardens as either infill or backland development. The Applicant recognises that every case is required to be considered on its individual merits, but in the interests of consistency of approach in the decision-making process, they are contended to be important material considerations. These include, for example:
 - HGY/2015/1424 – 22 Broadlands Road. This development relates to a new family home with basement within the rear garden to the north west of the existing house. The development was approved on 13th November 2015. The site sits within the Highgate Conservation Area. Both the Highgate CAAC and Highgate Society objected to the proposals. In addressing the principle of development, the Officer highlighted the fact that 'the NPPF does not rule out any development of residential garden land' and 'does not prevent the sub-division of plots/building on garden sites but requires an application to be assessed on its own merits, having regard to the individual site in question and the pattern of development in the area.'

In addressing the character and appearance of the conservation area, the Officer noted 'the site as currently seen from Denewood Road and junction with Broadlands serves as a gap and sense of openness break ¹between two streets in question...the appraisal goes on to say that the sub-division of plots and new development within rear gardens will only be permitted if it is part of the local character of the area and would contribute positively to the Conservation Area. As the character of this section of the road onto which such a house would face is currently very open and visible, any proposal here would have to be modest in massing and scale in order not to diminish the sites verdant and green character. The reduced massing and scale as well and (sic) the simple, contemporary and subordinate design, on balance is considered to preserve the character and appearance of this part of the Conservation Area...'

¹ Writer's emphasis

8. The Applicant submits that similar considerations to the Broadlands Road scheme (and others as formerly outlined) can be applied to the application site, although it has additional advantages in that the application site itself does not have a verdant and green character like the Broadlands Road site. This is a small-scale infill development where the pattern of development in the Close is of residential properties sitting close to the road with limited frontage landscaping and within a readily identifiable urban setting. The appreciation of a green parkland vista which is established beyond the southern-most dwellings in Shepherd's Close, will similarly be secured behind the application site beyond the new dwelling, thereby further reflecting very similar landscaping characteristics within the Close itself. These objectives chime directly with NPPF paragraph 128 which requires decisions to support development that makes efficient use of land, taking into account, inter alia, the desirability of maintaining an area's prevailing character and setting. The promotion of regeneration and change is also to be supported. It is unrealistic to consider the site will be replanted with mature trees as formerly existed and as a derelict, boarded up plot of land, described as an 'eyesore' in the objections, the Applicant seeks to address this through the introduction of a sensitive, high quality designed, small scale development rather than leaving the land effectively as wasteland with its ongoing crime problems.
9. Other objections raised indicate that the land lies within the Green Belt and Metropolitan Open Land (Ecological Report). This is incorrect. The site has no such designations. Furthermore, the land has no recognised ecological value, as a site with hardstanding which has been boarded up and is without trees or vegetation. The claims raised that the land is green open space is historical and fails to recognise the material changes in circumstances that have arisen since former decisions have been taken in respect of the site. It is also not designated open land.
10. Similar to many of the local objections, the HCAAC's objection fails to recognise these material changes and places heavy reliance on past decisions. The Applicant acknowledges that planning history is a material consideration, but this needs to be addressed in the context of relevant physical changes that have lawfully taken place and revisions made to the scheme to address former observations made that found against the site's development at that time. The Applicant submits that the HCAAC is misdirected in its approach in firstly concluding that the site is not a brownfield site, but secondly, even if not brownfield, that planning permission cannot therefore be granted for such a development. The HCAAC has adopted a very narrow interpretation of planning policy to suit its own purpose, but this does not align with the objectives of policies set out within the London Plan, the Haringey Strategic Policies DPD, the Haringey Development Management Plan DPD and the NPPF as highlighted within the Applicant's main submissions and where a balanced approach is required to be undertaken. The Applicant submits that the objection by the HCAAC is both misconceived and unbalanced and where no regard has been paid to the fact that the site is an 'eyesore', as described by an objector. A resolution now needs to be found to ensure that it is restored and put back into effective use, so as to make a positive contribution to the Conservation Area instead of its current negative status. Furthermore, no recognition is given by the HCAAC to the housing needs of the borough and the importance of small sites in assisting with increasing the supply of housing. It has adopted an entirely unbalanced position.

