

Appeal Decision

Site visit made on 28 November 2016

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 6th December 2016

Appeal Ref: APP/G5180/W/16/3158569

51 Elmstead Lane, Chislehurst, BR7 5EQ

- 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 Peter Byrne against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/15/05567/FULL1, dated 18 December 2015, was refused by notice dated 23 February 2016.
 - The development proposed is described as 'the demolition of the existing double garage and the construction of a two bedroom house with accommodation over two floors being lower ground and ground'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposed development on the living conditions of future occupiers with specific reference to light and outlook; and
 - The effect of the proposal on the tree subject of a tree preservation order.

Procedural Matters

3. The appellant has submitted a Daylighting Statement and an Arboricultural Report in support of the appeal which were not before the Council when it determined the application. This additional evidence does not alter the nature of the proposal and consequently I do not consider that the interests of anyone would be prejudiced by accepting the information. I have, therefore, determined the appeal on this basis.

Reasons

Character and appearance

4. The appeal site is situated in the rear garden of number 51 Elmstead Lane (no 51) and is currently occupied by a detached double garage fronting onto Wood Drive. The area is comprised of substantial detached properties set in spacious grounds with large gardens to the front and rear with mature landscaping which contribute to the spacious and verdant character of the area.
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5. The narrow width of the proposed dwelling would contrast markedly with the wide frontages of surrounding properties. Furthermore, the proposed dwelling would extend right up to the boundaries of the site resulting in a cramped appearance at odds with the spacious character of the area. Whilst the front of the dwelling would be in line with the extension to the host property, it would sit significantly forward of the prevailing building line along Wood Drive where dwellings are set back a considerable distance from the road.
6. Furthermore, the linear shape, narrow frontage, asymmetric dual pitched roof and fenestration would be at odds with the traditional features of surrounding properties. Moreover, the side elevations would be comprised of almost blank long brick walls and the west elevation in particular would be highly visible when approaching along Wood Lane. Contrary to the assertion that the proposal is imaginative and attractive, I consider that the proposal would be an incongruous and uncharacteristic feature at odds with the prevailing character of the area.
7. Paragraph 4.35 of the supporting text to Policy H7 of the Council's Unitary Development Plan (UDP) 2006 states that *'scope for housing development occurs mainly on infill sites'* and thus infill development is not ruled out. It goes on to say that *'redevelopment should be of a design that is sympathetic to and complements the surrounding area but not necessarily a reproduction of the established form and pattern of development'*. However, criterion iii of Policy H7, nevertheless, requires that the site layout, buildings and space about buildings are designed to a high quality and recognise as well as complement the qualities of the surrounding area. For the reason stated, I consider that the proposal does not achieve this objective.
8. The appellant contends that the proposal would improve the street scene when compared to the existing garage. However, the simple design of the garage is reflective of its ancillary role to the host property and is typical of similar ancillary buildings in the surrounding area. I consider that the additional mass and bulk of the appeal proposal together with the incongruous design would have a greater adverse effect on the street scene than the existing garage.
9. For the reasons stated I conclude that the proposal would have a harmful effect on the character and appearance of the area. It would, therefore, be contrary to criterion iii of Policy H7 of the UDP which states that the site layout, buildings and space about buildings are designed to a high quality and recognise as well as complement the qualities of surrounding areas. Furthermore, conflict arises with Policy BE1 of the UDP which expects all development proposals to be of a high standard of design and layout.

Living conditions

10. The Council is concerned that the lower ground accommodation of the appeal proposal would provide a poor standard of accommodation for future occupiers by virtue of inadequate light, outlook and ventilation. The Daylighting Statement states that the proportion of window area per square metre of floor area meets the 'required standards'. However, it is not clear to which standards are referred or whether they take account of the subterranean nature of the proposal.
11. The Statement also presents a series of diagrams which show the amount of sunlight falling onto the vertical plains of the lightwell to differing degrees at 21

June and 21 October. However, no diagrams are provided for 21 December when levels of daylight/sunlight are likely to be at their worst. Furthermore, no technical summary is provided by which to assess whether the proposal would meet accepted daylight and sunlight standards and it is, therefore, difficult to draw meaningful conclusions. On the basis of this limited evidence I cannot, therefore, be certain that the lower ground floor accommodation would receive sufficient daylight or sunlight.

