

Appeal Decision

Site visit made on 3 September 2020

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2020

Appeal Ref: APP/G5180/W/20/3250170

17 Ullswater Close, Bromley BR1 4JF

- 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 & Mrs T Sami against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/19/05244/FULL1, dated 12 December 2019, was refused by notice dated 28 February 2020.
 - The development proposed was initially described as a “new building 3 bed family dwelling”.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in the heading above has been taken from the planning application form. At Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area with particular regard to the removal of an oak tree.

Reasons

4. Ullswater Close is a residential street consisting of terraces of dwellings, the arrangement of which creates substantial gaps between the groups of buildings through which the trees of the surrounding area provide a backdrop to the built form. The end-terrace dwelling and single storey garage at the appeal site sit adjacent to a substantial belt of trees that extends along one side of Bromley Hill and separates that road from the dwellings of Ullswater Close. The proposal would involve the erection of a dwelling at the side of the existing building following the removal of the abovementioned garage.
5. The evidence before me indicates that a group of trees within the abovementioned belt is the subject of a Tree Preservation Order, within which is an oak tree that sits forward of the garage at the appeal site. The oak tree is visible within the public domain, particularly within the part of Ullswater Close that connects the appeal site to the junction with Coniston Road. Although other trees are more prominent in the view from Bromley Hill and its junction with Kings Avenue, the

tree is also visible from that part of the public domain and adds to the thickness of that group, which is a defining feature of the character of Bromley Hill.

6. In this context, the removal of the oak tree would lead to a substantial and harmful reduction of visual amenity and detract from the character of the area in which views of trees play a substantial role. Moreover, the loss of the tree would cause a thinning of the group of trees and reduce the contribution that the group makes to the character of the area. Whilst the appellant's arboricultural reports and statements conclude that the tree has limited visual amenity value due to the presence of other trees, for the reasons set out above, I have found that the contribution of the tree to the character of the area is substantial. Furthermore, whilst Ullswater Close and the surrounding roads are not as busy as others within the vicinity of the site, this does not lead me to conclude that so few people would see the tree that it is not of value.
7. The abovementioned arboricultural reports identify works that should be undertaken to the tree regardless of whether or not the proposed development occurs and that the tree is of poor and declining condition. However, the removal of the tree is only recommended to facilitate the proposed development on the grounds that it would cause shading within the proposed building and no evidence has been provided that the tree has caused damage to the existing building to an extent that would require its removal. Those reports also identify that, whilst the tree has been the subject of storm damage and is of poor structural condition, its life expectancy would be at least 10 years. In this context, if the development were not to proceed, the tree would be able to contribute to the character and visual amenity of the area for a substantial period of time. Accordingly, the condition of the tree does not justify its removal and the associated effect on the character and appearance of the area.
8. I have had regard to other comparable developments within the vicinity of the site that have been brought to my attention but have no basis to conclude that those developments would have involved the removal of trees. Therefore, the evidence before me does not demonstrate that the effect of the proposed development would be comparable to those other developments and, as such, they do not alter my assessment of the visual effect of the proposal.
9. For these reasons, the development would therefore have an unacceptable effect on the character and appearance of the area with particular regard to the removal of an oak tree. Consequently, the proposal would be contrary to Policies 73 and 74 of the Bromley Local Plan 2019 (The BLP) which, together, seek to promote public interest and enjoyment in trees and require that development takes account of existing trees which, in the interests of visual amenity, are considered to be desirable to retain.

Planning Balance

10. The main parties agree that the Council is not able to demonstrate an adequate supply of housing land, with no evidence before me to suggest that the situation has changed or improved since an appeal decision¹ in 2019 indicated that there was, at most, a 4.25 year supply. As such, the approach set out at paragraph 11d) of the National Planning Policy Framework (The Framework) is applicable and I have had regard to the clear support provided by The Framework for the boosting of the supply of housing and the weight that was afforded to the supply of housing in the determination of other appeals². Therefore, although the benefit to housing

¹ APP/G5180/W/18/3206569

² APP/G5180/W/18/3206569 and APP/G5180/W/18/3206947

supply arising from the erection of a single dwelling would be modest in the context of the abovementioned supply shortfall, it still weighs substantially in favour of the proposal.

11. Although the proposal is acceptable in terms of being close to Bromley Town Centre and is in a reasonably accessible location, the site is not so well located that this is a benefit that I afford more than a little weight. Similarly, whilst the appellant has identified that the proposal would bring about other social and economic benefits, these have not been clarified and I have no basis to conclude that they would be more than limited. Furthermore, whilst the appellant and the Council agree that the proposal is acceptable in all other respects, this should be expected of all development and, therefore, weighs neutrally.
12. The Framework also identifies that the creation of high quality places is fundamental to what the planning and development process should achieve and that developments should add to the overall quality of the area and be sympathetic to local character. Therefore, even allowing for the limitations of the tree in terms of its physical condition, as it would continue to contribute to the character and appearance of the area if this development were not to occur and as the presence of trees plays an essential role in the creation of a sense of place within the vicinity of the site, I afford very significant weight to the harm that would be caused as a result of its removal. The harm caused in this regard would significantly and demonstrably outweigh the benefits of the proposal and this leads me to conclude that the development would not accord with The Framework when taken as a whole.
13. Both parties identify that The BLP and The London Plan (2016) include policies that support residential development to varying degrees and I have also had regard to the increased housing supply targets set out within the emerging Intend to Publish London Plan 2019 insofar as they reinforce the continuing importance of boosting the supply of housing. However, the harm caused to the character and appearance of the area as a result of the removal of the oak tree leads me to conclude that the proposal would be contrary to the development plan when taken as a whole and that the conflict is not outweighed by other material considerations, including The Framework.

Conclusion

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

Ian Harrison

INSPECTOR