

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: 06 October 2020

Appeal Ref: APP/G5180/W/20/3249707

22 Rodway Road, Bromley BR1 3JL

- 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 Faiz Chowdhury against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/19/04682/FULL1, dated 1 November 2019, was refused by notice dated 31 January 2020.
 - The development proposed was initially described as "2 bungalows 1x2bed and 1x1bed at land rear of 22 Rodway Road."
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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; and
 - The living conditions and safety of the occupiers of the existing and proposed dwellings with particular regard to access for servicing and emergency vehicles.

Reasons

Character and Appearance

3. The appeal site is located within a mostly residential area that features two storey detached and semi-detached buildings. The buildings of Rodway Road are positioned on generous plots with there being no examples of backland development within the vicinity of the site. Whilst many buildings have parking areas to the front, the spacing around them and the presence of substantial trees and vegetation, including within the extensive rear gardens, creates a green suburban environment.
4. The appeal site consists of a parcel of land at the rear of 22 Rodway Road and an additional strip of land that connects the main part of the site to the street. The evidence before me indicates that the land at the appeal site and the gardens that have been retained at the rear of 22 Rodway Road were formerly one large garden that served a dwelling at that site, with the plot being of similar overall size to others within the locality. However, fencing now separates the land at the appeal site from the gardens at the rear of 22 Rodway Road which results in the overall plot serving the building at that site being substantially shorter than the surrounding plots.

5. The formation of a pair of dwellings at the appeal site would represent a substantial and harmful variation to the pattern of development within the locality and be unreflective of the arrangement of buildings within the surrounding area. Whereas the existing divisions of the former plot have a limited effect on the character of the area, the erection of a building at the appeal site would heighten the visual effect of the division of the former plot. The shorter gardens of the dwellings within Hawes Road do not alter my assessment of the effect of the proposal in this respect.
6. The proposed building would also harmfully erode the contribution that gardens make to the character and appearance of the area, with the effect of this being exaggerated by the development having little regard for the built form surrounding the site. Although there is some variety to the built form of the area, this does not prevent the buildings appearing as a cohesive group of mostly residential properties. Conversely, the scale and appearance of the proposed building would be substantially different to the surrounding built form to the extent that the building would have an incongruous and discordant appearance that would not be sympathetic to local character. For these reasons, the proposal would not contribute positively to the sense of place that exists within the area and would not represent high quality design.
7. Although the effect of the development on the public domain would be limited due to the size and positioning of the building and the screening that would be provided by the surrounding buildings and trees, the dwellings would be visible from within surrounding properties and, as such, the screening of the development would not wholly mitigate the effect it would have on the character of the area.
8. Whilst the proposed building would be of reduced width and include one less dwelling than was proposed at this site under the terms of a previous proposal¹, I have based my assessment on the effect of the development that is shown on the submitted plans and as such, whilst the appellant has attempted to address matters that led to the refusal of that application and the dismissal of the subsequent appeal, this does not alter my assessment in the above respects.
9. I have had regard to an appeal decision² at Commonsides, Keston, but the evidence before me indicates that the developments are substantially different and that this proposal would be located within an area of substantially different character where the buildings are arranged in a different manner. As such, I have no basis to conclude that the context or effect of the proposals would be comparable and, therefore, that decision does not alter my assessment of the visual effect of the proposed development.
10. For these reasons, the development would have an unacceptable effect on the character and appearance of the site and the surrounding area. The development would, therefore, be contrary to Policies 3, 4 and 37 of the Bromley Local Plan 2019 (The BLP) which together state that backland development will only be acceptable where there is no harmful impact upon the character, appearance or context of an area and require that development is of high quality and compliments the qualities of the surrounding area. The development would also conflict with Policies 3.4, 7.4 and 7.6 of the London Plan 2016 (The LP) which require that development takes into account local context and character, has regard to the pattern and grain of existing spaces and streets and makes a positive contribution to a coherent public realm.

¹ APP/G5180/W/19/3223960

² APP/G5180/W/19/3229270

11. The proposal would also be contrary to the National Planning Policy Framework (The Framework) which requires that development maintains or establishes a strong sense of place, is sympathetic to local character and is visually attractive as a result of good architecture and layout.
12. As Policy 1 of The BLP relates to the supply of housing it is not determinative to this matter. Furthermore, the space between the proposed building and the side boundaries of the site would be sufficient to accord with Policy 8 of The BLP. However, these factors do not alter my assessment of the proposal in the abovementioned respects.

