



Appeal Decision

Site visit made on 1 December 2020

by M Scriven BA (Hons) MSc CMgr MCIHT MCMI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2020

Appeal Ref: APP/G1580/W/20/3253159

1 Crofton Lane and 132a Crofton Road, Orpington BR5 1HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by NFC Homes LTD against London Borough of Bromley.
 - The application Ref DC/19/04372, is dated 23 October 2019.
 - The development proposed is the demolition of existing bungalows and associated structures and the development of a block of two storeys plus accommodation in the roof space, to provide 16 no. residential units. Provision of car and cycle parking, refuse store, landscaping and boundary treatment.
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Decision

1. The appeal is dismissed and planning permission for the demolition of existing bungalows and associated structures and the development of a block of two storeys plus accommodation in the roof space, to provide 16 no. residential units, provision of car and cycle parking, refuse store, landscaping and boundary treatment is refused.

Procedural matters

2. I have considered the appeal on the plans submitted.
3. During the appeal process the Council updated their position regarding a shortfall in their five-year housing land supply. This information was provided by the appellant and is a matter of public record. I have considered the revised position below.

Main Issues

4. The main issues are the effect of the proposed development on;
 - The character and appearance of the area;
 - The living conditions of future occupiers at ground floor level;
 - The living conditions of neighbours at 134 Crofton Rd and 3 Crofton Lane and;
 - Highway safety.

Reasons

Character and appearance

5. The appeal site is located in an area consisting primarily of established low density sub-urban housing with generous separation distances between

dwellings. The two bungalows currently occupying the site, by virtue of their height and screening, create the appearance of a valuable break in the conventional two-storey built form, positively contributing to the spacious character and appearance of the area. Other flatted development does exist nearby, however the blocks sit in generous, well screened plots and respect the prevailing appearance of spaciousness.

6. The proposed development would introduce an expansive, broadly L-shaped building wrapping around much of the triangular plot. Irrespective of the proposed recessed roof arrangement and gable ends, the building would not be seen as separate distinct forms replicating houses but rather as one building of significant bulk with a long frontage. Furthermore, the footprint and overall scale of the proposal would far exceed that of any buildings nearby, including recently constructed flatted development. The resultant building would therefore appear incongruous in its setting and appear as over development of the plot. This effect would not be overcome through the use of matching materials with other buildings nearby.
7. The proposal would incorporate numerous balcony projections, albeit some are recessed, which would further add to its apparent bulk when seen from the surrounds, including Crofton Road and Crofton Lane. Furthermore, the replacement of the two bungalows with the proposed two-storey building, incorporating accommodation in the pitched roof space, combined with its positioning tight to the boundary of 134 and close to 3 Crofton Lane would result in a harmful erosion of the spacious character and appearance of the area. This harmfully dominant appearance would unlikely be meaningfully offset through any landscaping or tree planting given the proposal's height.
8. Although appearing to meet minimum standards, little useable outdoor space is proposed at ground level, with much of the remainder of the plot being utilised for parking. The expansive plot coverage, whilst meeting necessary parking requirements, would be further at odds with that which prevails, albeit it would be largely screened from view at ground level, reducing the associated harm to the character and appearance of the area.
9. I acknowledge the current footpath linking Crofton Road and Crofton Lane is somewhat unappealing to pedestrians and the proposal would result in the existing boundary treatment being replaced, creating a sense of openness. However, this of only minor benefit to the character and appearance of the area.
10. The appellant contends that the proposal would be largely screened from Crofton Road due to the existing trees along the neighbouring corner plot. However, the proposal would still be seen as an overly dominant building, in contrast to that which prevails, when approaching from the west along Crofton Road and when seen from the north down Crofton Lane.
11. That buildings of a similar size and density may be apparent in urban areas elsewhere does not mean the proposal before me is suitable in the context in which it would sit. I do appreciate that the proposal has evolved over time further to pre-application advice, however, I must consider the proposal on its own merits. Likewise, whilst I accept the proposal would make a more efficient use of the land available, this does not however justify the associated harm of the scheme before me.

