



Appeal Decision

Site visit made on 15 September 2020

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2020

Appeal Ref: APP/G5180/W/20/3249559

Oakdene, 51 Bourne Way, Hayes, Bromley BR2 7HA

- 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 Oakdene Bromley Limited against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/19/04265/FULL1, dated 4 October 2019, was refused by notice dated 8 January 2020.
 - The development proposed is the construction of side extensions on either side of the existing building to create 2 x 1 bedroom flats.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Although the description of development used above indicates that the proposal would involve the creation of 2 flats, as no part of the proposed accommodation would be above or below any other built form, I shall use the more generic term 'dwellings' in reference to the accommodation which is proposed.

Main Issues

3. The main issues are the effect of the development on:
 - The character and appearance of the area;
 - The living conditions of future occupiers with particular regard to the size of the living space; and
 - The living conditions of the occupiers of 31-36 Kemsing Close and 57 Bourne Way with particular regard to the effect on outlook and privacy.

Reasons

Character and Appearance

4. The building at the appeal site is part of a group of three and four storey buildings at this part of Bourne Way, being the last such building at one side of the road before the street changes character and features detached and semi-detached dwellings. Although there is some variety to the scale and appearance of the buildings containing flats, they all sit within plots of a good size and are surrounded by large areas of grassed land and substantial trees that give the area a suburban character. Although a small parking area exists at the front of the existing building at the appeal site, the presence of large grassed areas around the building and substantial trees at the site reflects the character of the locality and, as they are prominent in the street, they make an important contribution to the character of

- the area. The existing building hosts nine flats over three floors and planning permission¹ has been granted to add three further flats within an additional floor.
5. The proposal would involve the addition of two storey projections at each side of the existing building, with each being used as a single dwelling. Although a gap between the extensions and the site boundaries would be retained, the proposal would erode the sense of spaciousness around the building and cause a harmful reduction of its green setting, thereby reducing the contribution the site makes to the character of the area.
 6. Although the trees at the side of the building are less prominent from Bourne Way than those at the front, they provide a valuable backdrop to the buildings of the area and create a sense of separation between the built form at the appeal site and Kemsing Close that contributes positively to the area. Whilst the appellant's Arboricultural Impact Assessment identifies that felling those trees would be the preferred outcome, it also identifies that they could be retained without preventing the development. In this regard, even if the trees were retained and protected as shown on the submitted plans and a condition was imposed to that effect, the extension would obscure views of a substantial part of the group of trees from some vantage points and reduce the contribution that they make to the wider area. Consequently, the harm identified above in relation to the erosion of the setting of the building would be amplified.
 7. The extensions would be substantially lower in height than the existing building and, when considered separately and cumulatively, would be well-proportioned to the width of the existing building. Moreover, the form and fenestration of the extensions would harmonise with the existing building and enable it to retain a symmetrical appearance. This would also be the case if the other approved development at the site were also implemented. However, these factors do not alter my assessment of the proposed development in the other respects set out above.
 8. The proposal that is the subject of this appeal is different in a number of respects to the proposal that was subject of a recent appeal decision² at this site and I recognise that the alternative approach taken by the appellant has addressed some of the issues that were raised previously. However, this does not alter my assessment of the effect of the development or lead me to conclude that the visual effect of the development should be found acceptable.
 9. For these reasons, the development would have an unacceptable effect on the character and appearance of the area. Consequently, the proposal would be contrary to Policies 3, 4 and 37 of the Bromley Local Plan 2019 (The BLP) which require that housing development is of a high standard of design that does not have an unacceptable impact on the character, appearance and context of an area, recognises and compliments the qualities of the surrounding area, positively contributes to the existing street scene and includes space about buildings to create attractive settings with soft landscaping. The proposal would also be contrary to Policies 7.4 and 7.6 of the London Plan 2016 (The LP) which require that development improves an area's visual connection with natural features, enhances the public realm and has regard to the pattern and grain of existing spaces.

¹ 18/03182/FULL

² APP/G5180/W/19/3229634

10. As the trees at the side of the building are proposed to be retained, the proposal would accord with Policy 73 of The BLP which requires the retention of trees. However, this does not alter my assessment of the effect of the development on the character and appearance of the area and the conflict with the other policies set out above, including that which arises from the trees making a reduced contribution to the character of the area.