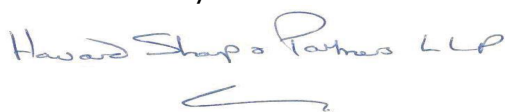
11. Similar issues arise in respect of the objections raised by the Highgate Society. It is interesting to note that this Society did not raise objections against the former scheme, despite its greater scale and at that time the more verdant appearance of the site. It is understood that some of its members are local objectors which as a result may have generated the response from the Society. Notwithstanding this, it is noted that the Society accepts that the design issues raised against the former proposals have been addressed. The author quotes extracts from the former Inspector's decision highlighting the attractive green vista, but then does not appear to appreciate the fact that the site itself is boarded up and comprises hardstanding. Nor the facts that the scheme has been revised and is at a scale that ensures a quality appreciation of the trees associated with the parkland to the rear beyond the site will be maintained, in a similar manner to the green vista behind the two storey dwellings at nos. 18-27 Shepherd's Close, adopting a consistent approach to these. The Society also fails to acknowledge the overall reduction in scale of the development and fundamental changes, as clearly outlined in the application documentation, or the significant changes to the physical characteristics of the site and exposure of the aesthetically unattractive and dominant adjoining high brick wall which have a negative impact on this part of the Highgate Conservation Area. The Society's objection is silent on these negative changes to the site and surrounding area which must be taken into consideration as part of the revised scheme. The Applicant asserts that the Society has not therefore been able to appropriately assess the merits of the development in the context of conservation area objectives or under Neighbourhood Plan Policies DH2 and DH10. There is no loss of garden land (even the 2020 Inspector acknowledged it was 'formerly garden land' and therefore not now garden land) or erosion of green and open space which makes a positive contribution to the character and appearance of the HCA. Furthermore, the Society acknowledges the national housing shortage but does not find any public benefit, which again is simply incorrect. The Council will be aware of decisions taken where even the sole introduction of a dwelling with associated benefits to the local economy through construction and ongoing occupation of the dwelling are accepted as providing appropriate public benefits.
12. There is significant planning policy in support of this development which has been comprehensively set out within the Planning Statement accompanying the application. Reference is again made to London Plan Policy H2 which addresses small sites and requires the LPA to 'pro-actively support well-design new homes on small sites.' There is a clear presumption in favour of development on sites below 0.25 hectares and which help to meet London's housing needs; London Plan Policy D3 which looks to development making the best use of land by following a design-led approach; Strategic Policies DPD Policy SP0 which sets out a presumption in favour of sustainable development; Strategic Policies DPD SP1 addressing housing demand by maximising the supply of additional housing in the most suitable locations, Policy SP2 requiring the Council to provide homes to meet the Borough's housing needs and Policy SP12 which addresses conservation. In addition, other supportive policies are contained within the Development Management Plan DPD including Policy DM1 addressing the deliverance of high-quality design; Policy DM7 relating to infill development; Policy DM9 addressing the management of the historic environment; Policy DM10 relating to windfall sites and Policy DM12 which looks to high quality housing design.

The proposals are contended to directly accord with these policy objectives as well as the others outlined within the Applicant's Planning Statement associated with a small, infill and derelict site, which by putting back into beneficial use will provide a high quality designed new family home. Other infill schemes within the same HCA have

been shown to successfully integrate into its character and appearance and through a highly and carefully thought out design by award winning architects, there is every reason to consider that a similar result will be secured on the application site.

13. Detailed consideration has also been given to the contents of the Highgate Neighbourhood Plan and Highgate Conservation Area Character Appraisal and Management Plan, as set out in the Planning Statement. The Applicant robustly maintains that no conflict arises with the objectives set out therein.
14. Paragraph 70 of the NPPF (Dec 2023) recognises the importance small sites can make to meeting housing requirements. The Council is therefore charged with, inter alia supporting 'the development of windfall sites through their ... decisions, giving great weight to the benefits of using suitable sites within existing settlements for homes...' Similar objectives are outlined under paragraph 124 and decisions should promote effective use of land in meeting the needs for homes, whilst safeguarding and improving the environment. Furthermore, it is understood that housing delivery has been below the Council's housing target and if this remains the case, then paragraph 11(d) of the NPPF is engaged under footnote 8 and the tilted balance in favour of this sustainable development can also be applied.
15. For all these reasons the Applicant robustly refutes the objections raised by some local residents and the local amenity societies against this development, much of which are based on misconceptions and reliance on past history without recognition of the merits of the new scheme and the fundamental changes to the physical appearance of the site and immediate environment. The application is promoted as one that positively responds to planning policy as highlighted above and as set out comprehensively within the Applicant's main application submission documents.
16. There is also a very notable level of support for the proposals from many residents living within the HCA which is submitted to be a further important material consideration.
17. The tilted balance in favour of this development, if relevant, shows that planning permission should be granted as there are no adverse impacts that significantly and demonstrably outweigh the benefits, when assessed against policies of the Framework taken as a whole. Notwithstanding this submission, for all the reasons outlined within the Applicant's submissions, the Applicant maintains that the presumption in favour of this sustainable development should be applied in any event and planning permission granted accordingly.

Yours faithfully

Howard Sharp & Partners LLP


For and on behalf of
Howard Sharp and Partners LLP