

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/17/3177858

20 Ravenswood Avenue, West Wickham, BR4 0PW.

- 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 Ali Kaplankiran against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/17/00545/FULL6 dated 6 February 2017 was refused by notice dated 2 May 2017.
 - The development proposed is an outbuilding to the end of the rear garden.
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Decision

1. The appeal is allowed and planning permission is granted for an outbuilding to the end of the rear garden at 20 Ravenswood Avenue, West Wickham, BR4 0PW. The permission is in accordance with the terms of the application, Ref DC/17/00545/FULL6 dated 6 February 2017 subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 7d6/1 Block Plan and 7d6/1 Plans and Elevations.
 - 2) The outbuilding hereby permitted shall only be used for purposes incidental to the use of No 20 Ravenswood Avenue as a single dwellinghouse and for no other purpose.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

Introduction

3. The building the subject of the appeal is substantially complete and I was able to view it from the appeal site and from adjoining gardens and houses to the side and rear.

Character and appearance

4. Ravenswood Avenue is a residential street comprising mainly semi-detached houses. To the west lies the similarly-developed Braemar Gardens. The houses
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in both roads have generous rear gardens but in the vicinity of the appeal property those in Ravenswood Avenue are about twice as long as those in Braemar Gardens. The vegetation in the rear gardens is testament to their maturity and I noted the almost continuous row of trees and shrubs along the rear boundaries of the houses. Fences and vegetation limit views at the rear of the houses but I was able to see a number of domestic outbuildings in the rear gardens. My impression was that these were predominantly small-scale timber buildings in the nature of garden sheds, play houses and summerhouses.

5. The appeal building is positioned at the end of the garden and its walls are inset about 1m from each side boundary and a little more from the rear boundary. The house retains a large useable garden which is in excess of the size of many of the gardens nearby. I consider that the proposal does not constitute an over-development of the plot and does not appear cramped on its site.
6. The building is larger than nearby outbuildings and its materials of construction are of a more permanent character than those buildings. The eaves and shallow-pitched hipped roof are above the height of the boundary fences and hedges on each side and the building can be clearly seen from the ends of the adjacent gardens. When seen in longer views from the rear gardens closer to the neighbouring houses in Ravenswood Avenue the roof of the building may be seen above boundary fences and vegetation; however as a result of the distance and the intervening vegetation the building is not visually intrusive. The rear of the building is screened by a fence and a high hedge in the garden of No 44 Braemar Gardens from where only the top of the roof is visible. I consider that when seen from surrounding gardens and ground floors the building does not detract from the character and appearance of the area.
7. I was able to see the building from upper floor windows of houses in both Ravenswood Avenue and Braemar Gardens. From Braemar Gardens much of the shallow pitched hipped roof is visible above the hedge. The building is seen against the backdrop of the rear of the Ravenswood Avenue houses and does not appear out of place in this residential context. Although more distant the view from upper floor windows in Ravenswood Avenue is not screened by vegetation. From those windows the rear of the Braemar Gardens houses can be seen through the gap in the boundary vegetation (see further comments on this matter below). The appeal building is aligned with that break in the vegetation and it appears as an intrusion into the predominantly green outlook punctuated by more modest garden buildings.
8. The officer report indicates that as a result of its roof height (and eaves height) the building does not fall within the categories of "permitted development" set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). The GPDO enables sizeable outbuildings to be built in rear gardens and no control is exercised over their external finishes. I consider that when seen from the upper floor windows, from where it is most clearly in view, a lowering of the roof to comply with the GPDO would not materially change the currently stark appearance of the building. The prominence of the building is partly as a result of its newness and in time this will be reduced by weathering of the materials, especially the roof tiles.
9. The GPDO enables similar structures to that the subject of this appeal to be built without the permission of the local planning authority and it is an

indication that Central Government does not wish unnecessarily to restrict householders' ability to build outbuildings. With this in mind I have concluded that the proposal does not unacceptably detract from the character or appearance of the area.