Access for Servicing and Emergency Vehicles

13. The proposed dwellings and the refuse container storage areas would be a substantial distance from Rodway Road, with access by residents, emergency services and other services being dependent on the use of a lengthy footpath which would be particularly narrow at the point where it passes the proposed parking space and the existing building of 22 Rodway Road. No designated spaces are proposed within the appeal site for the parking of emergency or service vehicles and it is, therefore, probable that any such vehicles attending the site would be parked within the highway and a substantial distance from the proposed dwellings. As the wider forecourt at the frontage of 22 Rodway Road is outside the appeal site and is not shown to be within the appellant's control, it cannot be relied upon in this respect.
14. Neither main party has identified definitive standards relating to access for servicing and emergency vehicles. In this regard, whilst the appellant has identified that the proposal would accord with public guidance as fire appliances would be able to reach a point that is 'approximately' 45 metres from the entrance to the proposed dwellings, the source of that guidance is unspecified and the term 'approximately' provides little reassurance. I also have no basis to conclude that the provision of an outdoor water supply, smoke alarms and fire extinguishers and the use of fire resistant materials would alleviate the requirement for an adequate access to be provided or address access related to medical emergencies. Neither have I been made aware of any policy basis to support the Council's assertion that emergency vehicles must have direct access to the proposed dwellings. As such, the evidence before me does not conclusively demonstrate whether the layout would provide adequate access for servicing and emergency vehicles.
15. In this case, given that the existing building at 22 Rodway Road contains ten flats, it is likely that refuse collections, deliveries and other such servicing would occur frequently and, although 22 Rodway Road has a large forecourt and two points of access, there is a reasonable likelihood that servicing would already occur from the highway. The provision of two additional dwellings would increase the likelihood of this occurring and, whilst the evidence before me indicates that there is some on-street parking capacity, there is a significant likelihood that additional servicing at the site would heighten the extent of on-street parking, some of which might occur outside of designated spaces. As such, there would be a reasonable likelihood that access to the existing and proposed buildings would be obstructed.
16. Similarly, whilst the appellant has identified that the refuse storage containers could be relocated to the frontage of the site at the time of collection, a designated refuse collection point has not been shown and, due to the narrowness of the footpath and the positioning of the car parking space, there would be limited opportunity for the refuse containers to be relocated without causing the obstruction of the route to the existing and proposed buildings. In this regard, I

have no basis to conclude that the storage place shown on the submitted plans would be sufficiently accessible.

17. Whilst the possible obstructions set out above are likely to be moveable and temporary and are not uncommon within a residential environment, they could delay access by emergency services or cause inconvenience to residents and visitors. Therefore, in the absence of compelling evidence to the contrary, I find that the layout of the proposed development would have the potential to cause a restriction of access in a manner that could undermine the safety of the future and existing residents. Future residents being aware of the constraints of the site prior to occupying the proposed dwellings does not represent a reason to reach a different conclusion in respect of the above matters.
18. Consequently, the development would have an unacceptable effect on the living conditions of the occupiers of the existing and proposed dwellings with particular regard to access for servicing and emergency vehicles. The development would, therefore, fail to accord with Policies 4 and 37 of The BLP which together require that safety measures are included in the layout of buildings and public areas and that recycling and waste storage facilities are incorporated within the design layout. The proposal would also fail to accord with those parts of The Framework which require that safe and suitable access to a site can be achieved for all users and that development should allow for access by service and emergency vehicles.
19. As the emerging Intend to Publish London Plan 2019 (The IPLP) is at an advanced stage I consider that it can be afforded some weight and, in the abovementioned respect, the proposal would not accord with emerging Policy D11 which requires that developments provide suitable access and equipment for firefighting which is appropriate for the size and use of the development. As such the emerging policy does not provide a reason to reach a different conclusion. However, whilst the council has also cited Policy D12 of The IPLP, as this relates to noise and I have no basis to conclude that the proposal would have an unacceptable effect in that respect, that policy is not determinative in relation to this matter.

Other Considerations

20. The main parties agree that the Council is not able to demonstrate the existence of an adequate supply of housing land and, as such, the approach set out at paragraph 11d) of The Framework is applicable. Insufficient evidence is before me to establish the current extent of the housing shortfall, but both main parties have referred to an appeal decision³ from 2019 where it was identified that the extent of housing supply was, at most, 4.25 years and I have no evidence before me that demonstrates that the situation has changed.
21. The Framework provides clear support for developments that boost the supply of housing and the use of small windfall sites such as the appeal site. The Framework also supports the use of under-utilised land and, as such, I have had regard to the appellants submissions which indicate that the site has not been used as a garden or for any other purpose for a substantial period of time. Although the benefits arising from the erection of a pair of dwellings at the site would be modest in these respects, in the context of the abovementioned housing supply shortfall, they weigh substantially in favour of the proposal. Furthermore, I afford moderate weight to the limited economic benefit arising from the construction and occupation of the dwellings.

³ APP/G5180/W/18/3206569

22. However, as I have been provided with no evidence of the type of housing required to meet local housing needs, I give little weight to the appellant's suggestion that the delivery of houses for small families would address a particular need. Furthermore, whilst the size of the accommodation might enable it to be cheaper to occupy than other properties, it has not been secured as affordable housing in planning terms and, as such, this is not a factor that I find determinative.
23. Furthermore, whilst the appellant has identified that the development would be efficient in terms of energy and water use, include a green roof that would provide a habitat for biodiversity, meet standards relating to access for wheelchair users and exceed standards in relation to internal and external space, the evidence before me does not demonstrate that there would be benefits arising in these respects to an extent that should be afforded more than a little weight.
24. Conversely, The Framework identifies that the creation of high quality places is fundamental to what the planning and development process should achieve and that developments should function well and add to the overall quality of the area. Therefore, I afford very significant weight to the harm that would be caused to the character and appearance of the area as a result of the proposed development and find that the caused in that respects would significantly and demonstrably outweigh the benefits of the proposal. The effect on the safety and living conditions of future occupiers as a result of the development being served by inadequate emergency access would also be contrary to the Framework as set out above. Consequently, I conclude that the development would not accord with The Framework when taken as a whole.
25. Both parties identify that The BLP and The LP include policies that support residential development to varying degrees and I have also had regard to the increased housing supply targets and the support for the development of small sites set out within The IPLP which reinforce the continuing importance of boosting the supply of housing. However, the harm that has been identified above 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

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

Ian Harrison

INSPECTOR