



Appeal Decision

Site visit made on 25 February 2020

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 April 2020

Appeal Ref: APP/G5180/W/19/3242858

5 Patterson Road, Anerley, London SE19 2LA

- 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 Frame Property Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref 19/03508/FULL1, dated 7 August 2019, was refused by notice dated 15 October 2019.
 - The development proposed is the demolition of existing residential bungalow and the construction of 2.5-storey building above ground, plus 2 lower ground storeys, comprising 6 residential units, car and cycle parking, refuse and recycling storage, external amenity space and associated facilities.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - The character and appearance of the site and the surrounding area.
 - The living conditions of future occupiers of the proposed development, with particular regard to the outlook from the bedrooms of flats 1, 2, 3 and 4.
 - The living conditions of the occupiers of neighbouring properties with particular regard to the privacy of the occupiers of 3 Patterson Road and the privacy and outlook of the occupiers of 31 Milestone Road and Cintra Court.

Reasons

Character and Appearance

3. The appeal site is located within a residential area that is close to shops, services and public transport connections. With a few notable exceptions, the area is characterised by featuring a mixture of 2 and 3 storey dwellings, with many having long rear gardens. The ground levels of the area change significantly, which is emphasised by the ground floor level of the lengthy terrace of dwellings at one side of Patterson Road being set much higher than the street. The height of the built form throughout the locality is stepped to reflect the topography, which is particularly obvious along Milestone Road, but is also noticeable along Patterson Road which features a more gradual change.
4. On the side of Patterson Road that includes the appeal site is a mixture of 2 storey dwellings, the flat block known as Cintra Court and the bungalow at the appeal site. The arrangement of the dwellings of Patterson Road, Milestone Road and Cintra Park enables their lengthy gardens to combine to form a large area of green

space with allotments and a shared informal rear access. The spaciousness of this area adds to the pleasant residential environment of suburban character that exists throughout the locality.

5. The appeal site contains a bungalow at street level, with a substantial rear garden that falls away towards the boundary at the rear of the site that is shared with 31 Patterson Road. Whilst the dwelling is the only bungalow within the locality and is an anomaly in terms of its scale, the positioning, architecture and materials of the dwelling enables it to sit comfortably within its context.
6. The proposal would involve the replacement of the bungalow with a building that would include accommodation over 5 floors. From the front, the development would appear as a pair of semi-detached houses with accommodation over 3 floors, including the roofspace which would feature dormers to the front and side. The other 2 floors would be set into the changing ground levels, thereby being visible from within properties at the side and rear and from the abovementioned shared access.
7. The proposal would involve a substantial portion of the plot being built upon and, as such, would represent a marked variation from the other buildings of the surrounding area, which generally feature gardens that are larger than the footprint of the built form they host. Even allowing for the retention of small gardens at the rear of the plot and the inclusion of planting within terraces at the rear and side of the building, the built form at the site would dominate the plot and leave insufficient space around the building to enable the development to sit comfortably within the local context. Furthermore, the manner that each storey would step out further than the one above it would cause the building to have a sprawling appearance that would exaggerate the sense that a disproportionate amount of the site would be built upon.
8. Due to the rear of the site being masked from view by other buildings, these aspects of the development would have little effect on the public domain of Patterson Road. However, the rear of the site would be seen from the surrounding properties and the green space at the rear of the site. Intermittent and fleeting views would also be possible between dwellings within the surrounding roads. From where it would be seen, the development would have an incongruous appearance that would not sit comfortably within its suburban setting.
9. Although the building would be of comparable depth as the adjacent building at Cintra Court and that plot is only slightly deeper than the appeal site, the spacing around that building, the width of the plot it sits within and the presence of a large garden between the building's side wings enables it to have a more spacious arrangement within its plot than the proposed development. Furthermore, whilst Cintra Court is an imposing building, the simplicity of its form and the shape of the building enables its bulk to be diluted to an extent. Conversely, the sprawling form of the proposed building, would cause it to have a contrived appearance that would be dominating of the plot. As such, whilst I have had regard to the scale and form of the neighbouring building, I do not find that it has a comparable effect on the character and appearance of the area as the proposed development.
10. Turning to the effect of the development on the streetscene of Patterson Road, when viewed from the front, the scale of the building would enable the roof height to sit comfortably between the neighbouring buildings. Moreover, having regard to the mixed appearance of the built form within the locality, which includes a flat development at Stratos Height that appears to be a recent addition, designing the frontage of the building to appear as a modern interpretation of the existing built form would create some visual interest.