Other matters:- Use of the building

10. The building has the appearance of a small bungalow and a number of residents and the West Wickham Residents' Association have expressed concern that it could be occupied as separate dwelling. The drawing indicates that it is proposed to install fixtures that would enable separate use (WC, kitchen sink and units). However the building shares the rear garden with No 20 and has no independent access to the street. The appeal building is not disproportionately large as compared with the host dwelling and taking account of its size and position it is a subservient building within the overall curtilage of No 20. I have seen no indication of any intention to occupy the building as a separate dwelling and the appellant raises no objection to the Council's suggested condition limiting the use of the building to purposes incidental to the host dwelling.

Trees

11. I have no information about the size or condition of the trees that have been removed but I understand residents' concern about their loss. It appears that the removal of trees was necessary to enable the development to take place in this location; however they were not statutorily protected and therefore could have been removed without the permission of the local planning authority. Whilst the removal of the trees preceded the development it does not form part of the proposal that is before me. I have seen no evidence to indicate that their removal would be a justification for the refusal of permission.

Living conditions

12. As a result of its height and position at the end of the garden the building is not over-dominant when seen from adjacent gardens and does not result in unacceptable loss of light. The main windows of the building face the rear of the house but in the absence of high fences or vegetation occupiers of the building have oblique views into the end of the rear gardens of the neighbouring houses. Overlooking of the adjacent gardens could be remedied by boundary screening; however views are already afforded from the garden and I see no justification for a requirement to provide screening as part of this proposal.
13. There is a direct line of vision from the rear garden of No 20 to the upper floor windows of the nearest Ravenswood Avenue houses and the windows of the appeal building have a similar outlook. However the ground level windows of the appeal building are around 40m from the back of the nearest houses and I consider that from this range, and with an upward angle of view, unacceptable overlooking would not occur. Residents' concerns about loss of privacy in rear bedrooms could reasonably be resolved by screening their bedroom windows by suitable curtains or blinds.
14. The removal of trees has created a line of sight from the rear of the Ravenswood Avenue houses into back gardens and rear windows of houses in Braemar Gardens. However as I indicate above the trees were not protected and could have been removed without permission from the local planning

authority. Any overlooking that may occur is not directly attributable to the construction of the building. Even so taking account of the distance between the houses I consider that any loss of privacy resulting from the removal of the trees would not have been so harmful as to justify the refusal of permission.

15. Residents are concerned that the use of the building could result in noise and disturbance. I cannot predict the actual uses to which the building would be put but I have no reason to conclude that the incidental use of a building within a residential garden would be of such harm as to justify the refusal of permission.

Badgers

16. The comments of residents and the evidence of recent excavation in the rear gardens of No 18 and No 22 suggests that they contain active badger setts. I have no evidence of the extent of the setts and cannot reach any conclusion as to whether they were disturbed during the preparation for or construction of the appeal building. Badgers are a protected species and disturbance of their setts is an offence; however the possibility of any retrospective action under that legislation is beyond the scope of my consideration of this appeal. As the excavation and building work has already been carried out my decision has no bearing on whether the setts would be affected by it.

Conditions

17. The use of the building as a separate dwelling would raise issues that are beyond the scope of my consideration of this appeal and the matters considered by the Council in its determination of the application. In order to safeguard the general residential amenities of the area against any harm that may arise from a separate use I have imposed a condition along the lines suggested by the Council. In accordance with best practice I have imposed a condition identifying the approved drawings.

Conclusion

18. The appeal building cannot be seen from the street but is visible from nearby houses, most noticeably from upper floor windows. Whilst the building changes the view from nearby properties it is nevertheless a relatively small building of a residential appearance in a residential area. Its materials, scale and form are not out of place in this location and I consider that it does not unacceptably detract from the character and appearance of the area or its residential amenities. The proposal does not conflict with Policy BE1 of *the London Borough of Bromley Unitary Development Plan 2006* or Policies 7.4 and 7.6 of the *London Plan 2015*.
19. I have considered the other issues raised by residents but none of these in isolation or in combination convinces me that permission should be withheld. I therefore conclude that the appeal should succeed.

Clive Tokley

INSPECTOR