



Appeal Decision

Site visit made on 26 May 2021

By Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 June 2021

Appeal Ref: APP/G5180/W/20/3259722

Land Adjacent, Park Hill House, 1 Park Hill, Southborough Road, Bickley, Bromley BR1 2JH

- 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 A Stiggear against the decision of The London Borough of Bromley Council.
 - The application Ref DC/20/01536/FULL1, dated 23 April 2020, was refused by notice dated 31 July 2020.
 - The development proposed is erection of detached 2 storey, 5 bedroom dwelling, with accommodation in roof space, integral garage and integral 1 bedroom annex at ground floor.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are the effects of the proposed development on:
 - The character and appearance of the local area and the setting of a non-designated heritage; and
 - the living conditions of potential future occupiers development and those of the occupiers of 3 Park Hill with reference to outlook and privacy.

Procedural Matters

3. Since Bromley Council's (the Council) refusal of the application Ref DC/20/01536/FULL1, the Mayor of London has adopted a new London Plan. In line with Planning Practice Guidance, my consideration of the issues of this appeal has, therefore, been on the basis of the National Planning Policy Framework (the Framework), the policies of the Bromley Local Plan (2019) (the Local Plan) and the London Plan (2021) (the London Plan). The appellant and the Council have confirmed that this is not prejudicial to their cases.
4. The description of development varies between the documents submitted for the purposes of this appeal. As the description on the Council's decision notice appears to most accurately describes the proposed development, I have used this description.

Reasons

Character and Appearance

5. The area local to the appeal site is defined by predominantly detached houses and bungalows with relatively generous garden spaces and significant numbers of trees, including many of significant size and apparent maturity. This gives the area a spacious and verdant character and appearance.
6. The proposal is for a 5 bedroom dwelling including an integral annex, on land adjacent to Park Hill House, 1 Park Hill (No 1), a locally listed building. The appeal site currently only appears to have the remains of small disused outbuildings and is a generally open site that forms a significant part of the setting for the non-designated heritage asset at No 1 and appears to have been part of the original garden space for this residential property.
7. The National Planning Policy Framework (the Framework) sets out how planning authorities should seek the conservation and enhancement of the historic environment and establishes that good design is a key aspect of sustainable development, indivisible from good planning. It also sets out that the effect on the significance of a non-designated heritage asset should be taken into account in determining the application.
8. The rearmost part of the proposed dwelling is that part that forms the proposed integral annex. This approximately matches the rear building line of No 1. The rest of the rear of the house does, however, step further away from the boundary that the appeal site and No 1 share with the rear adjoining property at 3 Park Hill. The front of the proposed dwelling faces on to Southborough Road, and similar to No 1, this is where the majority of the garden and amenity space associated with the proposed dwelling would be located.
9. Whilst I do not find that the proposed dwelling would constitute a cramped form of development on the site, it would project further forward than the large traditionally built conservatory on the Southborough Road side of No 1. Due to this projection and the proposed massing of the proposed house of 2 stories plus roof, it would be prominently positioned and significantly taller than the single storey conservatory that is an apparent and attractive architectural feature of No 1, and which forms an important part of its significance as a non-designated heritage.
10. When viewed from the street in Park Hill this would result in the proposed dwelling appearing as dominant, overbearing and intrusive in the background of No 1. Further, when viewed side by side from along Southborough Road the bulk and forward massing of the proposal would result in it appearing as unduly prominent and incongruous in relation to the No.1.
11. For these reasons I do not agree with the appellant argument, or the conclusion of their heritage statement, that the proposed development would have no impact on the significance of No1 as a non-designated heritage asset.
12. Further, I also find that, for the reasons given above, the proposed dwelling would be detrimental to the streetscene and townscape and, thereby, to the character and appearance of the local area.

13. Consequently, I find that the proposal would cause unacceptable harm to the character and appearance of the local area and less than substantial harm to the significance of the non-designated heritage asset at No 1. As such it would be contrary to Policies 4, 37 and 39 of the Local Plan and Policies D3 and HC1 of the London Plan, which seeks to ensure that development proposals affecting the setting of heritage assets should conserve their significance, is of a high standard of design, respects local character, spatial standards and compliment the qualities of the surrounding areas, contributing positively to the existing street scene.
14. In accordance with Paragraph 197 of the Framework, I address the balance of the harm to the significance of the non-designated heritage asset against public benefits in my conclusion below.

