



Appeal Decision

Site visit made on 23 November 2020

by Chris Couper BA (Hons) DiP TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30/12/2020

Appeal Ref: APP/G5180/W/20/3252726
138 Murray Avenue, Bromley BR1 3DT

- 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 James Clark against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/20/00461/FULL1, dated 31 January 2020, was refused by notice dated 7 May 2020.
 - The development proposed is a detached single storey one bedroomed house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - The character and appearance of the area; and
 - The living conditions of nearby occupiers.

Reasons

Character and appearance

3. The dwellings along this stretch of Murray Avenue are mainly substantial, two storey buildings, often in a similar style. They are set back from, but directly face, the broad, tree-lined highway. Most sit on very large plots, with their long rear gardens backing onto the similarly proportioned gardens of the properties in South View. The gardens are generally heavily-landscaped, and contain only a few small, ancillary structures, such as sheds.
4. The gardens and their vegetation can be glimpsed in the streetscene, and are clearly visible from the properties themselves. As an area's distinctive local character is derived not just from what can be seen from public vantage points, these gardens contribute significantly to this area's verdant, spacious and secluded ambiance, and its sense of place.
5. The proposed dwelling would have an off-street parking area adjacent to Murray Avenue. A narrow, predominantly pedestrian access would lead from

there to the proposed dwelling, which would be sited towards the end of No 138's garden.

6. There are garages associated with flats at The Chilterns nearby. Notwithstanding that, in this location, set well away from the road, and at the very end of No 138's long rear garden, the dwelling's siting would be very much at odds with the area's prevailing grain and pattern of development. The scheme would introduce a large single storey building, sited very close to its boundaries, into an area, to the rear of the surrounding frontage properties, which is relatively free from built development.
7. Whilst retained landscaping, and the dwelling's 'living walls', would partially mitigate the scheme's visual impact, they would not disguise its rectilinear form; and its long side walls would be taller than the adjacent boundary fences. Although the dwelling would not be visible in the streetscene, in views from some nearby properties, particularly their gardens, the siting of this relatively large structure would appear discordant.
8. Residents typically use most intensively those parts of their gardens closest to the house, including to sit outside or to entertain. Consequently, as a result of this scheme, there would be significant noise from domestic activities, as well as comings and goings, in an area well to the rear of the surrounding frontage properties, which is characterised by its tranquillity.
9. Whilst not replicating the area's local architectural style, considered in isolation, the dwelling's imaginative and contemporary design, including its timber-clad and 'living' walls, would be appropriate, and would respect the area.
10. However, given its siting, the proposal would cause substantial harm to the character and appearance of the area. It would therefore conflict with Policies 3 and 37 of the Bromley Local Plan 2019 ('BLP'). Although these encourage imaginative and sustainable designs, they also require development, including on gardens, not to have an unacceptable impact on the character, layout and context of the area.
11. It would also conflict with the broadly similar stance in Policies 3.4, 7.4 and 7.6 of The London Plan 2016 ('LP'), parts of which state that proposals shall have regard to the local pattern and grain of development. Whilst the Framework seeks not to prevent appropriate innovation and change, it also requires development to be sympathetic to local character and maintain a strong sense of place. The scheme would not accord with that approach.

Living conditions

12. In common with many nearby properties, the scheme's off-street parking area would be next to Murray Avenue. There would be only a narrow, mainly pedestrian access beyond there. No 138 has a door facing this access, whilst No 140's side elevation sits behind a boundary fence and does not contain principal openings. Even if vehicles were to occasionally drive passed these properties, such movements associated with a one-bedroom dwelling would typically be infrequent. After the initial construction period, disturbance and inconvenience to residents as a result of vehicular movements would therefore be limited.
13. However, there would be noise as a result of typical domestic activities associated with the proposed dwelling and the use of its adjacent garden. This

could include noise from internal uses escaping through open patio doors, as well as from outdoor activities and entertaining.

14. I cannot be certain that the dwelling would always be occupied quietly for retirement living. Given that it, and its garden, would be very close to the boundary with neighbouring plots, including those on South View, the scheme would result in significant noise and disturbance adjacent to the end of those properties' long rear gardens, in a location where those occupants could reasonably expect significant peace and quiet.
15. For those reasons, the scheme would cause limited harm to the living conditions of nearby occupiers. It would thereby conflict with those parts of BLP Policy 37 and LP Policy 7.4 which state that schemes should respect neighbouring amenities and ensure that occupants are not harmed as a result of noise and disturbance; and that the design response should ensure that people feel comfortable with their surroundings. It would also conflict with the broadly similar stance at paragraph 127 f) of the Framework.

Other matters

16. I have no substantive evidence that security is a significant local concern, or that the scheme would assist with crime prevention. Additionally, notwithstanding its fauna-friendly green walls, I have no persuasive evidence that the proposal would significantly enhance biodiversity.
17. In its favour, this would be a carbon neutral dwelling, which would make use of sustainable 'passive house' technologies, including good insulation, solar panels, ground source heat pumps and earth tubes systems; with recorded data being made public during the building's life cycle.
18. It would also be an accessible dwelling, which would be suitable for independent retirement living. It could therefore help address the need for such accommodation in Bromley, whilst 'freeing-up' the host property.
19. These are modest benefits, which find support in the development plan, including parts of BLP Policy 37 and LP Policy 7.6; along with the Framework, including its section 14; and other documents including those cited at Appendix 3 of the appellant's statement.
20. Additionally, it would contribute to the supply of housing in a location close to services and amenities. In that regard it finds support from the development plan, and from the Framework's requirement to significantly boost the supply of housing. Although only a single house would be delivered, this is a significant benefit given that the Council acknowledges in its delegated report that it does not have a five year housing land supply.

Planning Balance and Conclusions

21. I have found that the scheme would cause substantial harm to the character and appearance of the area, and would cause limited harm to nearby occupiers' living conditions, contrary to the development plan. However, given that the Council cannot demonstrate a five year housing land supply, those policies which are most important for determining the application are out-of-date.
22. Having regard to the three dimensions of sustainable development as set out in the Framework, whilst there would be significant benefits, particularly from the

scheme's contribution to housing supply and its use of sustainable and renewable technologies, there would be substantial harm due to the adverse impact on the character and appearance of the area, and additional harm arising from the impact on nearby occupiers' living conditions.

23. Applying the Framework's tilted balance at paragraph 11d), taking the harms that I have identified, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits that it would deliver 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 sustainable development, and the decision should be taken in accordance with the development plan.
24. I have found that the scheme would conflict with the development plan and, having regard to all other matters raised, including all representations by interested parties, the appeal is therefore dismissed.

Chris Couper

INSPECTOR