
Appeal Decision

Site visit made on 8 May 2017

by G J Fort BA PGDip LLM MCD MRTPI

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

Decision date: 23 May 2017

Appeal Ref: APP/G5180/W/17/3168432

387 Upper Elmers End Road, Beckenham BR3 3DA

- 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 Tim Kuti against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/04622/FULL1, dated 5 October 2016, was refused by notice dated 7 December 2016.
 - The development proposed is sub-division of existing dwelling to create a new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are firstly, the effects of the proposed development on the character of the area; and secondly, whether it would provide adequate internal space to meet the day-to-day needs of its future occupants.

Reasons

Character

3. The appeal property is an end terrace dwelling, set back from Upper Elmers End Road. The development pattern of the road in the environs of the appeal property is characterised by short blocks of terraces of two-storeys the consistent detailing of which in terms of bay windows, and gabled projections on their front elevations impart a sense of regularity and rhythm to the streetscene. The appeal property has a generous rear garden, which like those of its near neighbours is of considerable depth, and the mature trees to its rear that border the train line, and those in the surrounding gardens, add a verdant and spacious feel to this rear aspect.
 4. I saw at my site visit that the appeal property has a wider frontage than its neighbours due to the side extension referred to in the appeal documents and to which the proposed development relates. The proposed development seeks to sub-divide the appeal property to create a separate dwelling in the side extension. The proposed block plan shows a small area of the rear garden, the width of the rear elevation of the side extension would be separated from that of No 387.
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5. The proposed development would result in no material external change to the appeal building. However, the character of its use would change. Through creating a separate dwelling with a considerably narrower frontage, the proposed development would read as a discordant feature in the context of the regularity of the host terrace's rhythm. Furthermore, the constrained size of its garden would be incongruous in terms of the considerably more generous plotting of its surrounding dwellings. These factors would impart a cramped character to the proposed development, strongly at odds with the prevailing development pattern of its surroundings; and this would become more apparent as changes occurred to the separate elements of the appeal building over time.
6. For these reasons, the proposed development would cause harm to the character of the area and thus conflict with Policy BE1 of the Bromley Unitary Development Plan (adopted July 2006) (the UDP) insofar as it seeks to ensure that development complements the layout of its surrounding area. However, as Policy H8 of the UDP refers to residential alteration and enlargement rather than changes of use it is not directly applicable in this case.
7. I am aware that the appellant considers that, due to the generosity of the appeal site's plot that no precedent would be set for further sub-division in the surrounding area. However, this is not a matter that outweighs the harm the proposed development would cause to the character of its surroundings.

Internal Space

8. The floor plans for the proposed development¹ indicate that it would provide a two-bedroom dwelling over two floors. Policy 3.5 of The London Plan: The Spatial Development Strategy for London: Consolidated with alterations since 2011 (adopted March 2016) (The London Plan) sets minimum space standards for new dwellings. The policy adopts the Government's Technical Housing Standards- nationally described space standard (March 2015) (the Space Standard). I note the appellant's comments that the proposed use is only intended to accommodate one occupant and that, as a result, the minimum space standard which should be applied is the one relating to 1-bed, 1-person dwellings. However, this is not what has been applied for, and the proposed dwelling's internal layout would clearly comprise a 2-bed, 3-person dwelling for the purposes of the London Plan and the Space Standard. For a dwelling of this type arranged over two storeys the supporting table of the Policy 3.5 sets a minimum gross internal area (GIA) requirement of 70 SqM.
9. According to the Council's figures the proposed development would supply a GIA of around 52 SqM, and the appellant estimates that it would supply 58 SqM. Either figure would represent a substantial shortfall from the minimum requirement set for a dwelling of this type. Moreover, I note that the largest bedroom at 11 SqM would marginally fall below the minimum requirement for a double bedroom set by the Space Standard of 11.5 SqM, which is further indicative of the relatively limited space available to future occupants of the proposed development.
10. As a result, the proposed development would not provide adequate internal space to meet the day-to-day needs of its future occupants, and consequently would conflict with Policy 3.5 of the London Plan and Policy BE1 of the UDP.

¹ Drawing reference PA-16/387ELM/3

These policies, taken together, and amongst other things seek to ensure that residential development is of the highest quality internally and respects the amenity of its future occupants.

Other Matters

11. The appellant intends that proposed dwelling to be occupied by his son, who has autism and requires 24-hour attention from his parents in addition to the 15 hours a week of care provided by the local authority. The proposed use would facilitate increased independence for its occupant who is unable to rent or buy a dwelling nearby. The Public Sector Equality Duty (PSED) arising from the Equalities Act 2010 sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The personal circumstances of the potential occupant of the appeal scheme mean that they have a protected characteristic for the purposes of the PSED.
12. It does not follow from the PSED that the appeal should succeed. However, I am required to have due regard to the duty in arriving at my decision. Moreover, my attention has been drawn to parts B and C of Policy 3.5 of the London Plan which state that residential developments should take particular account of the needs of disabled people and meet the changing needs of Londoners over their lifetimes.
13. I note from the appeal submission that, apart from some internal changes, the appellant considers the proposed use of the property to be broadly similar to how it is used at present. As a consequence, I consider that an outcome similar to that desired by the appellant and intended occupant in terms of facilitating more independent living could be realised without recourse to the creation of a separate dwelling for planning purposes.
14. Consequently, I consider that the personal circumstances of the proposed occupant do not outweigh the harmful effects that the appeal scheme would cause or justify a departure from the policy requirements of the development plan in this instance. In arriving at this view, I am also mindful that the appellant has specifically not sought permission for annexe accommodation and considers that a condition restricting occupancy of the proposed development would be unnecessary in this case. Accordingly, I have assessed the planning merits of the appeal on this basis.
15. Similarly, whilst I am mindful that the potential occupant of the proposed development would have access to the wider rooms of the house, future occupiers of the separate dwelling created may not have this access. As a consequence, this is a matter that does not outweigh the proposed development's conflict with Policy 3.5 of the London Plan in terms of its provision of internal space.
16. I note that the proposed garden space for the dwelling would be acceptable in terms of the amenity of its future occupants; that the development could make acceptable arrangements for access; and that adverse impacts to the privacy and residential amenity of the occupants of adjacent dwellings could be avoided. I am also aware of no objections to the scheme from the occupants of neighbouring dwellings. However, these are all matters that merely point to

an absence of harm in these respects rather than positive benefits of the appeal scheme and thus do not weigh heavily in favour of its approval.

Conclusion

17. The proposed development would conflict with the development plan insofar as the policies that have been drawn to my attention are concerned. No material considerations have been advanced that outweigh this conflict. Accordingly, I conclude, for the reasons given above, and having regard to all other matters raised, that the appeal should be dismissed.

G J Fort

INSPECTOR