



Appeal Decision

Site Visit made on 7 June 2021

by Mark Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2021

Appeal Ref: APP/E5330/W/20/3260346

29 Bramshot Avenue, London SE7 7HY

- 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 Altaclara (Bramshot) Ltd against the decision of Royal Borough of Greenwich.
- The application Ref 20/1678/F, dated 9 June 2020, was refused by notice dated 17 August 2020.
- The development proposed is described as 'erection of a detached 1 bedroom dwelling to rear - Re-submission'.

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the site address from the appellant's appeal form, as the site address given on the planning application form did not state the number of the property.
3. The appellant submitted an amended plan as part of the appeal¹. The amended plan shows that the outdoor space to the south of the proposed dwelling would be a communal garden area which the appellant confirms could be shared by the occupants of the two upper floor flats and the future occupants of the proposed dwelling. A separate private garden would be retained by the ground floor flat.
4. The amended plan did not form part of the scheme that the Council made its decision upon. I am not aware that all those who should have been consulted on the proposed changes have been given the opportunity of such consultation. The Procedural Guide to Planning Appeals – England states that the appeal process should not be used to evolve proposals. Having regard to the Wheatcroft principles², I consider that this appeal must be determined on the basis of the plans submitted to the Council and upon which it based its decision, which have been subject to consultation and not the suggested amendments. To do otherwise could prejudice unacceptably the interests of interested people who would not have been consulted on the amended plans and who may have observations to make.
5. The London Plan March 2021 was published subsequent to the submission of the appeal and replaces the London Plan 2016. The main parties were given

¹ Drawing ref EFP/19080 – 1 rev c

² Wheatcroft (Bernard) Ltd v Secretary of State for the Environment (1982) JLP 37

the opportunity to comment on the relevance of this to the appeal. I have had regard to any comments received and the new London Plan in my decision.

Main Issues

6. The main issues are the effect of the development proposed on (i) the living conditions for the future occupiers of the dwelling, with regard to outlook and private outdoor amenity space; and (ii) the living conditions of the occupiers of the upper floor flats within 29 Bramshot Avenue, having regard to outdoor amenity space.

Reasons

Living conditions for the future occupiers of the dwelling

7. No 29 Bramshot Avenue is an end terraced property which is in use as three self-contained apartments. The proposed dwelling would be sited on an area of land at the rear of the property, which is a shared amenity space for the occupants of No 29, and is also accessible from a communal access from Eastcombe Avenue. The appeal site is enclosed by the gardens of neighbouring properties to the north and east with a group of trees and a railway line to the west.
8. The proposed dwelling would take the form of a one bedroom unit with accommodation over two floors, including a living/dining room and kitchen on the ground floor with the bedroom and bathroom within the basement. The bedroom would be served by two angled windows in the east facing elevation. Given the depth of the lightwell and proximity of the facing retaining wall, the bedroom windows would feel enclosed and have an extremely oppressive outlook. As a result, the proposed scheme would result in the only bedroom within the dwelling having an unacceptable outlook. It is reasonable to expect that a not insignificant proportion of the occupiers' day would be spent within the bedroom.
9. The submitted Daylight Assessment concludes that the proposed accommodation would be provided with acceptable levels of daylight and sunlight. Although it would be a single aspect dwelling, I accept that a reasonable outlook would be afforded to the habitable rooms on the ground floor. However, this would not justify allowing sub-standard living accommodation at basement level by reason of poor outlook.
10. The private outdoor amenity space for the proposed dwelling would be located to the front of the proposal and extend partly over the walkable glass above the lightwell. It includes an area for cycle storage and bins. Policy D6 of the London Plan 2021 and the Mayor of London Housing Supplementary Planning Guidance (March 2016) (SPD) advise that a minimum of 5sq.m of private outdoor space should be provided for 1-2 person dwellings and it must achieve a minimum depth and width of 1.5m.
11. From the evidence, in terms of the overall area provided and its depth and width the outdoor amenity space for the proposed dwelling would exceed the quantitative standard, as set out in Policy D6 of the London Plan and the SPD. Although part of the outdoor space would extend over the lightwell and would be relatively narrow, in view of the modest scale of the accommodation that would be provided, the private outdoor space would be adequate for the likely number of occupiers. Furthermore, this area would be afforded a sufficient level

of privacy by the proposed boundary treatment. I therefore find that the proposed development would provide adequate private outdoor amenity space for future occupiers.

12. Nevertheless, the proposed dwelling would not provide adequate living conditions for future occupiers due to poor outlook from the bedroom windows. The proposal would therefore fail to comply with policy H5 of the adopted Core Strategy with Detailed Policies (2014) (the Core Strategy) and Policies D3 and D6 of the London Plan 2021 which, amongst other things, seek to ensure that new housing is of high quality design, including provision of appropriate outlook and amenity.

Living conditions of the occupiers of the upper floor flats

13. The occupiers of the existing upper floor flats currently have access from the main hallway to the communal amenity space to the rear of the property. That is in line with the plan approved as part of a previous planning application³ for the conversion of the building to flats, which identified a communal space for the upper floor flats amounting to 82sq.m and a private outdoor space of 29sq.m for the ground floor flat.
14. The proposed dwelling would occupy a large proportion of the communal space. The site plan for the appeal indicates that the ground floor flat would continue to have a private outdoor area. However, that plan does not identify any outdoor amenity space for the residents of the upper floor flats, other than the communal access corridor, which would not be private as it would provide access to the proposed dwelling.
15. I find that the proposal would be harmful to the living conditions of the occupiers of the upper floor flats, having regard to the loss of outdoor amenity space. Accordingly, the proposal would fail to accord with policy H(c) of the Core Strategy, which states that residential development on backland and infill sites will only be favourably considered where, amongst other things, there is no unreasonable reduction in the amount of amenity space enjoyed by existing residents, especially for those houses with the shared use of a garden. The proposal would also be contrary to Policies D3 and D6 of the London Plan 2021, where they seek to ensure that residential development is served by sufficient outdoor space.

Other Matters

16. I have had regard to the benefits of the scheme, including the provision of one additional dwelling to housing supply, and the economic benefits arising from employment opportunities created during the construction phase of the development and spending in the local area by future occupants. However, only limited weight is attributable to these benefits given the scale of the development proposed. The benefits of the proposal do not individually or cumulatively outweigh the harm I have identified.
17. Nearby residents have raised other concerns with the proposal, including the effect on their privacy and increased pressure on parking spaces in the area, which are not directly related to the reasons for refusal. Whilst I have had regard to all matters that have been raised, these do not alter my decision.

³ Council ref. 17/4036/F

18. The appeal scheme is a resubmission of a previous application refused by the Council. I appreciate that the appellant has attempted to overcome the concerns previously raised, but the development as proposed would be harmful for the reasons I have identified.

Conclusion

19. For the reasons given above, having considered the development plan as a whole, the approach in the National Planning Policy Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Mark Ollerenshaw

INSPECTOR