



Appeal Decision

Site visit made on 30 November 2020

by Chris Couper BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02/03/2021

Appeal Ref: APP/G5180/W/20/3251273

28 Bruce Grove, Orpington BR6 0HF

- 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 C Pasterfield (Dryden Way Building Company Limited) against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/19/04343/FULL1, dated 3 October 2019, was refused by notice dated 9 January 2020.
 - The proposal is the development of land off Dryden Way to the rear of 28 Bruce Grove with nine flats, and a new courtyard and communal garden spaces, and four off street parking spaces.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Planning Inspectorate Procedural Guide: Planning Appeals – England (2020) states that the appeal process should not be used to evolve a scheme, and that what is considered by the Inspector should be essentially what was considered by the Council, and on which interested people's views were sought.
3. In this case, the appellant has submitted amended plans with the appeal showing revisions to the proposal, which seek to address aspects of the Council's refusal of planning permission. These revisions include the addition of balconies and a change to the building's internal layout.
4. However, these represent material changes to the scheme that was considered by the Council and upon which consultation with interested parties was undertaken. As I cannot be certain that all parties are aware of those changes, my acceptance of the amended plans could prejudice them. I have therefore not accepted those amendments, and I have determined the appeal on the basis of the plans submitted to, and refused by, the Council.
5. Since the application was determined, an Historic Environment Desk Based Assessment by Armour Heritage has been prepared. Having regard to its findings, and a letter from Historic England dated 22 May 2020, the Council has withdrawn its fourth reason for refusal. I have no reason to disagree with it that, in the event that the appeal is allowed, the issue can be dealt with by means of a condition requiring the submission of a written scheme of investigation. I have not therefore addressed this matter further.

Main Issues

6. The main issues are:

- the effect of the proposed development on the living conditions of neighbouring occupiers;
- whether future occupants of the proposed flats would experience suitable living conditions; and
- the effect of the proposal on the character and appearance of the area.

Reasons

The impact on neighbouring occupiers' living conditions

7. According to the Council's calculations, at its closest point, the proposed building would be around 12 metres from the rear face of 28 Bruce Grove ('No 28') and 26 Bruce Grove ('No 26').
8. This part of the proposed building would be two storeys high and, as illustrated by Proposed Elevational Section B:B, it would not be set down into the ground relative to No 28. Whilst it would be angled away from No 28, it would span much of the length of the proposed new garden boundary. Given its bulk and height, with its flat roof significantly above No 28's eaves line, and its proximity to Nos 28 and 26, the proposed building would have a significant overbearing impact on those occupiers. Notwithstanding some landscaping, that impact would be felt looking out from their main rear habitable room windows and, given the building's proximity to the plot's boundaries, from their rear gardens.
9. There would also be a direct view, at very close quarters from the proposed bedroom windows of flat 8 looking straight down into No 28's rear garden and, at a slight angle, to the windows in its rear elevation. The overlooking that would cause would have a significant adverse impact on those occupants' privacy.
10. Additionally, given its height and its siting roughly to the south of Nos 28 and 26, from the limited available evidence, I cannot be certain that the proposed building would not have a significant overshadowing impact and cause significant loss of light to those occupants.
11. Given that the dwelling at 30 Bruce Grove is much further from the proposed building, that its main habitable room windows do not face the site, and that it has a large rear garden parts of which are a significant distance from the boundary, the scheme would not impact those occupants' living conditions to a harmful degree.
12. With reference to Proposed Elevational Section D:D and the proposed building's set down into rising ground, its top floor recess behind a wall, landscaping, and the significant distance, I have reached the same conclusion regarding the impact on the nearest dwellings in Lodge Crescent. Any view towards residential properties from those parts of the proposed top floor terrace which are not enclosed by a privacy screen would be fairly distant.
13. Paragraph 127 f) of the National Planning Policy Framework ('Framework') requires development to provide a high standard of amenity for existing and future users. As the scheme would substantially harm the living conditions at

Nos 26 and 28, and irrespective of the views of their current occupants, it would conflict with that approach.

14. It would also conflict with the stance in Policy 37 of the Bromley Local Plan 2019 ('BLP') which, amongst other things, requires development to respect the amenity of existing and future occupants of neighbouring buildings. However, as BLP Policy 4 does not address neighbouring amenities, it is of limited relevance on this issue.

