

Appeal Decision

Site visit made on 21 August 2017

by Clive Tokley MRTPI

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

Decision date: 07 September 2017

Appeal Ref: APP/G5180/D/17/3177869

18 Julian Road, Orpington, BR6 6HU.

- 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 Kshitij Anand against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/17/00701/FULL6 dated 15 February 2017 was refused by notice dated 12 April 2017.
 - The development proposed is increase in roof height and rooflights to all elevations to create habitable accommodation in roof, with inset terrace, part one/two storey side/rear extension, with balconies to first floor rear, creation of basement with raised terrace over.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupiers of No 20 Julian Road as regards outlook.

Reasons

Living conditions

3. Julian Road is fronted by a range of differently-designed detached dwellings with long rear gardens. The road slopes gently down from south to north and a cross fall from west to east results in the rear gardens on the east side of the road being at a lower level than the houses.
 4. The front walls of the houses are roughly in alignment but some have deeper plans than others resulting in a greater rearward projection into their sites. No 18 is to the south of No 20 and it is built at a higher level than No 20. The two-storey element of No 18 extends further into its site than No 20 and a raised patio has been created beyond that projection. In order to prevent overlooking from the patio a fence has been built above the boundary wall alongside the boundary with No 20.
 5. The appeal property has been the subject of two previous proposals for development of a similar character, both of which were refused with the
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subsequent appeals being dismissed. The most recent is the decision dated 7 February 2017 Ref APP/G5180/D/16/3164664. The Council's report indicates that it has had regard to that decision when reaching its conclusion on the current proposal and it is a material consideration in my determination of this appeal.

6. The appellant has responded to the February 2017 decision by making changes to the proposal. The appellant's written representations identify the differences between the current proposal and the original proposal whereas those that I indicate below relate to the most recent proposal. The principal changes are:-
 - a) The balcony at first floor level in the north east corner of the proposal is redesigned resulting in the privacy screen being offset 3.3m* from the flank of the building and
 - b) The rearward projection of the semi-basement and terrace above it is reduced by 1m*. This reduction is accompanied by a greater reduction in the length of the screening fence. (*appellant's figures).
7. The rear-facing ground floor glazed doors and windows of No 20 are off-set some distance from the boundary. As a result of this when looking out from within the living room the extended flank wall would be visible in oblique views. The extent to which the proposal would be visible would be dependent on the position of the observer in the room with the greatest effect occurring close to the windows. However taking account of the extensive glazing within the almost full height windows and the width of the view of the rear garden I consider that the proposal would not materially detract from the outlook from within that room. It would be seen more squarely from the glazed side-facing door in the rear projection to the north but this is a secondary outlook that is more distant from the proposal and I consider that it would not unacceptably harm the outlook from that room.
8. The proposal would be seen from the rear first-floor dormer window at No 20. That window is positioned forward of the ground floor windows resulting in a less oblique angle of view; however it is at a higher level thereby diminishing the relative height of the proposal. The dormer window also has a wide outlook over the rear garden and therefore whilst the proposal would be seen from it I consider that it would not unacceptably detract from the outlook from the upper floor room.
9. In considering the previous proposal the Inspector concluded that the flank wall and the balcony screen would be prominent in views from the adjacent windows at No 20. Having visited No 20 I have concluded that whilst in oblique views the proposal would have an overbearing effect it would not be sufficiently harmful to the overall outlook from within the house to justify the refusal of permission.
10. The current proposal would result in the balcony screen being set back from the flank wall; however this is a relatively small component of the overall bulk of the proposal and the two-storey flank wall and the roof of the proposal would be unchanged. The setting back of the screen would reduce the perceived bulk of the proposal close to the boundary when seen from the decking immediately at the rear of No 20 and the lower level of its rear garden. Nevertheless the rearward projection beyond the balcony to the south would remain apparent. I consider that the setting back of the balcony screen would not materially reduce the prominence and dominance of the proposal when seen from the rear garden of No 20. I consider that, as with the previous proposal, the presence of the

proposal would unacceptably harm the living conditions of the occupiers of No 20.

11. The reduction in the length of the semi-basement and shortening of the boundary fence would reduce its impact on the outlook from No 20 as compared with the previous proposal. The appellant indicates that the removal of a large conifer would reduce the sense of enclosure that may be experienced by No 20 and would allow more sunlight to reach the rear garden. However these measures would not outweigh the harm arising from the two storey element.
12. On this main issue I have concluded that the proposal would have an unacceptably overbearing effect on the rear garden area of No 20. For that reason it would conflict with Policies BE1 and H8 of *the London Borough of Bromley Unitary Development Plan 2006* which seek to ensure that new development is compatible with nearby development and respects the living conditions of the occupiers of adjacent dwellings. These objectives are consistent with the National Planning Policy Framework which indicates that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

13. The limited space between the flank wall of the semi-basement and the boundary would be used as a side way and access to a side door. I am not convinced that planting within this narrow and deeply-shaded area could provide an effective natural barrier to prevent overlooking as indicated by the appellant. However in the light of my conclusion on the main issue there is no need for me to consider this matter further.
14. I have no detailed analysis of sunlight or daylight but in this respect the current scheme would not be materially different from the previous appeal proposal. In the February 2017 decision the Inspector indicated that due to the orientation of the houses the patio area at No 20 would experience some loss of sunlight. I have no reason to disagree with this assessment but, in line with both the Council and the previous Inspector, I consider that the effect of the proposal on sunlight would not justify the refusal of permission.
15. I have noted the appellant's discontent with the manner in which the Council has managed the consideration of his proposals. However other procedures are available for pursuing such matters and this is not a matter for my consideration in the determination of this appeal.

Conclusion

16. In determining this appeal I am conscious of the steps that the appellant has taken to address the concerns raised by the two previous proposals and it is evident that some of those matters have been resolved. However for the reasons that I have set out above I consider that as a result of its overbearing relationship with No 20 the enlargement of the dwelling as proposed would unacceptably harm the living conditions of the occupiers of that property. The harm arises from the inherent bulk and height of the proposal in relation to No 20 and would not be overcome by any measures that could be the subject of planning conditions.

17. Taking account of all matters I have concluded that as a result of its over-dominance the proposal would have an unacceptably harmful effect on the living conditions of the occupiers of No 20 Julian Road as regards outlook and that the appeal should not succeed.

Clive Tokley

INSPECTOR