
Appeal Decisions

Hearing held on 12 November 2019

Site visit made on 12 November 2019

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal A Ref: APP/G5180/W/18/3218011 41-43 London Lane, Bromley BR1 4HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Robert Taylor (Turnbull Land) against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/18/01037/OUT, dated 5 March 2018, was refused by notice dated 31 July 2018.
 - The development proposed is the demolition of existing buildings and the erection of two apartment blocks, (comprising 3 x studio, 9 x 2 bed and 2 x 1 bed - front block and (3 x 2 bed - rear block), with associated access and parking.
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Appeal B Ref: APP/G5180/W/19/3230409 41-43 London Lane, Bromley BR1 4HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Robert Taylor (Turnbull Land) against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/19/00679/OUT, dated 25 February 2019, was refused by notice dated 31 May 2019.
 - The development proposed is the demolition of the existing buildings and erection of a new apartment block comprising: 7 x 1 bedroom and 12 x 2 bedroom, with associated access and parking.
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Decisions

1. Both appeals are dismissed.

Preliminary Matters

2. As set out above there are 2 appeals on this site. They are for the same type of residential use; however, Appeal A is for 2 buildings providing 17 apartments and Appeal B is for 1 building providing 19 apartments. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the 2 schemes together, except where otherwise indicated.
3. Both proposals are for outline planning permission with access and layout presented for approval. All other matters are reserved. Plans have been presented detailing the layout and access, and indicative plans detail the appearance, landscaping and scale. I have had regard to the indicative plans so far as they are relevant. However, in terms of the scale; whilst this is a reserved matter, in order to accommodate the proposed number of

apartments, the scale (and height) of the proposal is likely to remain the same or very similar to the indicative plans at a reserved matters stage. Therefore, I have given significant weight to the indicative plans with reference to the scale when assessing both appeals.

4. For Appeal A, the decision was taken prior to the adoption of the Bromley Local Plan (January 2019) (BLP). The policies cited in the Council's Decision Notice have been superseded by the policies in the BLP. The appellant was fully aware of this matter and it was also discussed at the Hearing.
5. Signed and executed planning obligations were presented at the Hearing. These were discussed and following this, amended signed and executed planning obligations were also produced after the Hearing. I have taken account of the obligations in my decisions.
6. Within the reasons for refusal on Appeal A, reference is made to the proposal failing to demonstrate suitable air quality mitigation measures. This was discussed at the Hearing and the matter is now considered to be resolved through the planning obligation for Appeal A.
7. The reasons for refusal relating to whether the proposals would be viable if they were to provide affordable housing in both appeals was resolved between the main parties prior to the Hearing. Therefore, the Council no longer wishes to contest this matter in both appeals and the provision of no affordable housing in both schemes is considered acceptable by the Council. I have no reason to disagree and I have considered the appeals accordingly.
8. Although not raised in the Council's reasons for refusal, I have been presented with arguments from interested parties as to the effect of the proposal upon the living conditions of existing residents. This matter was put before the main parties at the Hearing, as a result of those representations, I consider it necessary to examine this as a main issue.

Main Issues

9. Both appeals have the following main issues:
 - (a) The effect of the proposals on the character and appearance of the area;
 - (b) Whether the proposals would provide satisfactory living conditions for the future occupiers;
 - (c) The effect of the proposals on the living conditions of the existing neighbouring occupiers;
 - (d) The effect of the proposed access upon the safety of all highway users; and,
 - (e) Whether the proposals would provide a sufficient housing mix.

Reasons

Character and appearance

10. Located on the northern side of London Lane in a predominantly residential, urban area of mixed character, the site contains 2 detached bungalows. The bungalows occupy a discreet position in the street, set considerably back from London Lane, and are the only single storey buildings in the locale.

11. The site is generally flat and has an area of around 0.17 hectares. There are 2 distinct characters to this verdant street. The western side of London Lane contains mostly modern 3-4 storey apartment blocks, a cemetery and the GP surgery with small gaps between sites set back from the street. The eastern side contains Victorian and Edwardian residential villas, of around 2-2½ storeys high with limited gaps between sites and a close road frontage. The site marks the change between, located on a bend opposite Warner Road.

Appeal A

12. Appeal A comprises 2 buildings, one located to the front of the site, containing 14 flats over 3 floors (Block 1). This building would occupy almost the full width of the site. The other building would be located within the rear garden, and would be 2 storeys in height and house 3 flats (Block 2). Parking spaces would be provided on site, totalling 17 with 2 disabled. A communal bicycle storage area for 30 bicycles and a play area would be provided.
13. The Council raise no concerns in relation to Block 1's effect upon the character and appearance of the area but have concerns with the effect of Block 2. However, interested parties are concerned over the effect of both Blocks.
14. Block 1 would be located closer to the road than the existing bungalow, yet this is a positive feature as the building would better address the street scene than the existing bungalows and the proposed building line would be congruent with other buildings on London Lane, particularly those to the east. Its height would be set over 3 floors, with the 3rd floor located within the roof space. This is similar to other dwellings to the east and flatted development to the west and whilst this matter is reserved, it would be appropriate.
15. The overall width of Block 1 would occupy much of the site, yet there would be a gap between the buildings at ground floor for access to the rear parking court to break up the massing. Furthermore, gaps to the sides of the buildings are not overly large in all parts of the street, or in the existing dwellings on the site. Lastly, although the depth of the Block 1 would be larger than adjoining development, it does not appear disproportionate, given its set back from the road and commensurate height. Thus, the effect of Block 1 upon the character and appearance would be acceptable.
16. The sketch and the floor plans for Block 2 illustrate a 2 storey high building with accommodating in the roof space. This building would be subservient to Block 1, almost appearing as an outbuilding to the main built form at the frontage of the site. This is not an uncommon approach, either historically or in more recent times, and there are outbuildings to the rear of other flatted development to the west. Furthermore, whilst it does not contain structures, the area to the rear of the adjacent doctors' surgery is developed by a hard-surfaced car park.
17. Therefore, whilst there is limited development in the rear gardens to the east and north of the site, there are very close examples to the west and the proposed layout would have regard to the pattern of existing spaces.
18. The proposal overall would make an efficient use of land and based upon the details presented at this stage, it would not appear cramped or over intensive. Landscaping would further ameliorate the proposal. Therefore, the disagreement between the main parties on which density rating to use is

largely immaterial. Moreover, at this particular point on London Lane, the frontage and likely height of Block 1 would represent a successful transition between the 2 character areas and the provision of Block 2 would be appropriate.

19. Matters such as the location of the play space, refuse and bicycle storage are matters that would be dealt with at a reserved matter stage as these largely relate to the appearance.
20. As a result, the effect of Appeal A on the character and appearance of the area would be acceptable. This would be compliant with London Plan Policies 7.4 and 7.6 and BLP Policies 4 and 37. Together these seek to ensure a high-quality design response of the highest architectural quality enhancing the quality of local places.

Appeal B

21. Appeal B would comprise one building, at 3-4 storeys high, containing 19 apartments. The layout indicates 19 parking spaces and 34 cycle spaces to the rear of the building. It would be located to the front of the site, noticeably closer to the road than both adjoining developments, particularly the doctors' surgery. The building would be of a significant and conspicuous depth, almost twice the depth of 47 London Lane.
22. As detailed in the preliminary matters, in order to accommodate development of this scale, it is likely that the height of the proposal would amount to 3-4 storeys high. The indicative plans detail the likely ridge height of the building would be both taller than the adjacent doctors' surgery and residential dwelling.
23. In this regard, the height and scale of the proposal would be very tall and exposed, when viewed from both London Lane and Warner Road. Even though this matter is reserved, the height would be incongruous in this setting. Moreover, when the likely substantial scale is coupled with the proximity to the street, the depth and width of the building and the quantum of development; the proposal would have a dominant and overbearing effect upon the street scene and area.
24. It would be excessively bulky and tall, unsympathetic and disproportionate in comparison to surrounding development, and this would fail to represent a high standard of design.
25. Therefore, whilst it would better use the land available at the site, this would be to the detriment of local character. As a result, the effect of Appeal B on the character and appearance of the area would be unacceptable. This would be contrary to London Plan Policies 7.4 and 7.6 and BLP Policies 4 and 37, the aims of which are set out above.

Future living conditions

Appeal A

26. The indicative location of bedroom windows on the ground floor would be located close to the boundaries of the site for Units 1, 2 and 5. In one instance, this distance would be incredibly close at around 1.2 metres. Although outlook from bedrooms may be regarded by the appellant as less important than other

habitable rooms, a suitable outlook should be provided nevertheless. In this instance, the future occupants' outlook from the ground floor side elevation bedrooms windows would be impinged by a close solid boundary treatment. The proximity would lead to an oppressive and gloomy outlook and it would be inadequate.

27. I accept that the internal layout and apartment types could be changed along with window locations at the reserved matters stage. However, from what I have seen, removal of all habitable windows along the side elevations at ground floor would be unlikely owing to the quantum of development proposed and the depth of the building.
28. Furthermore, despite there being habitable windows on the side elevations of the existing bungalows, this is existing development located within its own grounds. Set in the context of the proposal for new flatted development where the National Planning Policy Framework (the Framework) indicates amenity standards should be high; the outlook from the bedroom windows on the side elevations would lead to unacceptable future living conditions.
29. The terrace and patio areas, along with living room windows for Units 2 and 3 are likely to be located adjacent to the parking court and I agree with the Council that this proximity could compromise privacy and outlook. Additionally, the effect of cars moving in and out of spaces, associated fumes, noise, car doors slamming, or loud music being played so close to residential dwellings could also have a negative effect.
30. Whilst the appellants' assert this is a market led scheme and future occupants would have a choice, along with the car parking spaces being deeded to those affected units; this does not excuse the proximity and poor standards. Moreover, the provision of landscaping between the car parking and dwellings would not satisfactorily ameliorate the effect of such proximity. Therefore, the layout for units 2 and 3 is likely to compromise the future living conditions of the occupants.
31. The distance between the terrace area for unit 4 would be close to the play space, and the noise effect of children playing could impinge upon living conditions of the future occupants. However, the play space could be re-located at the reserved matters stage further away from living areas.
32. On other matters, despite the Council's concerns, I am satisfied that the occupants of Block 2 would have suitable outlooks at both the front and rear. Furthermore, whilst the entrance to unit 4 is to the rear of Block 1, it is near the parking court and with an appropriate lighting and landscaping scheme, I am satisfied that it could have a safe and suitable entrance point. The pedestrian access, ceiling heights, internal space standards and balcony sizes would be subject to reserved matters.
33. Therefore, despite the outline nature of the proposal, I am not satisfied that adequate outlooks and privacy standards could be provided at a reserved matters stage, and therefore the proposal would be unable to provide acceptable living conditions for the future occupants.
34. This would be contrary to London Plan Policy 3.5 and BLP Policies 4 and 37, which together seek to ensure that new homes have convenient and efficient room layouts which are functional and fit for purpose, respecting the amenity

of future occupants. It would also be contrary to the Mayor of London's Housing Supplementary Planning Guidance (March 2016) (SPG), which amongst other things, seeks to improve standards for the quality and design of housing.

Appeal B

35. The staggered sides to the building would enable the habitable window locations to be positioned overlooking the rear of the site. This would provide an adequate outlook for future residents. The proximity of the cycle storage to Units 2 and 3 would be satisfactory, providing an adequate outlook and separation between the parking area; even considering the outlook towards a glazed screen. There would be no privacy concerns given the screen would be obscured.
36. The distance between one of the bedroom windows of unit 5 and the boundary would be around 2 metres. This is close and would result in a substandard outlook. However, I am satisfied that as this is the only indicative window location that would provide a substandard outlook, there is every possibility that it could be relocated at a reserved matters stage.
37. The Council refer to the outlook for unit 18 being inadequate, however, given its location in the upper floors, this is not subject to such a detailed assessment at this outline stage. Furthermore, balcony sizes, use of privacy screens and ceiling heights are also all reserved matters.
38. Consequently, based on the details before me, the proposal would be capable of providing acceptable living conditions for the future occupants. This would be compliant with London Plan Policy 3.5 and BLP Policies 4 and 37, along with the SPG.

Existing living conditions

Appeal A

39. The depth of Block 1 would not project significantly beyond the rear wall of No 47. Furthermore, the indicative plans detail the height would be around 1.5 storeys with the roof sloping away from No 47. Therefore, given the distance between buildings, depth and the indicative height and design, the effect of Block 1 upon the living conditions of the occupants of No 47 would be satisfactory.
40. The front outlook for Block 2 would be over the parking court and whilst there could be some mutual overlooking between No 47 and the future occupants; owing to the distance between, I am satisfied that this would not lead to adverse effects upon the living conditions of the occupants of No 47.
41. Additionally, the outlook of No 47 would not be overly compromised given the primary windows to habitable rooms are located on the rear elevation overlooking its own garden. Trees would also remain along the boundary and a suitable boundary treatment and landscaping would also provide betterment.
42. The effect upon occupiers of dwellings at the rear would be satisfactory given the likely 1.5 storey height of Block 2. Consequently, the proposal would have an acceptable effect upon the living conditions of the existing neighbouring occupiers. This would be compliant with BLP Policy 37, which seeks to ensure proposals respect the amenity of occupiers of neighbouring buildings.

Appeal B

43. The location of the building would be set off the boundary with No 47 by between 2 and 3.5 metres for the development beyond rear wall of No 47. The indicative scale of the proposal would be around 3 storeys high along this boundary, even accounting for the proposal being located lower than the existing ground level. As previously detailed, given the quantum of development, it is highly likely that the proposal would be this height.
44. As a result of this proximity and the considerable depth of the building along the boundary, along with the indicative scale and tall height; the proposal would be likely to lead to an overbearing, dominant and oppressive effect upon the living conditions of the occupants of No 47. This would be in relation to the enjoyment of the outdoor garden, particularly the patio area and the outlook from the dining and bedroom windows.
45. Like Appeal A, the effect upon occupiers of dwellings at the rear would be satisfactory. However, the proposal would not respect the amenity of the occupiers of No 47, and the effect of the proposal upon their living conditions would be unacceptable. This would conflict with BLP Policy 37.

Safety of all highway users

46. London Lane is a single carriageway road, which acts as a local distributor road providing links to the surrounding local highway network. It is a bus route with bus stops within 400m of the site. It has a PTAL rating of 2.
47. The sightlines for the access points for both appeals cannot be achieved owing to the bend in the road and other existing walls and structures on neighbouring land. Therefore, horizontal deflection is proposed in the form of building out the road to make a chicane. The effect of this would be that vehicles would be shunted into the middle of the road, thereby in view of vehicles exiting the site.
48. Based upon the details presented, the horizontal deflection would remedy the inadequacy of the sightlines to the west (right), but visibility to the east (left) would still be restricted by the boundary walls associated with No 47¹. Therefore, the Council argue that a 20 mph speed limit would be necessary as well as the horizontal deflection. I agree. The 20 mph speed limit would ensure vehicles on London Lane were travelling slower and thus vehicles exiting the site could do so into slower traffic conditions and the risk of collisions would be significantly reduced.
49. The 20 mph speed limit would also provide additional benefits of slowing vehicles for pedestrians crossing London Lane to access the doctors' surgery or school. Neighbouring assertions that the 20mph speed limit and horizontal deflection would lead to increased pollution and congestion is unsubstantiated and of little weight.
50. The planning obligations for both appeals would provide monies towards putting this speed limit into place, and these monies would be provided prior to commencement of the development. This would be necessary to make the development acceptable and would meet the tests set out in the Framework and The Community Infrastructure Levy (CIL) Regulations 2010 (as amended).

¹ Letter dated 26 June 2018 from Royal HaskoningDHV

51. The matters surrounding when the 20mph speed limit was put in place would be subject to a *Grampian* condition for off site highway works. How and when this process would be carried out would be a matter between the Council and the appellant. Nevertheless, although I accept that the process for this would be outside the appellants' control, I would expect that the speed limit should be put into place prior to the development becoming occupied, because the speed limit would be necessary to make the development acceptable and without it the access would not be suitable.
52. It appears that the parking stress surveys were not carried out during the surgery hours of the adjacent doctor's surgery and interested parties assert that parking in the area is difficult. However, as both proposals would have sufficient off-street parking, any overspill would be minimal and not adverse.
53. Despite interested parties' assertions, based upon the substantive evidence before me, traffic increases and congestion in the area as a result of either proposal would not be significant, and there are no objections from the Council in this regard either.
54. Consequently, with the horizontal deflection and 20 mph speed limit, the proposal would have an acceptable effect upon the safety of all highway users. This would be compliant with London Plan Policy 6.3 and BLP Policies 32 and 34, which together seek ensure development would not adversely affect road safety on the transport network.

