
Appeal Decision

Site visit made on 29 October 2019

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2020

Appeal Ref: APP/G5180/W/19/3234637

Land Rear of 48 Farnaby Road, Madeira Avenue, Bromley BR1 4AY

- 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 S Huddart against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/18/05287/FULL1, dated 23 November 2018, was refused by notice dated 8 February 2019.
 - The development proposed is erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The address for the proposed development on the original application form was 'vacant site, Madeira Avenue, Bromley BR1 4AY'. For clarity I have taken the address of the site from the appeal form and Council decision notice as it better identifies the site.

Main Issue

3. The main issues are the effect of the proposed development on (i) the character and appearance of the area and (ii) the living conditions of the occupants of neighbouring properties with regard to privacy.

Reasons

Character and appearance

4. The appeal site is situated on Madeira Avenue but forms part of the rear garden of No 48 Farnaby Road (No 48). It is situated between neighbouring gardens and the land rises steeply from the dwellings to their boundaries with Madeira Avenue. The site and the neighbouring gardens contain a wealth of mature trees, shrubbery and other vegetation which, when combined with the sloping topography, results in an absence of built form being visible on this side of Madeira Avenue.
5. The site area, whilst still forming part of the garden of its donor dwelling, is overgrown, unlike the immediate neighbouring gardens which are in use in their entirety. Although Madeira Avenue is a residential street, host to a mixture of dwelling types, the high density of mature trees and vegetation

present within the gardens of Farnaby Road, make a significant contribution to the character and appearance of this part of the area.

6. The proposed dwelling has been designed to respond to the topography of the site. It would provide two/three-bedroom accommodation over three floors. It would appear as a two-storey dwelling when viewed from Madeira Avenue and would utilise an existing access. The sustainability of the location in relation to services and facilities is not disputed. The appellant considers that the proposal is sustainable infill and that precedence already exists for development on this side of the road.
7. However, although the design of the appeal dwelling responds to the specific topographical characteristics of the plot, where development is present on this side of the road it is far enough removed that it has no visual or physical relationship with the site. This part of the street forms a substantial gap between built form and the position of the site does not therefore represent a logical infill site. On its own the plot may appear suitable for the style and size of the proposed dwelling. Nevertheless, proposals need to respond positively to their surroundings. In this regard the appeal scheme would not achieve this.
8. It would be unrelated to other development and would be visually prominent in the street scene and from the rear elevation windows and the surrounding gardens of its neighbours. This is the case even if there were frontage trees that could be retained, and if additional boundary planting could be provided. The appeal dwelling would be out of keeping with the prevailing pattern of development and the established character and appearance of the area and significant harm would be caused as a result.
9. Consequently, I find that the proposal would have an adverse impact on the character and appearance of the area. It would therefore, be contrary to Policies 1, 3, 4, 8 and 37 of the Bromley Local Plan 2019 (LP) which state amongst other things that new housing development should positively contribute to the existing street scene and complement the form and layout of adjacent buildings and areas. It would also be contrary to Policies 3.5, 7.4 and 7.6 of the London Plan (2016) which seek similar aims and would conflict with the National Planning Policy Framework (the Framework), including Paragraph 127, which indicates the developments should be visually attractive and be sympathetic to the local character of the surrounding built environment and landscape setting.

Living conditions

10. The proposed dwelling has been designed with a catslide roof so that the rear of the building would be one and a half storey. No windows are proposed above ground floor level in the rear elevation and although a number of windows are proposed to the side elevations, these either serve landing areas or are not the primary windows of the rooms they serve. This minimises the opportunity for overlooking of No 48 and neighbouring properties. In addition, there would be approximately 32 metres separation distance between the proposed dwelling and the rear elevation of No 48. Therefore, window to window relationships would be acceptable.
11. However, the future occupants of the proposed dwelling would be able, from the lower floor windows and the rear garden area, to look directly into and across the rear garden of No's 48, 46 and 50 Farnaby Road. Although the

occupiers of these properties already experience some overlooking of their gardens from existing dwellings, this is largely towards the rear of their amenity space. The proposed dwelling would introduce overlooking from a high level back towards the more private garden areas of these neighbours. This would be significantly more detrimental to the privacy of the occupiers than that currently experienced and would lead to an adverse impact on the use and enjoyment of these gardens by their occupiers.

12. Concern has been raised with regard to the relationship of the proposed dwelling with the existing opposing properties, in particular No's 1 and 2 Kimberley Terrace, Madeira Avenue. However, I am satisfied that the window to window separation distances between the appeal dwelling and these properties would be sufficient to ensure no significant loss of privacy would be introduced.
13. However, the lack of harm with respect to the privacy of the occupiers of the dwellings on Kimberley Terrace, Madeira Avenue, does not override the adverse effects on the living conditions of the occupiers of No's 48, 46 and 50 Farnaby Road. Consequently, I conclude that the proposal would be contrary to Policies 4 and 37 of the LP and Policy 7.6 of the London Plan. These policies, amongst other matters, seek to ensure all development proposals respect the amenity of neighbouring occupiers. It would also conflict with the Framework in this regard.

Other Matters

14. The development would provide an additional dwelling in a sustainable location. However, the benefits in that regard would be very modest and insufficient to outweigh the harm to character and appearance of the area and to the living conditions of occupiers of nearby properties that I have identified.

Conclusion

15. For the above reasons the appeal is dismissed.

S Tudhope
Inspector