11. However, whilst rear dormers are a common feature of the locality and can be seen from the roads due to the gaps between dwellings, front dormers are far less common and those that exist within the vicinity of the site tend to be small features of the roofscape. Furthermore, most side dormers are generally quite discreet additions with views of them being obscured by adjacent buildings. In this context, the scale and bulk of the proposed dormers and their positioning at the front and side of the dwelling would cause them to dominate the appearance of the building in a manner that would be incongruous within the locality. As such, whilst there are elements of the proposal that would sit comfortably within the local context, the scale and bulk of the dormers would cause them to dominate the appearance of the building and result in the building appearing at odds with the character of the locality.
12. The presence of other large dormers at 2F-2H Cintra Park are noted, but they are a substantial distance from the appeal site and are a feature of a building that takes an entirely different form and architectural approach. As such, those dormers and the others that exist within the local area do not lead me to conclude that the dormers would be suitably sympathetic of the character and appearance of the surrounding built form. Furthermore, the dormers would have a markedly different appearance to the gable end features of other dwellings within the street and, as such, those gables do not alter my consideration of the proposed dormers.
13. Although the proposed development would fill the plot width at ground floor, space between the building and the side boundaries of the site would be retained at first floor level. Single storey side projections are a regular feature of buildings at this side of Patterson Road, with garages at the side of the existing bungalow and both 3 and 21 Patterson Road. Moreover, the mixture of semi-detached and terrace dwellings means that there is no uniformity to the spacing between dwellings along Patterson Road. Therefore, whilst policy 8 of the London Borough of Bromley Local Plan (BLP), adopted 2019, requires that full height space is provided at the side of buildings, I do not find that the ground floor width of the proposed building would cause the development to conflict with the pattern of development within the locality. As such, the proposal would not conflict with one of the aims of that policy which is to avoid development appearing cramped or causing terracing.
14. Undertaking development at a density that accords with the London Plan (LP), adopted 2016, whilst also utilising the topography of the site and presenting a building to Patterson Road that would appear akin to a pair of semi-detached dwellings shows some innovation and demonstrates that regard has been had to the constraints and context of the site. However, the harmful elements of the proposal that are set out above would result in the built form having an incongruous appearance and a sprawling form that would relate poorly to the character and pattern of development within the locality, particularly when viewed from the rear. Therefore, the proposal would not add to the overall quality of the area and would not be sympathetic to local character.
15. Moreover, whilst the inclusion of planted roofs within the development would soften the bulk of the building, it would also emphasise the staggered form of development and exaggerate the contrast with the other built form within the surrounding area. The inclusion of landscaping would not, therefore, be sufficient to mitigate the harm that would be caused in other respects.
16. Therefore, for the reasons given above, the proposal would have an unacceptable effect on the character and appearance of the site and the surrounding area. Accordingly, the development would be contrary to those parts of policies 4 and 37 of the BLP which combine to require that development is of a high standard of design and layout that respects local character and complements the scale,

proportion, form and layout of adjacent buildings. Those policies also require that development contributes positively to the street scene. The development would also be contrary to policies 7.4 and 7.6 of the London Plan (LP), adopted 2016, which require that development is of high architectural quality, is appropriate to its context and has regard to the pattern and grain of existing spaces and streets in terms of scale, proportion and mass.

17. Whilst I note the stance of the appellant that the proposal would cause no harm to heritage assets and would have no impact on important local views, these are not factors that lead me to a different conclusion in relation to the overall effect of the development on the character and appearance of the site and the surrounding area.