Living Conditions of Neighbouring Occupiers

11. The proposed extension towards Kemsing Close would lead close to the tree belt that is adjacent to the boundary and separates the appeal site from the grounds of the adjacent three storey building. As a result, the extension would alter the outlook of the occupiers of those flats, particularly those at the end of the building that are closest to the adjacent garages. However, the retained trees and hedges would screen the extension to a degree and, even if they were not retained or were reduced in the future, the space between the extension and the adjacent flats would be sufficient to ensure that any impact on outlook would be limited. In this regard, although the extension would come closer to the neighbouring properties, it would remain within the silhouette of the side elevation of the existing building and would not be in such close proximity to those properties that it would have an overbearing effect.
12. Although not included within the reason for refusal, the Council and interested parties have suggested that the presence of first floor windows in the side elevations facing Kemsing Close and 57 Bourne Way would cause a loss of privacy within the neighbouring properties. With respect to 57 Bourne Way, the orientation of the proposed window away from the private garden area of that dwelling and the windows within the side elevation ensures that any loss of privacy would be minimal and would not discourage the use of the garden or detract from the living conditions of the occupiers of that dwelling.
13. As the area between 31-36 Kemsing Close and the boundary of the appeal site is in communal use, the level of privacy enjoyed within that area would be limited and, as such, the slight increase of overlooking caused by an additional window facing that area would be unlikely to discourage its use by the occupiers of that building. Moreover, due to the space between the proposed extension and the windows in the rear elevation of the neighbouring building, which would be at a slight angle to each other, any intervisibility between properties would be sufficiently limited to not cause an unacceptable loss of privacy. In making this assessment I have not taken into account the presence of the trees at the shared boundary which would largely mitigate any effects if they were retained as is shown on the submitted plans.
14. For the reasons given above, the proposal would have an acceptable effect on the living conditions of the occupiers of 31-36 Kemsing Close and 57 Bourne Way with particular regard to the effect on outlook and privacy. The development would, therefore, accord with those parts of policies 3 and 37 of the Bromley Local Plan which, together, require that development respects, and does not have an unacceptable impact on, the residential amenity of future and existing occupiers. Although Policies 4 and 6 of The BLP were also cited by the Council, as Policy 4 does not address this matter and Policy 6 relates to residential extensions rather than new build dwellings, I do not find them to be determinative in this case.

Living conditions of Future Occupiers

15. The description of the development, the planning application form and the submitted plans all indicate that both proposed dwellings would have one bedroom.

Therefore, whilst the proposed 7.0 square metre study rooms within each dwelling would be positioned in a manner that would be akin to a bedroom, it is reasonable to determine the appeal on the basis that the development would occur and be used as set out within the appellant's submissions. In this respect, having regard to the Technical Housing Standards - Nationally Described Space Standard (2015) (The THS), the study rooms would not be of sufficient size to be considered a single bedroom. Therefore, whilst the future use of the rooms would be difficult to control, they would not be of sufficient size to be used as a bedroom and, I have no basis to be certain that they would not be used as labelled. As a result, the overall floorspace of the dwellings would be of sufficient size to accord with the requirements of The THS.

16. Consequently, the development would have an acceptable effect on the living conditions of future occupiers with particular regard to the size of the living space. The proposal would, therefore, accord with Policy 3.5 of The LP and the London Plan Housing Supplementary Planning Document (2016)(The HSPD) which both require that development is of the highest quality internally and accords with The THS. Therefore, the proposal would also accord with Policy 4 of The BLP which requires that developments meet the minimum space standards contained within The LP and The HSPD.

Planning Balance and Conclusion

17. The proposal would represent a boost to housing supply through the provision of dwellings that the appellant has referred to as starter homes, whilst also having an acceptable effect on the living conditions of the occupiers of neighbouring dwellings and the future occupiers of the proposed dwellings. However, the development would have an unacceptable effect on the character and appearance of the site and the surrounding area and, for that reason, would be contrary to the development plan when taken as a whole. Therefore, as the proposal would be contrary to the development plan and other considerations do not lead me to reach a different decision, I conclude that the appeal should be dismissed.

Ian Harrison

INSPECTOR