

Appeal Decision

Site visit made on 11 October 2016

by Beverley Wilders BA (Hons) PgDurp MRTPI

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

Decision date: 22 November 2016

Appeal Ref: APP/G5180/W/16/3154878

46 - 50 High Street, Green Street Green, Orpington, Kent BR6 6BJ

- 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 Caglar Shefik against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/01765/FULL3, dated 8 April 2016, was refused by notice dated 17 June 2016.
 - The development proposed is alteration and extension and change of use of B1(c) property to provide 2 x 3 bedroom semi-detached two storey residential C3 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The site location is described on the planning application form as 40 – 50 High Street. It is described on the Council's decision notice and on the appeal form as 46 – 50 High Street and this is a more accurate description. I have dealt with the appeal accordingly.
3. The appellant has submitted two additional plans with the appeal in an attempt to overcome the Council's concerns (drawing numbers 1505_02_02A and 1505_02-07). One shows amendments to the first floor plan and includes louvre details to the rear windows and additional side windows and the other provides details of the louvre window. It does not appear that these plans were before the Council when it made its decision and in any event no consultation has taken place on them in order to provide interested parties with an opportunity to comment on the amended details. Consequently I have considered the proposal as shown on the plans determined by the Council.
4. This appeal follows the dismissal of an earlier appeal relating to a proposal for 2 flats (Ref DC/15/01946/FULL1). I have been provided with a copy of the previous appeal decision and where relevant have had regard to it in reaching my decision.

Main Issues

5. The main issues are:
 - The effect of the proposal on the living conditions of the occupiers of 1 Coal Post Close having regard to privacy;
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- Whether future occupiers of the proposed dwellings would have satisfactory living conditions having regard to the size of the accommodation proposed, outlook and privacy.

Reasons

Living conditions (existing)

6. The appeal site comprises a part two storey, part single storey building with a small rear yard area. It is currently vacant and I understand that it was most recently used as a print shop. The rear of the appeal site adjoins the boundary of the side and rear garden of a residential property at 1 Coal Pit Close. The common boundary between the appeal site and the dwelling at the rear is marked by a solid timber fence.
7. The proposal would extend the width and depth of the two storey part of the appeal building bringing it nearer to 1 Coal Pit Close. First floor bedroom windows are proposed within the new rear elevation of the building, one of which would have a clear view above the existing boundary fence into the side and rear garden of No 1. Though it appears that the part of the garden of No 1 nearest to the appeal site is currently used for parking and storage, this may not always be the case and in any event the close proximity of the rear elevation of the proposal to the rear boundary of the site means that there would also be a view from the first floor bedroom window of the area of garden immediately to the rear of the dwelling at No 1. In my view this would significantly increase the amount of overlooking from the appeal site, would significantly reduce privacy in the garden of No 1 and would be harmful to the living conditions of the occupiers of that property.
8. I note that the first floor windows would be fitted with restrictors meaning that it would not be possible to open them beyond a 45 degree angle. However I do not consider that this would overcome the issue of overlooking of the rear and side garden of No 1 as this overlooking could occur even when the windows are closed. I also note reference to residential standards in the London Borough of Lewisham. However these are not applicable in this case and in any event my findings are based on the particular circumstances of the proposal and the appeal site. Finally I do not consider that this matter could be overcome by the imposition of a suitably worded condition as suggested by the appellant as the use of obscure glazing or some other means of preventing overlooking would be likely to result in an unacceptable reduction in the outlook from the first floor bedroom windows.
9. Taking the above matters into consideration, I conclude that the proposal would have a significant adverse effect on the living conditions of the occupiers of 1 Coal Pit Close having regard to privacy. It is therefore contrary to policies BE1 and H7 of the London Borough of Bromley Unitary Development Plan (UDP). These policies require development proposals, including new housing developments, amongst other things, to respect the amenity of occupiers of neighbouring buildings and to recognise as well as complement the qualities of the surrounding area.

Living conditions (future)

10. Two, three bedroom dwellings are proposed and I understand that both would have an internal floor area of 98 square metres. Though I note that the

Council considers that a floor area of 102 square metres is the minimum required, having regard to the fact that accommodation is proposed over three floors I consider that for the purposes of calculating minimum internal floor area, the dwellings should be regarded as being 3 storey. Having regard to the nationally described space standard the minimum internal floor area for such dwellings is 108 square metres. At 98 square metres the internal floor area of the proposed dwellings falls some way short of the minimum standard. Having regard to this and to the layout and level of space proposed, particularly at ground floor, I do not consider that the dwellings would provide a satisfactory amount of living accommodation.

11. With regard to outlook, the first floor bedroom window to one of the dwellings would be located near to the common side boundary with 52 High Street. However, having regard to the size of the window and its position relative to the building at No 52, I am satisfied that there would be a satisfactory outlook from the bedroom window and that the outlook would not be dominated by the neighbouring flank wall.
12. The proposed restrictors to the first floor rear bedroom windows would mean that when the bedroom windows are open, the view from one of the windows would be directed towards the rear amenity space of the other. However whilst I accept that this may focus the view from the window in the direction of the neighbouring rear amenity space, having regard to the central position of the windows within the rear elevation and the distance between the windows and the common side boundary between the gardens, I do not consider that there would be any significant loss of privacy to future occupiers of the affected dwelling.
13. Taking the above matters into consideration, although the proposal would provide future occupiers of the dwellings with satisfactory outlook and privacy, it would not provide a satisfactory size of internal accommodation. The proposal is therefore contrary to policies BE1 and H7 of the UDP, Policy 3.5 of the London Plan and the Mayor of London's Housing Supplementary Planning Guidance. These policies and this guidance seek, amongst other things, to ensure that development is of a high standard of design and respects the amenity of future occupants.

Other Matters

14. In reaching my decision I have had regard to the fact that the proposal would provide two additional three bedroom dwellings in an accessible location and that there would be some modest economic and social benefits arising from it. I also note that the dwellings would be provided with some external amenity space and that the proposal seeks to use matching materials. However these matters do not outweigh the harm that I have identified to living conditions.
15. Notwithstanding my finding of harm to living conditions, I am satisfied that the proposal would not harm the setting of nearby listed buildings. This is having regard to the scale and design of the proposal and the relative position of the appeal site and building to nearby listed buildings.

Conclusion

16. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR