
Appeal Decision

Site visit made on 19 November 2019

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 17 December 2019

Appeal Ref: APP/G5180/W/19/3236526
39 Park Avenue, Bromley, London BR1 4EG

- 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 Purelake New Homes Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/19/01705/FULL1, dated 5 March 2019, was refused by notice dated 21 June 2019.
 - The development proposed is demolition of existing building and single storey garage. Construction of 7 no. unit residential dwellings (2B/4P apartments). Construction of external cycle and store and refuse enclosure. Soft/hard landscaping to the front and rear of the site.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. As part of the appeal, the appellant has included additional plans showing analysis of side space distances, existing and proposed elevations and CGI plans from Park Avenue. The Council has had the opportunity to comment on them. I do not consider that their interests would be prejudiced if I take these additional plans into account. I shall therefore determine the appeal for planning permission on the basis of the plans at the time of determination, as well as the plans submitted as part of this appeal.

Main Issues

3. The main issues are (i) the effect of the development on the character and appearance of the area; (ii) the effect of the proposed development on the living conditions of the occupants of No.37 Park Avenue (No.37) and No.39a (No.39a), with particular reference to outlook; and (iii) whether the development would provide acceptable living conditions for future occupants, with regard to outlook.

Reasons

Character and Appearance

4. The appeal site is a five-bedroom detached property located in a substantial plot within a predominantly residential area. There is a mix of property types along Park Avenue, including care homes and flats but generally the area

consists of large Edwardian style detached properties with spacious gardens and off-road front parking areas all which contribute to the suburban character. The location of the existing dwelling is prominently sited within the street scene due to its height, width and projecting front gable. It sits between a detached and a pair of semi-detached dwellings, all of which are set at lower levels. The topography of the appeal site changes, resulting in it sloping away from street level to the rear of the site, which results in the rear of the site having a three-storey appearance. Nonetheless, despite some variation in form within the immediate setting the existing building positively contributes to local character.

5. The development proposes to demolish the existing house with garage and replace with a property containing seven residential apartments, each being 2-bedroom 4 person units. A cycle and bin store would be erected, and the proposals include landscaping and parking provision. The proposed development would fall within the recommended range of number of dwellings per hectare for the density characteristics of the area.
6. Despite the proposed building having a lower ridge height than that of the existing, it would still be significantly larger and closer to each of the side boundaries. The rear of the building would project further into the site than the existing building which has a commensurate depth with adjacent dwellings. Whilst it would be sunken considerably into the ground to achieve the basement accommodation it would have a greater footprint. This combined with the appearance of three storeys to the front and four storeys to the rear and the incorporation of extensive hard surfacing to the frontage would, in the context of adjacent properties, result in a building of imposing scale.
7. The existing single storey garage creates a separation gap between the site and No.37 and has open views into the site including those to the rear, adding to the spacious character of the plot itself and street scene. This spaciousness would be eroded by the sheer scale of built development and massing proposed by the appeal proposal, particularly with the depth, projecting gables and large flank walls. As such it would appear as a dominant and incongruous building, creating an unacceptable spatial relationship with its immediate surroundings to the detriment of the character and appearance of the street scene.
8. For the reasons given above, I conclude that the proposed development would cause harm to the character and appearance of the area. It would conflict with Policies 4, 8 and 37 of the Bromley Local Plan (2019) and Policies 7.4 and 7.6 of the London Plan¹ (2016). Which together seek to ensure that: new housing developments are of a high standard of design and layout whilst enhancing the quality of local places; respect and respond to local character; spatial standards, physical context and density; as well as complementing the qualities of surrounding areas.

Living Conditions of neighbouring occupiers

9. The proposed development would have high flank walls on both the side elevations which would face the neighbouring properties at No.37 and No.39a. There would not be any windows to the flank walls and the existing arrangement of windows on the rear elevation of the property and site levels already result in overlooking of neighbouring rear gardens. Although the proposed development would incorporate windows on the rear elevation, roof

¹ The London Plan: The Spatial Development Strategy for London, consolidated with alterations since 2011 (2016)

lights and balconies, it would not exacerbate any overlooking or privacy issues in this respect at the site.

