



Appeal Decision

Site visit made on 1 February 2019

By N Smith BA (hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2019

Appeal Ref: APP/G5180/W/18/3213563
138 Birkbeck Road, Beckenham, BR3 4SS

- 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 Mrs Rosemary Cummins against the decision of London Borough of Bromley.
 - The application Ref DC/18/02088/FULL1, dated 6 May 2018, was refused by notice dated 1 August 2018.
 - The development proposed is demolition of existing detached double garage and erection of purpose built two storey residential dwelling for disabled mother and carer.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council adopted the Bromley Local Plan (BLP) on 16 January 2019. This replaced the Unitary Development Plan, against which the planning application had been assessed by the Council. Both parties were invited to provide observations on this change in policy position. The Council set out the policies of the Local Plan that it considered relevant to its reasons for refusal. Whilst the Appellant was not able to provide further commentary, having reviewed their written case, I am satisfied that they would not be prejudiced by my progressing with the determination of this appeal on the basis of the BLP. This is because the matters in dispute between the parties are the same as they were when the appeal was lodged and the BLP does not introduce policies that differ broadly in respect of issues already addressed by the appellant.

Background

3. The site consists of a two-storey, semi-detached house with attached garaging. The appeal proposal would see the garaging demolished and replaced by a two-storey attached house. This proposal follows two proposals for a similar form of development that were the subject of appeals. In those cases, as here, the appellant described how the proposed new accommodation would be used by an elderly relative with particular personal needs.
4. The first appeal¹ was dismissed because, in summary, the standard of living accommodation provided by the new dwelling was inadequate. In that case, the proposed accommodation was independently accessible through a separate

¹ APP/G5180/W/17/3184032

side door and there was no internal connection between the existing and proposed dwellings.

5. The second appeal² was allowed, subject to a condition limiting occupation of the new accommodation to purposes ancillary the residential use of No. 138, to which there was a physical link.
6. In both appeal schemes, the development was shown as set down from the main ridge level and back from the front wall of the main house.

Main Issues

7. The main issues in this case are:

- Whether the proposal would provide adequate living conditions for future occupiers, with particular regard to internal space; and
- The effect of the proposed development on the character and appearance of the area.

Reasons

Living conditions

8. The Council has identified that the overall internal space that would be provided by the new house would be 67m². That figure is not disputed by the appellant and falls below the standard set out at Policy 3.5 of the London Plan 2016 and the Technical Housing Standards – Nationally Described Housing Standards, which set out that a two-storey house with two bedrooms for three people should have an internal area of 70m². These are described as minimum standards. Whilst I note that the appellant describes that only their relative and a carer would live in the house, it would clearly be capable of accommodating three people and so could be used in this way in the future.
9. Whilst the shortfall against the standards would not be a very substantial one, I am mindful that they are expressed as minimum standards and that the particular needs of the intended occupiers are likely to result in the need to store equipment and that the potential lack of a familial relationship between the occupiers as described by the appellant would place a greater emphasis on the need to at least meet the minimum standard in this case.
10. The appellant has directed me to the appeal relating to development at the site that was dismissed, and says that in that case, the Inspector was principally concerned with the absence of a bedroom that met appropriate minimum space standards. Both parties have provided me with this decision letter and it appears to me to be the case that whilst that Inspector identified the lack of a suitably sized bedroom as an example, they were concerned with the overall lack of internal floorspace proposed at that time.
11. For the reasons that I have described, I find that the proposal would not provide an adequate standard of living accommodation for the future occupiers of the house because the amount of internal space provided would be substandard, in conflict with Policy 3.5 of the London Plan, which seeks to secure a high quality of design for new housing, including the internal space provided within them. This policy is reinforced by the Mayor of London's

² APP/G5180/D/17/3191129

Housing Supplementary Planning Guidance 2016 and the Technical Housing Standards 2015.

Character and appearance

12. Unlike the two previous appeal schemes, the ridge height and position of the front wall of this proposal would match those at No. 138. The result would be a terrace of matching-sized three bedroom houses, rather than the proposal appearing as a subserviently-scaled addition. In that sense, this scheme is materially different to the two considered by previous Inspectors and my assessment of the effect of this development on the character and appearance of the area is based on the scheme and the evidence before me.
13. There are a variety of house types around the appeal site, including terraced housing, and I do not consider that changing the appearance at the site from a pair of semi-detached houses to a small terrace would result in a conflict with the character of the area. The range of styles and house types along the road suggest to me that there is no one overriding design approach to which all new housing need necessarily conform in order to be acceptable.
14. Whilst there would be a relatively small space left between the development and the side boundary of the house, the grain of development in the area is fairly tight, and I do not find that the appeal development would appear cramped in that context.
15. As a consequence, I find that the proposal would complement the scale, proportion, form and layout of other buildings in the area, in accordance with BLP Policy 37, which amongst other requirements, seeks to secure good design. I consider that the scale or form of the development would complement the host dwelling and would be compatible with surrounding development, which is a requirement of BLP Policy 6. Whilst that policy relates to residential extensions, rather than new dwellings, I consider that the principles are generally applicable to this proposal.

Other matters

16. The appellant has described that the new house would be occupied by an elderly relative with particular personal needs and a dedicated carer. It is clear to me that the internal layout of the house has been designed with that in mind, with a ground floor bedroom and walk-in shower room.
17. I have had regard to the Public Sector Equality Duty (PSED) contained within the Equality Act 2010. This sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Age is a relevant protected characteristic.
18. The appellant has provided a letter from a General Practitioner, which describes that adaptations will be required to the home to assist the relative in question. It does not set out that a new house is required, and I am mindful of the fact that the absence of a direct link between the existing and proposed house does not form part of the appeal scheme, and such a feature may assist in the delivery of care by family members.

19. There is nothing before me to demonstrate that the proposed arrangements are the only, or most suitable means of delivering the outcomes for the relative described and I have found that the quality of accommodation provided would be substandard, for the reasons that I have described. In the absence of more robust evidence to demonstrate that this is the only or best way of providing the necessary care, I am not able to reach the conclusion that these benefits should outweigh the under provision of internal space that I have described.
20. Accordingly, I am satisfied that the impacts of dismissing this appeal on the individual with a protected characteristic, does not outweigh the conflict with the development plan that I have identified.
21. I agree with the appellant that the proposal would result in a contribution being made towards the Borough's housing stock and that different types of housing should be provided, including those for elderly people. I also agree with them that infill sites, such as this, can be helpful in providing such housing and that land should be used efficiently. The site is in a sustainable location, with public transport connectivity and there is no dispute between the parties that the impacts of the development on neighbouring living conditions would be acceptable.
22. I consider that weight in favour of all of these factors should be attributed towards in the proposal, but they do not outweigh the conflict with the Development Plan that I have identified. It is important that new housing provides an acceptable standard of living accommodation, including by providing enough internal space.

Conclusions

23. For these reasons, I consider that this appeal should be dismissed.

N Smith

INSPECTOR