
Appeal Decision

Site visit made on 12 December 2016

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 16 January 2017

Appeal Ref: APP/G5180/W/16/3159134
42 Orchard Road, Bromley BR1 2PS

- 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 John Doyle against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/00895/FULL1, dated 22 February 2016, was refused by notice dated 23 June 2016.
 - The development proposed is the demolition of existing bungalow and erection of 8 flats.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - (i) the living conditions of future occupiers, with particular regard to the provision of private outdoor amenity space; and
 - (ii) the character and appearance of the surrounding area, including the adjoining conservation area.

Reasons

Living conditions

3. Both the appellant and the Council concur that the proposal complies with the minimum internal space standards as set out in table 3.3 of Policy 3.5 of The London Plan 2016 (TLP) and I have no evidence before me which leads me to dispute this.
 4. Notwithstanding the above, the Mayor of London's Housing Supplementary Planning Guidance 2006 (the SPG) states that private open space is of a high value and should be provided in all new housing developments. Standard 26 of the SPG requires that a minimum of 5 square metres of private outdoor space is provided for 1-2 bedroom units, with a further 1 square metre being provided for each additional occupant and in particular, ground floor flats should preferably have private gardens.
 5. I note the suggestion by the appellant that, given the size of the plot that the outdoor space could easily be divided to meet the required standards. However, no proposals have been submitted to show how this could be
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achieved and therefore an assessment of the potential impact on the character and appearance of the appeal site and wider area is not possible. As such, in the absence of detailed information I am not persuaded that the matter could be dealt with by the imposition of a condition.

6. Consequently, the proposal would fail to provide a level of private outdoor amenity space that could reasonably be expected in the context of such a development. I therefore find that the proposal would cause significant harm to the living conditions of future occupiers contrary to Policy 3.5 of the TLP and guidance contained within the SPG, which when taken together seek, amongst other things, to ensure new development provides a good standard of residential amenity for future occupants of buildings.

Character and appearance

7. The appeal site is located in a relatively prominent position on the southern side of Orchard Road, adjacent to the junction of Sundridge Avenue. The site is approximately 0.2 hectares in area and a substantial detached bungalow is located in proximity to the western boundary, close to the neighbouring bungalow at 40 Orchard Road.
8. The surrounding area is predominately residential in character, although Braeside Primary School is sited on the opposite side of Orchard Road and a care home is located next to the appeal site on Sundridge Avenue. The dwellings on Orchard Road vary in architectural design, although from my observations I noted most are of a substantial scale, benefit from generous plots and are set back from their frontages by a considerable degree.
9. The southern boundary of the site is adjacent to the Sundridge Avenue Conservation Area (the CA) which is predominately residential with dwellings which again have a varied design. The London Borough of Bromley, Supplementary Planning Guidance for Sundridge Avenue Conservation Area 2003 states that the significance of the CA is attributed to the completeness of a row of large detached red brick Victorian dwellings with mature landscaping. Given the rarity of such a complete street frontage, it is considered worthy of protection through the designation as a conservation area.
10. I am aware of the extensive planning history of the site, including the two planning appeals which were dismissed in 2013¹. Nevertheless, planning permission was granted in 2015 for the demolition of the existing bungalow and erection of a two storey dwelling house and associated vehicle parking². As such, the extant planning permission is a material consideration to which I attach significant weight and will therefore consider the appeal accordingly.
11. From the evidence before me, previous proposals on the appeal site were refused planning permission due to the potential impact of the proposals on the views towards the CA. The scheme which was granted permission in 2015 increased the separation distance to between 10-13 metres from the proposed boundary with Sundridge Avenue. This more generous set back position, combined with the scale and sympathetic design, was considered appropriate and permission was subsequently granted.

¹ Appeal references: APP/G5180/A/13/2193858 and APP/G5180/A/13/2200287

² Council reference: 15/00862

12. The building line of the proposal before me is generally in line with that of the dwelling at 22 Sundridge Avenue, which is a substantial Victorian property located to the east of the site on the corner of Orchard Road and Sundridge Avenue. I accept that the single storey projection which would be located close to the boundary of 40 Orchard Road exceeds that footprint of the approved scheme. However, I do not consider that this modest addition would have a significant impact on the spacious plot. I therefore find that the overall footprint, scale, design and set back location is directly comparable to that of the approved scheme.
13. As such I consider that, despite the sensitive location of the appeal site, the proposal would not significantly reduce the existing openness of the plot which allows views into the CA. Furthermore, I note that the Council in their submitted evidence accepts that the proposal would not be detrimental to the visual amenity of the area and adjacent CA.
14. Notwithstanding the above, the Council has raised concern in regard to development which is felt to be out of character with the residential functioning of the immediate locality and would result in over-intensification. I have no doubt that the proposal would result in an increased level of domestic paraphernalia than that of a single family dwelling. Moreover, I accept that the predominant character of the wider locality is residential, with the majority of dwellings being for single family units.
15. Nonetheless, the immediate area surrounding the appeal site consists of a mix of uses, including a school, flats and a number of care/nursing homes. Overall, I consider that the introduction of 8 flats in this location would not generate such a significant increase in activity on the site in comparison to that which already occurs in the immediate area. I therefore do not find that the proposal would represent an over-intensification of the site which would undermine the established character of the area.
16. In determining this appeal, I have had regards to the appeal decisions of the two previous Inspectors. In both instances, the Inspectors had regard to the character of the area and the adjacent CA. Nonetheless, unlike the proposal before me, the previous appeal schemes consisted of the erection of two detached two-storey dwellings. In addition, I consider that they are not directly analogous to the proposal before me as the previous appeals were determined prior to the decision of the Council to grant planning permission for a dwelling on the site. I therefore attach only limited weight to those decisions in my consideration of this appeal.
17. At the time of the submission of the appeal, the Council accepted that a five year supply of housing land could not be demonstrated. However, in November 2016 the Council's Five Year Housing Supply White Paper was considered before the Council's Development Control Committee and was subsequently adopted. Accordingly, the Council contends that it is now in a position to address the five year housing supply within the borough. The appellant was made aware of this situation and I note the comments made in respect of the position having yet to be tested and the challenge in relation to the emerging Local Plan.
18. Paragraph 49 of the National Planning Policy Framework (the Framework) advises that relevant policies for the supply of housing should not be considered to be up to date in situations where a local authority cannot

demonstrate a five year housing land supply, and that housing applications should be considered in the context of the presumption in favour of sustainable development. In circumstances where relevant policies are out of date, paragraph 14 of the Framework advises that planning permission should be granted, unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

19. As I have no further evidence relating to this issue, I have adopted a precautionary approach and assessed this appeal on the basis that a five year supply has not been clearly demonstrated. However, in terms of the policies relevant to determination of the appeal, those relied on by the Council in its reasons for refusal are consistent with a core planning principle of the Framework, as they seek to ensure a well-designed development and a good standard of residential amenity. As a result, these are qualitative policies which do not seek to restrict residential development within Bromley and I do not consider they are relevant to the supply of housing land.
20. Therefore, even with an absence of a five year supply of housing land this does not mean that the policies are out of date. Given that the development plan is also not absent or silent; the tilted balance in paragraph 14 of the Framework therefore does not apply to the proposed development.
21. Accordingly, I do not consider that the proposal represents an unduly prominent form of development and would not represent an incongruous feature within the street scene or the wider CA. I therefore find no conflict with the design objectives Policies BE1 and H7 of the London Borough of Bromley Unitary Development Plan 2006 and Policy 3.5 of TLP. The Council has also referred to Policy BE11 of the UPD in the decision. However, this policy is concerned with development within a conservation area. As the proposal is not located within the CA, I do not consider Policy BE11 is of relevance in this instance.

Conclusion

22. Although I have not found harm in relation to character and appearance, I have found adverse impact in relation to living conditions in respect of outdoor amenity space. For the reasons given above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

Helen Cassini

INSPECTOR