Living Conditions

15. It is acknowledged that the proposed dwelling would sit towards the rear of the appeal site and its boundary with the rear garden of 3 Park Hill (No 3) and would also fill much of the available width of the appeal site. However, the scale and massing, separating distances and side space gaps to neighbouring residential developments would appear to reflect the spatial characteristics of the local area, including that of other recent residential development in the area, particularly that to be found in the detached houses on the adjacent Laurel Gardens. For these reasons and, given the quantum of garden space that would remain, the proposal would not constitute a cramped form of development that would be detrimental to the living conditions of potential future occupiers.
16. Whilst the proposal would result in a change of outlook from No 3, the proposal would reflect the relationship that exists between No 1 and No 3, particularly as experienced from the rear garden of No 3 and would not result in a degree of enclosure that would be experienced as overbearing by its residential occupiers.
17. However, given the extent and largescale format of the fenestration to the rear façade of the proposed dwelling, including that to the living space in the roof, its scale and proximity to No.3 would result in significant overlooking of the rear rooms and particularly the garden space of this neighbouring property. This would be experienced by the residential occupiers of No 3 as intrusive to the extent that it would result in a loss of privacy that would cause significant harm to their living conditions.
18. I have had regard to the appellants suggestion that a condition could potentially be applied to protect the living conditions of neighbouring occupiers, by requiring extensive areas of the proposed rear glazing to be obscure glazed and non-openable. However, whilst this could be potentially successful in removing opportunities for overlooking, it would result in a significant amount of enclosed living spaces at the rear of the proposed dwelling, with light but no outlook, which would be experienced oppressive by any future occupiers, thereby causing significant harm to their living conditions. Such an approach would therefore not make an unacceptable development otherwise acceptable, as set out in paragraphs 54 and 55 of the Framework and Planning Practice Guidance.

19. For these reasons, the proposed development would be contrary to Policy 37 of the Local Plan and Policy D3 of the London Plan, which seek to ensure that developments respect the amenity of occupiers of neighbouring buildings and deliver appropriate privacy.

Other Matters

20. Whilst the appellant has made reference in their appeal statement to proposed alterations to the proposal that were suggested by the appellant at the pre-application stage, I have considered the proposal as submitted.
21. I acknowledge the appellant's view that the proposal would better meet their family needs and potential future occupiers, however, in general, planning decisions should be made in the wider public interest and I have afforded this moderate weight in my considerations.
22. Whilst the previous approval¹, for a detached house, brought to my attention by the appellant and the Council, establishes the principle of such development on the appeal site, this would have been considered on its own merits. I have likewise done the same with the appeal proposal, which is a fundamental principle that underpins the planning system.

Planning Balance and Conclusion

23. Paragraph 11d, footnote 7 of the Framework states that where there are no relevant development plan policies, or the policies most important for determining the application are out-of-date (including housing, where the LPA cannot demonstrate a 5 year supply of deliverable housing sites), 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 taken as a whole.
24. When this is the case, and as this appeal relates to the provision of housing, the need for the proposal to be considered against paragraph 11d is triggered. However, although the proposal must be determined within the context of paragraph 11d, I consider the Local Plan and London Plan policies to be a material consideration within this decision, which carry full weight in so far as they conform to the Framework. Policies 4, 37, 39 of the Local Plan and Policies D3 and HC1 of the London Plan are the most relevant to this appeal and are consistent with Sections 12 and 16 of the Framework, which seek to achieve well-designed places and conserve and enhance the historic environment.
25. According to the Government's Housing Delivery Test: 2020 the Council has a significant projected housing shortfall on that required. The Council's projected housing shortfall is also below that identified in the London Plan (2021).
26. As I have identified above, the appellant has not submitted material that would justify the significant harm to the living conditions of neighbouring residential occupiers, the unacceptable harm to the character and appearance of the local area and less than substantial harm to the significance of a non-designated heritage asset, contrary to Local Plan Policies 4, 37 and 39 as well as London Plan Policies D3 and HC1.

¹ Planning Ref: 16/03750/FULL1

27. In light of the Council's housing land supply position, paragraph 213 of the Framework makes it clear that weight should be given to existing development policies according to their degree of consistency with the Framework. Section 12, Paragraph 127 of the Framework recognises that development should be sympathetic to local character, accommodate and sustain an appropriate amount of development on its site and add to the overall quality of the area and create places with a high standard of amenity for existing and future users. Section 16, paragraph 197 requires a balanced judgement to be taken with regard to the effect on the significance of a non-designated heritage asset.
28. Even taking account of the objective of significantly boosting the supply of homes and the Council's supply position, the conflict between the proposal and the relevant parts of Policies 4, 37 and 39 of the Local Plan and Policies D3 and HC1 of the London Plan should be given significant weight in this appeal.
29. Set against the harm identified there would be social and economic benefits associated with the development. The appeal site is relatively small in terms of its ability to provide housing, and the proposal would provide a single 5 bedroom dwelling, albeit with an integral annex. Although a small contribution to the overall housing target for the London Borough of Bromley, small housing schemes do collectively make a major contribution to the number of new residential units, as further recognised in Policies H2 of the London Plan, which seeks to increase the supply of housing on small sites, and I have given this significant weight in my considerations. The proposal would also generate employment opportunities during its construction and through the employment of local services for its upkeep and maintenance when occupied. In connection with the single additional dwelling proposed, these benefits attract modest weight in favour of the proposed development.
30. Consequently, I conclude that the harm to the character and appearance of the local area, the living conditions of neighbouring residential occupiers and the significance of a non-designated heritage asset that I have identified, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
31. The proposal would conflict with the development plan as a whole and there are no other material considerations which outweigh this finding. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Victor Callister

INSPECTOR