
Appeal Decision

Site visit made on 1 November 2017

by Caroline Jones BA (Hons) DipTP MTP MRTPI

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

Decision date: 23rd November 2017

Appeal Ref: APP/G5180/W/17/3179458

Applegarth, Chislehurst Road, Chislehurst BR7 5LE

- 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 South East Living Group against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/17/01502/FULL1, dated 30 March 2017, was refused by notice dated 30 May 2017.
 - The development proposed is demolition of existing property and the erection of a 2 ½ storey building comprising 4 two bedroom apartments with car parking, cycle and refuse storage.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I note a stated intention to apply for costs in the grounds of appeal, with a separate notification advising that such an application was to follow. However, no formal application for costs is before me.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the occupiers of neighbouring properties with particular regard to privacy and outlook.

Reasons

4. Applegarth is a large detached bungalow within generous mature grounds. The property is set well back from the road and is substantially screened from the public realm by vegetation. The surrounding area is residential in character comprising a variety of dwelling types, designs and sizes. There is a long history of planning applications and appeals at the site to which I have had regard in reaching my decision. The appeal scheme sought to address those issues raised in the most recent appeal decision¹.
5. The proposal comprises a 2.5 storey building with hipped roof containing four apartments over three floors. At my site visit, as well as visiting the appeal site, I was able to assess the relationship with neighbouring properties from within

¹ APP/G5180/W/16/3160736

the house and gardens of Sandfield Cottage and The Chellows and from inside flats at Kingsmere which all bound the appeal site.

6. It has been well established in previous appeal decisions that because of the relative seclusion and/or privacy currently enjoyed by the occupiers of both The Chellows and Sandfield Cottage, there is a sensitive relationship between the appeal site and its neighbours. From my observations on site, I concur with that position.
7. Sandfield Cottage is a two storey dwelling to the rear of the appeal site. At the time of my visit, ground and first floor rear extensions were undergoing construction. The property sits at a considerably lower level than the appeal site and has a relatively shallow rear garden. The previous Inspector found harm to the living conditions for the occupants of this property both in terms of its impact on their privacy and outlook.
8. With respect to the impact on privacy, the second floor balcony has now been removed and replaced with a dormer window with partially obscured glazing. Whilst I agree this amendment goes some way in reducing overlooking, there would still be a number of windows and a first floor balcony that would look towards the rear windows and garden of Sandfield Cottage. The appellant asserts that at approximately 38m, this is well over the level at which privacy levels would be maintained and has submitted a number of privacy standards used by other Councils ranging from between 18m and 22m. However, I agree with my colleagues that the Council in this case have no such minimum privacy distance and I give the guidance produced by other Councils limited weight. In any event, given the difference in levels between the two sites, the number of windows and the balcony would give rise to an unacceptable perception of being overlooked that would impinge on the privacy of occupants of this property.
9. Furthermore, my colleague found that the building's relative prominence would have an overbearing effect on the occupiers of this property. The position, height and overall mass of the appeal scheme relative to Sandfield Cottage remain largely unchanged and would not overcome the objections raised by my colleague with regard to this aspect of the development. I have had regard to the proposed planting scheme along the boundary between the two properties. However, this would take some time to become fully established and would not overcome my concerns regarding privacy or outlook. Furthermore, there is no guarantee that planting would remain in the long term.
10. The Chellows is a two storey dwelling fronting Chislehurst Road to the south west of the appeal site. The front building line of the proposed building would be slightly offset and further back than the rear elevation of The Chellows. The part of the building closest to the common boundary would be set back further than the existing front elevation of Applegarth, with the two storey element set farther still. Whilst previous proposals have incorporated windows which would overlook the rear elevations and gardens of The Chellows, the current scheme proposes only two narrow windows serving an ensuite and a kitchen at first floor level. The windows are both annotated as obscure which could be secured through condition. Boundary treatments would prevent overlooking from any ground floor windows. Given the above and by virtue of the intervening distance, I am satisfied that the privacy of the occupiers of The Chellows would not be unduly harmed.

11. The proposed building would be more noticeable than the existing dwelling from both the rear windows and garden of The Chellows. Nonetheless, the built form has been pulled away from the common boundary by the removal of the alcove on the ground floor western elevation, increasing the separation distance at this point from approximately 6.2m to 9.1m. Moreover, a hipped roof has been added to the single storey side element which reduces the bulk of the building on the western boundary. In light of the above the proposal would not have an overbearing visual impact on the occupants of The Chellows.
12. I concur with the previous Inspector's conclusions that whilst the proposal would be noticeable from both within and outside of the flats closest to the boundary at Kingsmere, it would not unduly harm the outlook, privacy or levels of light currently enjoyed by those residents.
13. Nonetheless, I have found that the proposal would materially harm the living conditions of occupiers of Sandfield Cottage and find conflict with Policy BE1 and HE7 of the Bromley Unitary Plan (2006) which seek, amongst other things, that development recognises and complements qualities of the surrounding areas and that the amenity of occupiers of neighbouring buildings is respected and not harmed by inadequate privacy.

Other Matters

14. I acknowledge that the current scheme was designed in order to overcome the issues raised as being unsatisfactory in the previous appeal decision and that the Planning Officer recommended approval of the scheme. Nonetheless, I have found that the harm identified by the previous Inspector has not been satisfactorily addressed by the amendments in the current scheme. Whilst I note the appellant's frustrations at the way in which the application was dealt with, I must determine the appeal on its own merits.
15. I note the Council did not raise any objections to the design of the proposed building or its impact on the character and appearance of the area and I have no reason to take a different view. Nevertheless, this does not negate the harm that I have identified above.
16. The scheme would contribute to the pressing need for more houses in Bromley through the net increase of 3 units and would be a more efficient use of the land. I acknowledge the associated economic, social and environmental benefits this would bring. However, the limited benefits arising from only 3 dwellings would not outweigh the harm I have identified above. Furthermore, due to the harm that I have identified to the living conditions of the occupants of Sandfield Cottage the scheme would not accord with the social dimension of sustainable development as set out at paragraph 7 of the National Planning Policy Framework. Therefore, in the overall round, the scheme would not constitute sustainable development.

Conclusion

17. For the reasons given above and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Caroline Jones

INSPECTOR