Living Conditions of Future Occupiers

18. The bedrooms of flats 1, 2, 3 and 4 would feature extensively glazed doors and windows that would face lightwells at the side of the building. Due to the orientation and partially subterranean form of the accommodation, these lightwells would be the sole source of light and outlook from those bedrooms.
19. The narrowness of the lightwells means that the retaining walls and enclosures at the side boundaries of the site would be in close proximity to the openings. As such, the outlook from the bedrooms would either be towards a retaining wall or along a thin stretch of land that would be extensively enclosed. However well the lightwells would be treated in terms of soft landscaping and decoration, the sense of enclosure within the bedrooms would be oppressive and would not create high quality living accommodation. In this respect, although the flats would have dual aspects, one would be so limited that it would not enable the development to achieve the benefits of dual aspect accommodation that are set out at paragraph 2.3.37 of the Mayor of London's Housing Supplementary Planning Guidance (HSPG), adopted 2016.
20. To varying degrees, the main parties indicate that a flexible approach can be taken to the standard of living conditions within bedrooms as they are mostly used for sleeping and are generally occupied at night. However, as each of the bedrooms of each of the flats would be reliant on windows that are served by limited outlook, even if a flexible approach is taken, the sense of enclosure within the bedrooms would be oppressive. In this case, achieving suitable levels of daylight within the bedrooms, providing suitable living conditions in all other respects and complying with other applicable standards, including the space standards set out within policy 3.5 of the LP, would not compensate for the harm caused by the overbearing sense of enclosure that would limit the outlook from the bedrooms of the flats.
21. Furthermore, whilst it has been brought to my attention that lightwells have been utilised in other developments and found acceptable by the Council, this does not justify the bedrooms in this development having an inadequate outlook.
22. Accordingly, the proposal would have an unacceptable effect on the living conditions of the future occupiers of the proposed development, with particular regard to the outlook from the bedrooms of flats 1, 2, 3 and 4. Therefore, the proposal would be contrary to policy 4 of the BLP which requires development to be of high quality. The proposal would also be contrary to policy 3.5 of the LP which requires that development should be of the highest internal quality, enhances London's residential environment and attractiveness as a place to live and provides room layouts that are functional and fit for purpose.

Living Conditions of Neighbouring Occupiers

23. Immediately adjacent to the site are the residential buildings and gardens of 3 Patterson Road, 31 Milestone Road and Cintra Court. In this regard, the effects of the development on privacy at all 3 sites and the outlook from within the property of 31 Milestone Road and the flats of Cintra Court that have side facing windows are the focus of the concerns raised by the Council.
24. A low fence demarks the rear boundary of the appeal site and the side boundary of the garden serving 31 Milestone Road, with the dwelling at that site being set further forward on its plot. Currently there is intervisibility between the sites but the positioning of the existing dwelling at the appeal site and the intervening vegetation ensures that the dwelling and a substantial part of the neighbouring garden is not unduly overlooked by the occupiers of the appeal site.
25. The proposed development would result in the lower ground floors being in much closer proximity to the rear boundary than the existing bungalow, with their rearmost living space and their garden areas having an outlook towards the adjacent garden. However, the ground level of flats 1 and 2 would be set at a sufficiently low level for the proposed retaining wall and fence at the rear boundary of the site to prevent the occupiers of those flats having views into the neighbouring garden.
26. The terraces serving flats 3 and 4 would be at the side of the building, thereby being set back from the boundary that is shared with 31 Milestone Road, with privacy screens to the edges. Moreover, downward views would be partially restricted by the rearmost part of flats 1 and 2 and the proposed raised planters. Any views that would still be achievable from the terraces and the rear elevations of flats 3 and 4 would be from a recessed position. As such, whilst the intervening features of the development and the site would not prevent views of the garden of 31 Milestone Road entirely, the extent of overlooking would be limited and the effect on privacy would be no more harmful than overlooking that can already occur from the site or other neighbouring properties.
27. Similarly, due to the terraces serving the townhouses being in a similar position to the existing raised garden area, overlooking of the garden of 31 Milestone Road would not be significantly worse than the existing situation. For these reasons, whilst the proposal would increase the number of residents that would have an outlook towards the garden of 31 Milestone Road, the development would not affect the privacy of the users of that garden to an extent that would harmfully alter the overall living conditions of occupiers.
28. The positioning of the dwelling at 31 Milestone Road means that most views into the dwelling from the proposed terraces or living accommodation at the appeal site would be able to be limited through the erection of privacy screens or boundary treatments. Where these would not prevent views towards the neighbouring dwelling, the relationship between properties would ensure that views would be at an oblique angle and over a sufficient distance to prevent significant overlooking of the habitable accommodation within the neighbouring dwelling.
29. When viewed from 31 Milestone Road, the setback of each floor from the one beneath it and the low height of the roof of flats 1 and 2 relative to that property ensures that the bulk and mass of the built form would not be unduly imposing on the outlook from within that dwelling or its garden. Therefore, whilst the building would be visible, it would not have an overbearing effect or cause a sense of enclosure at 31 Milestone Road to an extent that would detract from living conditions.