10. However, despite the separation distances of more than 1m, which would meet the Council's required minimum separation distances the depth of the proposed building would be increased. I acknowledge the contents of the technical analysis for daylight, sunlight and overshadowing and that it would meet the standards for good practice. However, those standards do not consider, and there are no specific criteria to assess the overbearing impacts of developments when viewed from neighbouring properties.
11. The existing arrangement of the low-level garage does not appear as an oppressive or overbearing structure along the boundary when viewed from No.37. There is also no built development at higher levels along the boundary of the appeal site. Given that the proposed development would have a much greater depth, a high flank wall which would directly face the side elevation of No.37 which contains a number of openings, it would appear substantially overbearing and create a negative visual prominence such that would result in an unacceptable impacts to the living conditions of the occupiers of that property.
12. Although, the design of the roof and rear elevation have been altered from previous discussions with the Council, the position would be marginally closer to No.39a than the existing building. The increase in mass, height and depth of the proposed development than that of the existing building including the flank wall, would appear as a prominent and overbearing building of an oppressive scale, these would be particularly evident when viewed from the garden area of No.39a.
13. For the reasons given above, I conclude that the proposed development would cause harm to the living conditions of neighbouring properties at No.37 and No.39a in regard to the overbearing effects. It would be contrary to Policies 4, 8 and 37 of the Bromley Local Plan (2019) and Policies 7.4 and 7.6 of the London Plan (2016). Which together aim to ensure developments are of high-quality design and layout; meet minimum space standards for housing developments and provide homes as a comfortable place of retreat and enjoyable spaces.

Living Conditions of future occupants

14. The Technical housing standards - nationally described space standard (2015) (THS) are applied through Policy 3.5 of the 2016 London Plan. The THS also sets out how the space standards should be applied and reflected in the gross internal area (GIA), allowing for different combinations². The plans indicate that the apartments would 2b/4p and the GIA as set out for the proposed development would meet the required standards.
15. In respect of unit 7, I acknowledge comments regarding its potential sub-division, but this is not the proposal which is before me, as shown on the plans, and even if this were to occur, it would be a future matter for the Council. Although, unit 7 would meet GIA standards and would have a private balcony area, bedroom 1 of the unit is shown with a rooflight and opening, whilst bedroom 2 would only be served by high-level roof lights.

² Paragraph 5: Technical housing standards – nationally described space standard

16. The appellants Internal Illuminance note sets out that units 1, 2, 3 and 4 all achieve an acceptable daylight provision with an internal illuminance in excess of 2% as well as bedrooms for the units having internal illuminances of 1%. It does not set out the levels for unit 7 and as such I have no substantive evidence that the unit or bedroom would achieve BRE standards. Policy 3.5 of the London Plan requires the design of new housing developments to consider elements that enable the home to become a comfortable place of retreat and the Housing supplementary planning guidance³ (SPG) seeks to encourage the kind of housing that provides comfortable and enjoyable places.
17. Although, the occupier of bedroom 2 would have skyline views, this would not provide natural light constantly throughout the day/night and any outlook from this bedroom would be restricted and limited to that of high level rooflights providing an unusable bedroom space for relaxing and retreating. As such I consider unit 7 would not provide a reasonable outlook for any future occupier.
18. On this basis, I conclude that the proposed development would not provide adequate living conditions for future occupiers of apartment 7. It would be contrary to Policy 4 of the Bromley Local Plan (2019) and Policy 3.5 of the London Plan (2016). Which together aim to ensure developments are of high-quality design and layout; meet minimum space standards for housing developments and provide homes as a comfortable place of retreat and enjoyable spaces. It would also be at odds with the guidance contained within the SPG.

Other Matters

19. My attention has been drawn to a previous appeal decision⁴ for 8 apartments at 49 Park Avenue. Although there are similarities to the appeal proposal, No.49 has a wider and deeper plot and is located alongside a substantial large building at No.47 which is in use as a care home, unlike the appeal site which is positioned between two smaller dwellings. I have, in any case, reached my own conclusions on the appeal proposal on the basis of the evidence before me.
20. I note that local residents have expressed additional concerns about the proposed development, including car parking, sustainability, air/noise pollution, climate control, protected species and landscaping. However, the Council did not raise these points as reasons for refusal and I have no substantive evidence to support those concerns. Given my findings in relation to the main issues, it is not necessary to consider these matters in detail.
21. I have had regard to the other properties that have been drawn to my attention by the appellant along Park Avenue. Whilst the circumstances of those cases differ from this appeal proposal in respect of separation distances, outlook and site coverage. These matters do not diminish the concerns I have identified in relation to the proposal in the context of the appeal site nor the harm I have identified in respect of the main issue. In any case, I must consider the appeal on its own merits.
22. The appellant refers to the Framework and that it is supportive of positive planning and ensuring that land is viable as a resource and is put to best use. Whilst this may be the case, it is not without caveats, including that

³ Mayor of London: Housing: Supplementary Planning Guidance March 2016 Implementation Framework (SPG)

⁴ APP/G5180/W/14/3000389

developments are sympathetic to local character and provide a high standard of amenity for existing and future users. Furthermore, Appendix 2 of the Framework, sets out the definition of previously developed land (brownfield land); this excludes land in built-up areas such as residential gardens.

23. I recognise the appeal proposal would have benefits with regard to the supply of housing in the Borough, be within a sustainable location and the contribution both construction opportunities and any future occupiers would make to the local economy. These matters, however, do not outweigh my findings in respect of the main issues nor the conflict I have found with the development plan read as a whole.

Conclusion

24. For the reasons given above I conclude that the appeal should be dismissed.

KA Taylor

INSPECTOR