12. The master bedroom, kitchen and dining room would be located within the lower ground floor of the proposal. The dining room and kitchen would be served by a submerged internal courtyard and the master bedroom would also be served by a small courtyard to the front of the property, adjacent to the car parking spaces at ground floor level. The view from the master bedroom would be restricted by a retaining wall in close proximity. Consequently, notwithstanding the suggested 'living wall' feature the external outlook from these rooms would be very restricted.
13. For the reasons stated, I conclude that the proposal would provide an unacceptable standard of accommodation for future occupiers. The proposal would, therefore, be contrary to Policies H7 and BE1 of the UDP.

Tree

14. The Council consider that a sycamore tree situated in the front garden of no 6 Wood Drive is protected by a Tree Preservation Order (TPO). The Council consider that the proposal would have a detrimental effect on the tree both above and below ground leading to post development pressure to remove it. However, the appellant contends that the tree is set back some distance from Group 1 of the TPO and is, therefore, not protected by the TPO.
15. Without the benefit of detailed measurements I cannot determine whether the tree is covered by the TPO. However, notwithstanding whether the tree is protected by a TPO, Policy NE7 of the UDP requires proposals for new development to take particular account of existing trees on the site and on adjoining land which in the interests of visual amenity and/or wildlife habitat are considered desirable to maintain, not just protected trees.
16. The Sycamore tree is approximately 10.4m tall with a stem diameter of 1.5m above ground level of 350mm. It is situated close to the boundary with the appeal site. It is separated from the appeal site by a brick boundary wall and also a low level retaining wall. The closest stem of the tree is situated 1.6m from the flank wall of the garage at no 51 Elmstead Lane. Whilst the sycamore is smaller than other nearby trees it is clearly visible from Wood Drive and in limited views over the rooftops from Elmstead Lane. I consider that it softens the appearance of the existing house and hardstanding at no 6 Wood Lane and contributes to the verdant nature of the area. Consequently, I consider that retention of the tree is desirable.
17. An Arboricultural Report has been submitted as part of the appeal which states that around 25% of the Root Protection Area (RPA) of the tree would be directly affected by the proposed development and at its closest point would be within 1.6m of the base of the tree. It goes on to state that the low retaining wall and garage foundation is likely to act as a partial barrier to the roots which tend to be concentrated in the upper 600mm or so of topsoil. Taking these

factors into account it is estimated that approximately 15% of the RPA would be affected by the proposed development.

18. The Report states that the impact of the development is likely to be associated with the loss of 'feeder' roots responsible for the uptake of water and nutrients. It concludes that given the robust nature of the tree, good health and young age that the tree could be successfully retained subject to appropriate controls. However, although the harm to the root protection area may be limited to 15% of the RPA, I am concerned that due to the presence of the driveway to the west opportunities for the root system of the tree to compensate for this loss would be limited. There is no conclusive evidence to demonstrate that the long term health of the tree would not be adversely affected.
19. Nonetheless, even if the harm to the tree were to be limited during the construction phase, the branches of the Sycamore would over-hang the roof of the proposed dwelling and in particular the roof lights on the western roof plane as the plans demonstrate. Consequently, there would be significant pressure from future occupiers of the proposal to prune and fell the tree to the detriment of the character and appearance of the area.
20. For the reasons stated I conclude that the proposal would have a harmful effect on the Sycamore Tree and the character and appearance of the area. Consequently, the proposal would be contrary to Policy NE7 of the UDP.

Other matters

21. Whilst the proposal may bring some economic benefits during the construction phase, these would be very modest and short term. In terms of the social aspect of sustainability, the proposal would make a contribution, albeit small, to housing land supply. However, for the reasons stated the proposal would not meet the environmental dimension of sustainable development. The proposal would not, therefore, constitute sustainable development as required by paragraph 14 of the Framework.

Conclusions

22. For the reasons stated and taking all other considerations into account, the appeal should be dismissed.

Caroline Mulloy

Inspector