30. With respect to Cintra Court, the side elevation of the building facing the appeal site features 14 windows with the 6 forwardmost windows¹ appearing to serve bathrooms and kitchens. As the proposed townhouses would be inset from the side boundary, other than a small side projection, the effect of the proposed built form on the overall living conditions within the rooms served by those windows would be minimal. Furthermore, as the existing retaining wall and boundary treatments already restrict the outlook from the side windows² serving the lowest 2 floors, the effect of the development on those windows would not be substantially different to the existing situation. Similarly, the windows³ serving the flats at the top 2 floors would remain above the flats and terrace enclosures. Therefore, the rooms served by those windows would retain their outlook and would not be subjected to a loss of light.
31. The rearmost windows⁴ serving the ground floor flats currently afford those flats an almost unrestricted outlook. As such, the side elevation of Flat 4 and the privacy screens that would enclose the terrace of Townhouse 2 would cause a change to the outlook from the rooms served by those windows. However, as those elements of the proposed development would be inset from the shared boundary and plan 123.05.50 indicates that the boundary treatments would be no taller than the existing boundary wall, the adjacent structures would not cause a sense of enclosure or a loss of outlook to an extent that would cause unacceptable harm to the living conditions within those flats. Therefore, the development would not have an unduly overbearing effect on the outlook from the flats at Cintra Court.
32. Turning to the effect on the privacy afforded to the residents of Cintra Court and 3 Patterson Road, the proposed side facing windows would either feature restrictions on their outlook or be set below the height of the retaining walls and fencing that would be provided at the side boundaries of the site. Moreover, the proposed fencing, the provision of privacy screens at the side of the terraces and the restriction of access onto the remaining areas of flat roof through the presence of planted beds would limit the opportunities for sideways views to be achieved. Whilst these features would not completely prevent overlooking of the garden areas of the neighbouring sites, the relationship between sites and the angle of any potential overlooking would ensure that the effect would not be substantially different to that which would normally be expected within a suburban environment.
33. Therefore, subject to the imposition of conditions requiring the provision and retention of each of the abovementioned mitigating features, the proposed terraces and side facing windows would not cause a loss of privacy within the properties at either side of the appeal site.
34. Furthermore, due to the relationship between the proposed building and the existing buildings at Cintra Court and 3 Patterson Road which have been described above, the effect on the daylight and sunlight within those buildings would not be unduly harmful to living conditions. For these reasons, whilst policy 8 of the BLP requires that a gap is provided at the side of buildings, in this case I do not find that the proximity of the built form to the side boundaries would cause harm to the living conditions of the residents of 3 Paterson Road or Cintra Court. As such, the proposal does not conflict with the aim of that policy which relates to the safeguarding of the privacy and amenity of adjoining residents.