12. The appellant considers that the existing bungalows could be the subject of works to create increased height and footprint under recent changes to the Town and Country Planning (General Permitted Development) (England) (Amendment) (No.2) Order 2020. However, I have no detail of such proposals before me and if constructed, such a fallback position would likely be of less harm to the character and appearance of the area than the proposal before me.
13. The appellant refers to a previous inspector's decision¹ at the neighbouring site which allowed the development of a smaller apartment block on land previously occupied by 132 Crofton road. However, I see little similarity between the two proposals beyond both consisting of flatted development. The proposal before me is for a far more harmfully expansive and intensive development than that previously allowed, on what would appear to be a similar plot size. It also appears that the allowed development sits below the height of that proposed.
14. For the reasons above, the proposed development would harm the character and appearance of the area. Therefore, the proposed development would not accord with policies 4 and 37 of the Bromley Local Plan, 2019 (BLP), which amongst other things, seek to ensure that development proposals respect and compliment the qualities of the surrounding area.
15. Likewise, the proposal would not accord with Policy 7.4 of the London Plan, 2016 (LP) which seeks to ensure development proposals have regard to the scale and mass of existing buildings in the area. I have also had regard to the Draft London Plan Policy D2, which has similar intentions.

Living conditions of future occupiers

16. The proposed three-bedroom ground floor units' living rooms and bedrooms would face out on to public parking areas and paths, with little separation distance between these areas and the proposed windows of the apartments. They would also be particularly close to main access points of the proposal, increasing likely footfall. Likewise, the two-bedroom ground floor apartments would face out on to the public footpath. This would enable clear sight into habitable rooms of the proposed dwellings from passers-by and as such be harmful to future occupiers. The arrangement would also create a harmful lack of privacy to available outdoor space of future occupiers. This matter is clearly illustrated in the associated computer-generated imagery which accompanies the proposal, albeit I accept the images are intended to be indicative.
17. I accept that harm to privacy could be reduced through appropriate landscaping conditions. However, there appears to be little opportunity to accommodate screening to the rear and to the existing footpath without having an adverse effect on outlook. I also cannot be certain that imposing such conditions, if the proposal were otherwise acceptable, would not adversely effect available daylight to habitable rooms. Likewise, the proposal before me would assist with natural surveillance of the currently tightly bound footpath and this benefit would be largely lost if high vegetation was planted.
18. The appellant contends that it is not uncommon to have windows, at close proximity, looking out on to public areas in suburban settings. However, I have no evidence before me to consider this to be expected or considered acceptable in this location.

¹ APP/G5180/W/17/3184366

19. I acknowledge that future occupiers living conditions would not be harmed with regard other matters such as artificial light and noise. However, these are no more than neutral considerations.
20. As such, the proposal would harmfully affect the living conditions of future occupiers. Therefore, the proposed development would not accord with policies 4 and 37 of the BLP, which together, amongst other things, seek to ensure development proposals are formulated to ensure a high standard of design, respecting the amenity of future occupants, including the provision of sufficient usable private outdoor space.

Living conditions of neighbours

21. The western flank wall of the proposed building would be positioned tight to the boundary with No 134, broadly in line with the current garage. However, it would run back some distance along the boundary over what would appear as three floors. The flank wall would be harmfully seen as a dominant, expansive, brick wall from the property, particularly from the elevated rear living room, patio, first floor balcony and bedroom which sits behind it. This would create a significantly harmful effect of enclosure, adversely and substantially diminishing the enjoyment of the property.
22. The high north flank wall would be clearly apparent from the habitable side rooms of 3 Crofton Lane, creating an effect of enclosure. However, the separation distance between the proposal's north flank wall and No 3 is wider than with No 134 and the side windows of the property partially face out on to the existing boundary hedging. Therefore, I do accept that the resultant harm to the neighbours' outlook would be less than to 134, nonetheless the proposed arrangement would result in moderate harm.
23. The privacy of the current occupiers of No 134 would not in my view be adversely affected as the proposal incorporates landscaping in addition to the retention of several existing boundary trees and the proposed windows and balconies largely face away from the property. Likewise, the existing balcony of No 134 is already visible from neighbouring plots and lacks privacy. Given the separation distance of the proposal I do not consider the proposal to adversely affect the privacy of neighbours at No 3 in any harmful way.
24. There would be a reduction in daylight to bedroom windows at No 3 which exceeds that as outlined in Building Research Establishment (BRE) guidance as being acceptable. The current eaves arrangement, in my view does not materially reduce daylight to the property to an effect that would make the modelled loss of daylight acceptable. The bedroom usage would in my view lessen the associated harm to living conditions as such rooms are generally used less than a living room. However, this still represents harm to the existing situation.
25. An absence of harm to the living conditions of occupants of other existing properties nearby is of no more than neutral weight.
26. Therefore, whilst not effecting the privacy of neighbours, in my view the proposal would result in harm to neighbours' outlook and daylight. As such the proposed development would not accord with Policy 37 of the BLP, which seeks to ensure intended development respects the living conditions of neighbours.