Housing mix

55. Appeal A would provide 3 studio apartments, 2 one bedroom units and 12 2 bedroom units. Appeal B would provide 7 one bedroom units and 12 2 bedroom units. Whilst the housing mix does not include family units or larger units as desired by the Council, there is very little evidence presented regarding the need for certain types of accommodation in this area.
56. The area has a mixed type of larger and smaller family housing, flatted development and converted villas. Both proposals would provide a mix of smaller accommodation and consequently, I see no reason why the housing mix proposed in both appeals would be unacceptable in this location.
57. Therefore, in this context I am satisfied that the housing mix proposed would appropriate, enable mixed and balanced communities, compliant with London plan policies 3.8 and 3.9. Together, these policies seek to ensure new developments offer a range of housing choices that promotes mixed and balances communities.

The Planning Balance

58. The Council set out during the Hearing that it could not demonstrate a 5 year supply of housing. These appeals involve the provision of housing, and as indicated by footnote 7 of Framework paragraph 11, the policies which are most important for determining the application are therefore out-of-date.
59. The Framework indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Appeal A

60. The proposal would have an acceptable effect upon the character and appearance of the area, the living conditions of the occupiers of No 47, the safety of all highway users, and it would provide a sufficient housing mix. However, the proposal would fail to provide satisfactory living conditions for the future occupiers.
61. There would be benefits associated with the proposal in terms of boosting the supply of smaller sized housing on a 'small and medium sized site', for which the Framework supports. There would be a benefit from the traffic calming measure which is of moderate weight. It would also result in increased local spending, employment through construction and other localised economic benefits. The location is accessible and close to services, and the homes would be modern and energy efficient.
62. However, the failure to provide satisfactory living conditions for the future occupiers would be contrary to the development plan and the Framework, which seeks to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. It would also temper the benefit of providing housing as the living conditions for the future occupants of most of the ground floor apartments would be unacceptable.
63. Consequently, on balance the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Appeal B

64. The proposal would have an acceptable effect upon the living conditions of the future occupiers, the safety of all highway users, and it would provide a sufficient housing mix. However, the proposal would have an unacceptable effect upon the character and appearance of the area and the living conditions of the occupiers of No 47.
65. There would be very similar benefits associated with the proposal as Appeal A, and it is not necessary to repeat them. However, the unacceptable effect upon the character and appearance of the area and the living conditions of the occupiers of No 47 would be contrary to the development plan and the Framework.
66. As well as what I have outlined above, the Framework also sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
67. The harmful and adverse effect upon the character and appearance of the area would be permanent and together with the harmful effect upon neighbouring living conditions, this would on balance significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Other Matters

Planning obligations

68. In addition to the highways contribution, the obligations would provide monies towards education, health and carbon off setting. As I am dismissing both appeals for other reasons, it has not been necessary to consider the obligations in any further detail.

Conclusion

69. For the reasons set out above, I conclude that both appeals should be dismissed.

Katie McDonald

INSPECTOR

APPEARANCES

For the Appellant:

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James Caldwell
Atri Prashad
Chris Hough

Appellant
Appellant
Appellant
Sigma Planning

For the Local Planning Authority:

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Principal Planner
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Principal Planner

Interested Parties:

Steve Blunn
Naheed Kanuga
Peter Morgan

Neighbour objecting to the proposals
Neighbour objecting to the proposals
Neighbour objecting to the proposals

HEARING DOCUMENTS

- 1 Signed and executed planning obligations
- 2 Amended planning obligations following consultation with the Council
- 3 Official copy of register of title
- 4 Papers relating to highways matters submitted by the Council
- 5 Mayor of London Housing Supplementary Planning Guidance (March 2016)