
Appeal Decision

Site visit made on 10 March 2020

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 April 2020

Appeal Ref: APP/G5180/W/19/3242679

6 Moorfield Road, Orpington BR6 0HQ

- 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 Paul Whitehead of KWS Planning against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/19/02411/FULL1, dated 3 June 2019, was refused by notice dated 10 September 2019.
 - The development proposed is the change of use from A2 (professional services) to C3 (residential) to create 1 two bedroom flat and elevational changes.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by KWS Planning against the Council of the London Borough of Bromley. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether the proposed flat would provide adequate living conditions for future occupiers, with particular regard to outlook, outside space, privacy and noise.

Reasons

4. The proposed flat would be on the ground floor of an existing terraced property which is surrounded by a mixture of commercial and residential uses. The two bedrooms of the proposed flat would open up onto a courtyard to the rear which directly abuts a narrow alleyway between properties on Moorfield Road and Chislehurst Road.
5. The courtyard would be small, measuring some 11.4 square metres and would be bound to three sides by the tall walls of the host and neighbouring properties, and to the fourth side by a proposed boundary wall of approximately 2m in height. The courtyard's confined space and its tall boundary walls would result in a closed and oppressive outlook from the bedroom windows, which have their only outlook on to it. The proximity and height of the rear of the properties along Chislehurst Road on the other side of the narrow alleyway would exacerbate this sense of enclosure. I appreciate

- that the courtyard could be provided with potted plants for example, but this would not overcome the proximity of the walls to the windows.
6. I appreciate that the appellant's Sunlight and Daylight Report demonstrates that the living/kitchen area would receive adequate levels of sunlight and daylight, and that the two bedrooms would receive adequate daylight, as measured against the BRE guidelines. However, the appellant has not assessed the bedrooms for sunlight. It is my assessment that as the courtyard is overshadowed due to the surrounding walls, it is unlikely that the bedrooms would receive much direct sunlight and even if they did, this would not overcome the lack of outlook.
 7. In addition, the courtyard would be directly overlooked by the bedroom and kitchen to the existing first floor flat, leading to an unacceptable lack of privacy for users of the courtyard.
 8. The courtyard would therefore suffer from a significant sense of enclosure and lack of privacy. Its small size would also restrict the usability of the space, with very limited opportunity provided for outside play and recreation. These factors combined would create an uninviting private outside space. There are pockets of public open space relatively close to the proposed flat, such as at Priory Gardens, which would offer an alternative open space for future occupants. However, these are public areas that do not adequately mitigate for the poor quality of the proposed private open space directly accessible to the proposed flat.
 9. The alleyway to the rear, although a dead end, provides access to a number of properties and commercial premises, including restaurants. It is likely that the alleyway is well used for servicing the commercial premises and would be the source of fairly regular noise pollution and disturbance. This could include activity at unsociable hours, because of its use by restaurants. One of the proposed bedrooms and the courtyard would be directly adjacent to this alleyway, and the other bedroom not much farther away. The nature, proximity, likely amount, and potential unsociable timings of the noise pollution to the bedrooms and courtyard would unacceptably harm the living conditions of the future occupiers of the flat.
 10. The proposal would therefore provide inadequate living conditions for the future occupiers of the flat. The proposal therefore fails to comply with Policy 4 of the Local Plan 2019, which seeks, amongst other things, a high standard of design, layout, and private amenity space provision. The proposal also fails to comply with Paragraph 127 of the National Planning Policy Framework (the Framework), which seeks, amongst other things, a high standard of amenity for future users.

Other Matters

11. The proposal is within the Orpington Priory Conservation Area, a designated heritage asset and therefore an asset of particular importance as defined by the Framework. It is common ground between the parties that the proposed relatively minor physical works, and the change of use to the property, would not harm the character or appearance of the conservation area. I concur. Accordingly, the development proposed would preserve the character and appearance of the designated area, and this factor does not provide a clear reason for refusing the development proposed.

12. The Council cannot demonstrate a 5-year housing land supply. The proposal is for one housing unit. Paragraph 11d of the Framework is therefore engaged.
13. The benefits of the proposal would be the transitory economic benefit of construction of the flat, the long-term economic benefit of occupation through the boost to surrounding businesses from the occupants of the flat, and the benefit of the bringing back into use of a currently vacant property in a sustainable location. There would also be a benefit from the provision of one flat towards the Council's housing land supply. These are all minor benefits and I apply moderate weight to these factors. However, the harm to the living conditions of the potential future occupiers of the flat caused by the poor quality of the proposed accommodation would cause significant harm. This is a clear conflict with the Development Plan and the Framework and I apply significant weight to this factor. The identified harm would significantly and demonstrably outweigh the minor benefits, and the proposal does not, therefore, benefit from the presumption in favour of sustainable development.
14. The appellant has highlighted an appeal case at 98-100 Orpington High Street. I do not have the full facts of the case before me. However, despite being relatively nearby, it is clear that this is for a different proposal with a different layout, different open space provision, and an overall different set of circumstances to the appeal proposal. It does not therefore provide precedent for the appeal.

Conclusion

15. For the reasons above, and having had regard to all other matters raised, I conclude that the appeal be dismissed.

O S Woodward

INSPECTOR