Highway safety

27. The proposal would utilise the two properties' existing accesses, with some apparent widening works. Although the proposal would clearly result in increased usage of the accesses than that which currently exists, I have little substantive evidence before me to consider that this would result in harm to the safety of highway users. The proposal has been the subject of a satisfactory road safety audit, I also note that the highway authority did not object to the proposals and no notable amendments are proposed to existing highway geometry.
28. There does appear to be some ambiguity concerning the visibility splay of the proposed access on to Crofton Road. However, if the proposal were otherwise acceptable a condition regarding the keeping of visibility splays free from obstruction would be appropriate.
29. Therefore, with the appropriate use of conditions, the proposal would accord with Policy 32 of the BLP which seeks to ensure development proposals do not adversely effect the safety of highway users. For the same reasons the proposal would accord with Policy 6.3 of the LP.

Other matters and planning balance

30. Notwithstanding a significant level of local objection to the proposal, a number of representations of support were also received. The reasoning for support included matters addressed above as well as increased income for the Council to spend on wider service provision, more affordable housing and housing suitable for workers nearby. However, there is no affordable housing component to the proposal and any increase in income for the Council would likely be offset by the increased demands on services. I do accept that the proposal would add to the local housing mix, which weighs in its favour.
31. Local representations also made reference to matters which the Council have not objected to including the site's location, provision of cycle storage, effect on trees and air quality. However, these matters are of neutral weight.
32. The appellant has provided a signed and dated Unilateral Undertaking, including contributions for education, healthcare, carbon offsetting, waiting restrictions and monitoring, as identified as being necessary by the Council to offset the effect of the proposal on service provision.
33. The proposed development conflicts with the Development Plan in relation to its effect on local character and appearance, as well as the living conditions of neighbours and future occupants. That I have not found harm to highway safety or that there is no objection from the Council regarding an absence of affordable housing or other matters related to the Development Plan is of neutral weight. Likewise, that conditions could be imposed relating to various matters if the development was otherwise acceptable, including landscaping and drainage, a construction management plan and arboricultural management plan, is of neutral weight.
34. The proposal would result in an energy efficient development, that would be sustainably located and would provide adequate access to necessary goods and services. The scheme would provide a net increase of 14 dwellings to the local supply and make more efficient use of existing land. Whilst this is a small contribution in the context of the overall housing shortfall, this weighs

significantly in the proposal's favour. There would also likely be economic benefits relating to its construction and support to local shops and services in the future, albeit these are unquantified by the appellant. Some minor public benefit would also likely be gained from the improved natural surveillance of the existing footpath.

35. Further to a previous Appeal decision², the main parties agree that the Council is unable to demonstrate the existence of an adequate forward supply of housing land. The Council's most up to date position is that it can demonstrate a 3.31 year supply. As such, the approach set out at paragraph 11d) of The Framework is applicable. This states that where a five-year housing supply cannot be demonstrated, those policies most relevant to determining the application are out of date and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
36. Although considered out of date, I consider the main policies referred to above to be broadly consistent with Framework's three dimensions of sustainable development. There are also policies in the BLP which seek to support housing development on unallocated sites and making more efficient use of land as reflected in the Framework.
37. 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. The harm to the living conditions of neighbours and future occupiers would also be contrary to the Framework.
38. Applying the Framework's tilted balance at paragraph 11d), taking all the harm that I have identified, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The scheme does not therefore benefit from the Framework's presumption in favour of development, and it would conflict with the Development Plan.

Conclusion

39. Therefore, having had regard to the Development Plan and Framework as a whole, the appeal is dismissed and planning permission is refused.

M Scriven

INSPECTOR

² APP/G1580/W/18/3206569