
Appeal Decision

Site visit made on 10 December 2020

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2021

Appeal Ref: APP/C5690/W/20/3254302

26 Hillbrow Road, Bromley BR1 4JL

- 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 Stellar Hillbrow Ltd against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/19/112020, dated 5 April 2019, was refused by notice dated 15 May 2020.
 - The development proposed is described as demolition of existing dwelling. Erection of one and two-storey residential buildings to create 6No. self-contained dwellings (C3). Provision of parking and landscaping.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Stellar Hillbrow Ltd against Council of the London Borough of Lewisham. This application is the subject of a separate Decision.

Preliminary Matters

3. The appellant has submitted amended plans, responding to the reasons for refusal detailed in the decision notice. The 'Procedural Guide – Planning Appeals – England' advises that¹: If an appellant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh planning application.
4. The appeal process should not be used to evolve a scheme, particularly where interested parties' views have previously been expressed. Nonetheless, in this instance, I am satisfied that the development proposed is not so changed by the amended plans that to grant it would deprive those who should have been consulted on the changed development of the opportunity of such consultation, in particular I note that a number of the changes proposed by the appellant would, if accepted, be subject of a suitably worded condition.

Main Issues

5. The main issues are the effect of the proposed development on:
 - i. Highway safety

¹ Annex M.1.1

- ii. The living conditions of the occupiers of neighbouring properties.

Reasons

Highway safety

6. The appeal property is accessed along an unadopted road that is in a poor state of repair and lacks suitable footpath provision. At my site visit I saw that resident's cars were parked along the road in an ad-hoc manner and pedestrians often walked in the road.
7. The site is poorly connected, the Officer's report details the site has a PTAL rating of 1b, on a scale of 0 (worst) to 6b (best) accessibility to public transport. While the appellant has submitted a PTAL rating of 2, this still represents poor connectivity. The appellant has submitted² evidence detailing car ownership in the area and suggesting that the appeal scheme could result in demand for two on-street parking spaces, a small increase on the existing situation, the statement refers to a worst case scenario of demand for 4 on-street car parking spaces.
8. The appellant's report³ details adjacent roads that do benefit from footpaths and so provide links to the train station and other facilities. Nonetheless, the report identifies, in tables 5.2 and 5.3, that the appeal scheme would result in a substantial increase in the number of trips from 15 to 90 across a 12-hour period. These trips would, by necessity, use Hillbrow Road either by vehicle or on foot. I note that the appellant has referred to other developments⁴ in the local area, I have not been provided with all the details of these schemes and in any event, each development is determined on its own merits.
9. As such, the appeal scheme would result in additional demand for on-street car parking and materially significant car and pedestrian trips along a road that is poorly maintained and often lined by cars, thus harming highway safety.
10. Turning to the issue of the absence of step free access to any of the proposed dwellings, the appellant refers to the revised plans and the inclusion of "a 'Part M compliant' access platform lift". I am satisfied that the provision of such a facility, while not the optimum solution, would nonetheless address the absence of step free access. The provision and retention of such a lift could be the subject of a suitably worded condition attached to any permission resulting from this appeal.
11. To conclude this main issue, for the reasons detailed previously I find that the appeal scheme would have an unacceptable impact on highway safety contrary to Paragraphs 108 and 109 of The National Planning Policy Framework (the Framework), Policy D3 The London Plan (2021), and Policy 14 of the Lewisham local development framework Core Strategy (the CS) that seek amongst other matters to promote accessibility and highway safety.

Living Conditions

12. The Officer's report refers specifically to the balcony of Unit 5 and the effect of it on the living conditions of the occupiers of the adjacent property, 28 Hillbrow Road with regards a loss of privacy. The amended plans have been altered, to

² Appeal LBL Statement of Case Response - Technical Note, dated 26 November 2020

³ Transport Statement 4 April 2019

⁴ Including Hillbrow Road (16/04910/FULL1) and Sunset Hill (refs: 15/02144/FULL1; APP/G5180/W/15/3137512)

include diagonal white metal screens (louvres) to the balcony. The detail and provision of these louvres could be controlled by a suitably worded condition placed on any planning permission resulting from this appeal.

13. The Council details that the first floor balcony for Unit 5 would be 8.1m from the shared boundary with No.28. I saw at the site visit that this would provide views of the property, including the garden immediately adjacent to the building, where the greatest use is likely to take place and a level of privacy is reasonably expected. While the proposed louvres would restrict the views from the balcony across the appeal site to the rear of No.28, a clear sense of overlooking would nonetheless remain.
14. Furthermore, the side elevation of the balcony of Unit 5 and the ground and first floor windows of Unit 6 would provide views towards the rear gardens of properties facing on to Calmont Road, specifically nos, 57, 59 and 61. The submitted plans show that there is very little space within the appeal site to provide a buffer or separation from Units 5 and 6 and the occupiers of the neighbouring properties.
15. I note that the rear gardens of Calmont Road are long and often divided into separate spaces. Nonetheless I saw at the site visit, including viewing from the neighbouring properties, that the proposed development would be located at a notably higher level than the rear gardens of the Calmont Road properties, amplifying the sense of and actual overlooking resulting in loss of privacy for the occupiers of those properties.
16. For the reasons detailed above I find that the appeal scheme would harm the living conditions of the occupiers of neighbouring properties and thus is contrary to paragraph 127 of the Framework, Policy 15: High quality design of the CS, and Policy DM32 Lewisham local development framework Development Management Local Plan that seek to protect the living conditions of the occupiers of properties neighbouring new development, amongst other matters.

Other Matters

17. The appeal scheme would provide 6 new dwellings, replacing the single dwelling currently on the site. The appeal scheme would therefore make a positive contribution to the housing supply in the area. This is a material consideration that weighs in favour of the appeal scheme but does not outweigh the harm I have previously identified.

Conclusion

18. The appeal is dismissed

Mark Brooker

INSPECTOR