The living conditions experienced by occupants of the proposed flats

15. Amongst other things, BLP Policy 4 sets out that housing should be provided with sufficient external private amenity space, and that it shall be accessible and practical. Its supporting text continues that ground floor flats should have access to private gardens, and that dwellings on upper floors should have access to private amenity space.
16. That approach is reflected in the Mayor of London Housing Supplementary Planning Guidance 2016 ('SPG') which states that one or two person dwellings shall be provided with a minimum of 5sqm of private outdoor space, with an extra 1sqm for each additional occupant, with dwellings on upper floors provided with level access to an outdoor space, such as a balcony.
17. Proposed ground floor flats 1 to 3 would be provided with their own private garden. The top floor flat would also have an appropriate outdoor terrace with privacy screen.
18. The first floor flats would not have their own outdoor space, but would have access to the communal garden. However, whilst that garden would be landscaped, I am not persuaded that it would provide an appropriately private place for the occupants to sit outside and relax, as it would typically be overlooked by the nearby ground floor flats, including flat 4 which would have glazed doors leading directly onto it from its living/dining space. Large parts of the garden would also be very close to pathways leading to the building's entrances or to the cycle store.
19. Furthermore, as flats 5 and 6 would have two bedrooms, they could potentially be occupied by families, who may reasonably require an area outside to play.
20. For those reasons, the scheme would not provide suitable living conditions for all the occupants of the proposed flats. On this issue it would therefore conflict with BLP Policy 4 part c), and Policy 3.5 of The London Plan (2016) which states that housing should be of the highest quality, having regard to matters including the provision of outdoor space. It would also conflict with the SPG, Framework paragraph 127 f), and with the similar approach in the emerging Draft London Plan.

Character and appearance

21. There are mainly two storey semi-detached houses along the nearest stretch of Bruce Grove, with some flats and a terrace further to the west. However, No 28 has a particularly large rear garden which borders Dryden Way. Here the character is markedly different, with many large commercial and retail buildings, car parks and, diagonally opposite the site, a Day Centre.

22. Not all the rear gardens of the properties on this side of Bruce Grove border Dryden Way. Some of the dwellings to the north-west of the appeal site are on much smaller plots, and have much shorter rear gardens facing a commercial building which is set down below Dryden Way.
23. Given its location, public views of the proposed building would be largely from Dryden Way, a pathway to the east, and looking down Lych Gate Road. It would have an 'L' shaped plan with a recessed top floor; and it would be faced with bricks, painted render, glazing and parklex 'timber-look' cladding.
24. Whilst it would be much more prominent in the Dryden Way streetscene than the commercial building to the north-west, its impact would be partly tempered by its set down into rising ground. Its form, articulation and palette of materials would add visual interest to the streetscene. Its scale would not appear out of place given the large buildings nearby, and it would provide a focal point and a 'frontage' on this rather anonymous corner site.
25. The building would be set back from Dryden Way behind a small parking area and landscaped gardens, and there would be a gap to the plot's western boundary. Whilst it would abut the pathway to the east, as it would be set down into the rising ground, and as its top floor would be slightly recessed, it would not have an overbearing impact viewed from there. The building would not appear discordant or cramped on the plot.
26. For those reasons, the proposal would not harm the character and appearance of the area, and it would accord with those parts of BLP Policies 4 and 37 which, in broad terms, require development to be imaginative and of high quality, to positively contribute to the streetscene, and to complement its surroundings, having regard to matters such as scale, form, layout and setting. It would also accord with the broadly similar approach to good design and respect for local character in the Framework.

Other matters

27. I have no persuasive evidence that safety is a particular concern here, and I therefore attach very limited weight to the claimed surveillance benefits. As the site forms part of a residential garden in a built-up area, it does not meet the Framework's definition of previously developed land.
28. In its favour however, the scheme would make an efficient use of under-utilized land to deliver nine flats, in an accessible location close to all the amenities and facilities of Orpington town centre, which future residents may help to support. There would also be economic and employment benefits during construction, and I have no doubt that this small site could be built out relatively quickly.
29. The scheme finds particular support from the Framework's requirement to significantly boost the supply of housing. Although the Council states that it is making progress in addressing its five year housing land supply shortfall, with permission having been granted for 280 dwellings at Langley Court, I have no evidence that it can do so at present. This is therefore a significant benefit.

Planning Balance and Conclusions

30. The scheme would cause substantial harm to adjacent occupiers' living conditions, and it would not provide good living conditions for all its future occupants. In those regards it would be 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.
31. The scheme would introduce a street frontage, and there would be a significant social benefit from the delivery of nine flats, as well as modest economic benefits. Nevertheless, applying the Framework's tilted balance at paragraph 11d), taking the substantial harms that I have identified, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits the scheme would deliver when assessed against the policies in the Framework taken as a whole. It does not therefore benefit from the Framework's presumption in favour of sustainable development.
32. Whilst I have considered other issues raised by interested parties, given my findings on the main issues, it has not been necessary for me to address them. The scheme would conflict with the development plan when considered as a whole, and the appeal is therefore dismissed.

Chris Couper

INSPECTOR