¹ Referred to as W2 F00, W2 F01, W2 F02, W3 F00, W3 F01 and W3 F02 at Figure 03 of the appellant's Daylight and Sunlight Assessment - Reference 14481, Dated 09/07/2019. (DSA)

² Referred to as W1 B01 and W1 B02 at Figure 03 of the appellant's (DSA)

³ Referred to as W4 F01, W4 F02, W5 F01, W5 F02 at Figure 03 of the appellant's (DSA)

⁴ Referred to as W4 F00 and W5 F00 at Figure 03 of the appellant's (DSA)

35. For the reasons set out above, the proposal would not have an unacceptable impact on the living conditions of the occupiers of neighbouring properties with particular regard to the privacy of the occupiers of 3 Patterson Road and the privacy and outlook of the occupiers of 31 Milestone Road and Cintra Court. The proposal would, therefore, accord with the aims of policies 8 and 37 of the BLP which require that the amenities of the occupiers of neighbouring buildings are not harmed by the provision of inadequate daylight, sunlight or privacy or by overshadowing. The proposal would also accord with policies 7.4 and 7.6 of the LP which requires that development does not cause unacceptable harm to the amenity of the surrounding land and buildings in relation to, amongst other things, privacy and overshadowing and also enables people to feel comfortable within their surroundings.
36. Objections to the proposed development have been received from the occupiers of various other properties within the vicinity of the site. In this regard, as most of those properties are located beyond the properties that have been assessed above, the effect would be even less than that which has been found acceptable above. Furthermore, due to the separation distance between the development and the houses on the opposite side of Patterson Road and their elevated position, the development would not have an unacceptable effect on the living conditions within those dwellings.
37. In relation to noise, dust and disturbance from construction and noise from mechanical ventilation, these matters can be controlled by conditions or other legislation. Furthermore, although there would be an increased number of residents at the site and a possibility of more noise being generated, the type and amount of noise would not be likely to exceed what would normally be expected within a residential environment. For these reasons, I do not find that these aspects of the development would cause undue harm to the living conditions of existing residents within the locality.

Other Matters

38. The site is well located with respect to public transport connections and local services and facilities. As such, the intensification and efficiency of the use of land arising from the replacement of the existing dwelling, at a density that accords with the LP, is a positive aspect of this proposal. The development, therefore, draw support from policies 3.3 and 3.4 of the LP and emerging policies H1 and H2 of the Draft London Plan 2019 which aim to increase the supply of housing and support the development of small sites at a density that reflects the context of the site. For similar reasons, the development also draws support from paragraphs 68, 118 and 122 of The Framework. The creation of jobs during the construction period and the provision of a CIL contribution are also economic benefits that represent a positive aspect of the proposal.
39. Whilst it has been indicated by the appellant that the creation of less residential units at the site would render the development unviable, no evidence has been provided to demonstrate that this is the case and I have therefore given this factor no weight. Furthermore, although the appellant has been suggested that the proposal would meet an identified housing need that exists at a Borough-wide level as well as within the Crystal Palace, Penge and Anerley Renewal Area, insufficient evidence of housing need and supply has been provided to demonstrate the need or that the proposed mix of housing would meet that need. In this regard, the appellant's Planning Statement indicates that the Strategic Housing Market Assessment shows that the greatest need is for smaller properties with 1 or 2 bedrooms. As such, whilst the boost to housing supply in this location is a positive

aspect of the development, the evidence before me does not demonstrate that it would meet a specific need.

40. The appellant's Preliminary Ecological Appraisal identifies that some enhancements would be achievable but, in this instance, the benefits appear to be minimal.

Planning Balance and Conclusion

41. For the reasons set out above, the development would have a harmful effect on the character and appearance of the site and the surrounding area and some of the future occupiers of the development would not have adequate living conditions in terms of outlook. The proposal would avoid conflict with the development plan in some respects and would derive some benefits, including the increase of housing at a site that is excellently located in relation to services, facilities and transport connections. However, in this case, I conclude that these benefits do not outweigh the harm that would be caused and the associated conflict with the policies of the development plan.
42. Therefore, I conclude that the appeal should be dismissed.

Ian Harrison

INSPECTOR