



Appeal Decision

Site visit made on 21 November 2017

by David Cross BA (Hons), PGDip, MRTPI

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

Decision date: 11 December 2017

Appeal Ref: APP/G5180/D/17/3181208

70 Sutherland Avenue, Biggin Hill, Kent TN16 3HG

- 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 A Yar against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/17/01485/FULL6, dated 24 March 2017, was refused by notice dated 2 June 2017.
 - The development proposed is new floor, raising of existing roof, new entrances and porches, internal alterations, changes to fenestration, infilling of existing lower ground floor terrace to form habitable accommodation.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr A Yar against the Council of the London Borough of Bromley. This application is the subject of a separate Decision.

Procedural Matter

3. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered.
4. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issues

5. The main issues in this appeal are:
 - The effect on the living conditions of residents of adjacent properties with regard to outlook; and
 - Whether the proposed accommodation could be used as a separate dwelling unit.

Reasons

Living Conditions

6. The appeal site is located in a predominantly residential area consisting of substantial detached and semi-detached dwellings. The great majority of properties along Sutherland Avenue are located towards the front of the plots and face onto the highway. In contrast the appeal site is set some distance into the site behind the established building line. I also saw that the appeal site and neighbouring plots have a pronounced slope down to the south west.
7. Due to the sloping topography, the appeal site appears as a modest dormer bungalow when viewed from the front, but increases to a three storey dwelling to the rear. Due to the set back of the dwelling within the site, the side elevations are readily visible from the rear gardens of neighbouring properties, and in particular I saw that the dwelling is located in close proximity to the boundary with 68 Sutherland Road. Despite the height of the extant dwelling, the visual impact on views from neighbouring properties is ameliorated through the use of a dormer roof, which breaks up the bulk and massing of the property and leads to a low eaves line with a roof sloping away from adjacent plots.
8. The proposal would include a significant extension to the upper floor and roof of the property. Whilst the increase in the ridge height of the roof would be limited, the proposal would lead to a significant increase in the bulk and massing of the building and would introduce flank walls of a substantial height in close proximity to adjacent gardens. This would create an obtrusive block-like structure which would have a dominant and overbearing impact on neighbouring gardens.
9. Whilst the proposal would sit lower within the landscape and be located some distance from neighbouring dwellings, the scale and massing of the proposal and the proximity of the dwelling to the site boundary would result in an obtrusive and unneighbourly form of development which would be severely detrimental to the enjoyment of adjacent gardens.
10. I therefore conclude that the proposal would harm the living conditions of neighbouring residents due to an overbearing and dominant impact on the outlook. The proposal would therefore be contrary to Policies BE1 and H8 of the Unitary Development Plan¹ (UDP) which require, amongst other things, that the enlargement of residential properties should complement the scale and layout of adjacent buildings and be compatible with development in the surrounding area. The proposal would also conflict with the National Planning Policy Framework with regards to securing high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Whether a Separate Dwelling Unit

11. The appellant states that the proposal includes the provision of an annex to be used by his elderly parent, although no supporting evidence on this matter has been provided to me. I am mindful that the proposed accommodation on the lower ground floor would be contained within the extended building and in that respect reflects a typical 'granny annex' which is part of the main dwelling.

¹ London Borough of Bromley Unitary Development Plan 2006

12. However, the proposed accommodation would be functionally separate from the upper floors and would have a separate entrance. It would also provide facilities, including a kitchen, which would enable the accommodation to be used as a separate dwelling. Furthermore, I saw that the lower ground floor would be accessed via a series of steps, which would limit its functionality for occupation by an elderly or infirm person. I also note that the measurements provided by the Council show that the accommodation would significantly exceed the floorspace standard for a one bedroom flat given in The London Plan. In these respects, this aspect of the proposal has much more in common with a separate apartment rather than an annex. The Council go on to refer to the supporting text for Policy H8 of the UDP states that annexes which could be severed from the main unit can lead to issues including access, parking and amenity space which are likely to be out of scale with the surrounding area. I consider that these are valid concerns in the context of this plot in a residential area.
13. The appellant contends that the occupation of the lower ground floor as an annex could be enforced by a condition. The Planning Practice Guidance on the appropriate use of conditions states that "*There may be exceptional occasions where granting planning permission for development that would not normally be permitted on the site could be justified*". However, on the basis of the limited information provided by the appellant, it is not possible to determine if the circumstances of his elderly parent are of such an exceptional nature to warrant the use of a condition. I am also mindful that severance from the host property would in practice be very difficult to monitor due to the self-contained nature of the proposal. Furthermore, there may be pressure in the longer term to amend or remove a condition should the personal circumstances of the appellant and his family change.
14. On balance, I conclude that the proposal would in effect create, or assist in creating, a separate dwelling unit. I also conclude that limiting the use by means of a condition would not be reasonable for the reasons stated above. The proposal would therefore be contrary to Policy H8 of the UDP which states that development should be of a scale compatible with development in the surrounding area. The proposal would also be contrary to the Framework which seeks to ensure that developments function well and add to the overall quality of the area over the lifetime of the development.

Conclusion

15. For the reasons given above, and taking account of all material planning considerations, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR