
Appeal Decision

Site visit made on 16 May 2017

by Amanda Blicq BSc (Hons) MA CMLI

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

Decision date: 6 June 2017

Appeal Ref: APP/G5180/W/16/3160575
102 Nightingale Lane, Bromley BR1 2SE

- 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 Faisal Younis against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/02251/FULL1, dated 10 May 2016, was refused by notice dated 22 September 2016.
 - The development proposed is erection of part subterranean detached 3 bedroom dwelling with associated access road at land of rear of 102 Nightingale Lane.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For brevity and clarity the description of the development is that used on the decision notice.
3. It is apparent from the evidence before me that the Council has given planning permission for a dwelling of similar design¹, albeit smaller, on the same footprint as the appeal before me. As there is nothing to indicate this approved scheme would not be built if this appeal were to be dismissed, I consider this is a likely fall-back scheme.
4. The evidence before me indicates that the Council's objection is related to the revisions now sought in relation to the fall-back scheme². Consequently, I have based my reasoning largely on the effect of the additional floorspace on the character and appearance of the area. When referring solely to this element of the development before me, I have described it as the extension.

Main Issue

5. The main issue is the effect of the development on the character and appearance of the area.

Reasons

6. The development is a two-storey detached house to be built as a backland development behind 102 Nightingale Lane (No 102). The appeal site is

¹ Ref 14/01887/FULL1

² Council Statement, Clause 6.2

- bounded on all sides by residential development, but generally dwellings are well-separated with generous plots and there is little evidence of existing backland development in the locality³.
7. The fall-back scheme comprises a part-subterranean dwelling with its lower floor predominantly underground. However, ambient ground levels slope towards No 102, and on the fall-back scheme's southern elevation the proposed upper floor level would be some 1.3 metres above ambient ground levels. This upstand, shown as a stepped and curved retaining wall bounding the flat roof to the lower floor garage, comes to within some two metres of the No 102's boundary at its closest point.
 8. The development now before me would extend the dwelling's upper floor across the garage roof compared to the fall-back scheme. It would add some 4 metres to the development's western elevation compared to the fall-back scheme, and that extension would follow the curve of the retaining wall on its southern elevation. This would increase the length of the dwelling on this level by about one third when viewed from the east or west, compared to the fall-back scheme. Furthermore, this increase in bulk would be located on the dwelling's southern elevation, where due to the sloping site it would have the greatest prominence and effect on openness.
 9. It is apparent from a previous appeal for two detached houses that the bulk and massing of proposals on the appeal site is a determinative factor for development⁴ on this site. Although the Council has given permission for the fall-back scheme I have referred to above, this followed an appeal for a part-subterranean dwelling. Although that application was dismissed at appeal⁵, the Inspector concluded that the part-subterranean dwelling would be low profile and would not appear bulky or excessively tall. This, it was concluded, would help to preserve the sense of openness around the site and consequently no harm was found in respect of character and appearance.
 10. I appreciate the appellant's argument that the overall height of the dwelling would be unchanged, but that does not justify extending the dwelling's length, particularly if this would lead to the upper floor having increased prominence. Having reviewed the drawings I conclude that the profile of the fall-back scheme would follow the underlying site gradient, whereas the extension would extend above the retaining wall by some two metres and have a much more abrupt profile in relation to No 102's plot boundary.
 11. Given that previous Inspectors have considered previous applications carefully in the light of the underlying character and openness of this residential area, I find that this extension would add significant bulk and mass to the dwelling. This would have an adverse effect on the openness of this garden area which would be detrimental to the character and appearance of the area.
 12. The appellant's final comments note that the appeal before me is a small amendment to the fall-back scheme. However, the overall increase in floor space would be some 30 per cent⁶, split relatively evenly between the upper and lower floors. Furthermore, the size and position of the increased in bulk

³ Location Plan

⁴ APP/G5180/A/11/2158947

⁵ APP/G5180/A/13/2203458, for reasons related to access and parking.

⁶ Appellant's statement, Clause 1.1; increase from 152 sqm to 198 sqm

and massing on the upper floor would be visible and prominent. As such, I disagree that the development could be described as small.

13. Policies BE1 and H7 of the Local Plan⁷ (LP) taken together, set out the design aims for new housing development. These expect development to be of high quality design, and to complement the scale form and layout of adjacent buildings, create attractive settings and as well as complementing the qualities of surrounding areas. Furthermore, LP Policy H7 states that the Council will resist proposals which undermine the underlying character of residential areas where there are spacious rear gardens and well-separated dwellings, which is the case in this instance.
14. In the light of the above, I conclude that the extension would be a notable enlargement of the fall-back scheme's upper floor, and that the size and positioning of the development would significantly detract from the character of this rear garden area. This would be detrimental to the character and appearance of the area, contrary to LP Policies BE1 and H7, as outlined above.

Other matters

15. The appellant states that there would be no effect on access, parking or highways issues. As the access to the development and parking and turning arrangements would not be significantly different from the fall-back scheme, I concur with the appellant on that point.
16. The appellant also makes the point that the development would be the smallest house in the area. Although there is no evidence to support this argument, it is in any case, not determinative to my reasoning which is based on the Council's reasons for refusal and the underlying character of this residential area.
17. Interested parties have raised concerns in respect of the outlook from Field Close, the impact of the development on street parking and a street tree, disturbance during building works and setting precedent. I appreciate these concerns but as there is a valid fall-back scheme, and I have found harm in respect of the main issue for this appeal, it is not necessary to me to consider these issues further.

Conclusion

18. For the reasons given above and taking all matters into account, I conclude that the development would be contrary to the relevant policies of the Council's Local Plan and that therefore the appeal should be dismissed.

Amanda Blicq

INSPECTOR

⁷ London Borough of Bromley, Unitary Development Plan, July 2006