



Appeal Decision

Site Visit made on 7 September 2021

by G Rollings BA(Hons) MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2021

Appeal Ref: APP/G5180/W/21/3267042

Land rear of 15 Fox Hill, Anerley, London, SE19 2UX

- 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 Fox Hill Development RH Ltd against the decision of the London Borough of Bromley.
 - The application Ref DC/20/01601/FULL1, dated 30 April 2020, was refused by notice dated 29 July 2020.
 - The development proposed is the erection of a 4no. bedroom dwelling with associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has advised that the fourth reason for refusal, relating to parking, is no longer contested. As such, I will consider the appeal on the basis of the remaining reasons for refusal and matters raised by interested parties.
3. New versions of the *London Plan* (2021) and the *National Planning Policy Framework* (2021) supersede previous versions, and I have taken these into account, together with any representations received.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the Belvedere Road Conservation Area, with additional reference to a tree protected by a tree preservation order (TPO); and
 - The effect of the proposed development on the living conditions of surrounding occupiers, with particular reference to outlook, daylight and sunlight, and privacy.

Reasons

Character and appearance

5. Much of the Conservation Area is characterised by villa-type dwellings, although there is a variation throughout the area as a whole, both in dwelling type and style and plot size. Parts of the area, such as Tudor Road, appear more built-up and dense. The north side of Fox Hill is less dense although road-facing gaps between properties, such as that on the appeal site, are few

within the Conservation Area and are not a defining feature of its significance. Rather, its significance is derived from the strong perimeter-based layout around blocks, expansive open areas behind road-facing buildings, and the large, often grand forms of the buildings within.

6. The retained birch tree is the standout feature of the site and is clearly visible from both road approaches. So that this can remain as such, the proposed dwelling would be set back from the road to retain crown and root clearance. Although this is a positive siting response to the tree, consequentially there would be limited clearance between the dwelling and rear and side boundaries. Nonetheless, given the variation in siting and plot sizes around the area, the siting of the proposed dwelling would not be out of character and would be consistent with the defining characteristics of the area's significance. Siting and massing of the dwelling would mean that it remains relatively obtrusive in the approach views, with the focus remaining on the tree.
7. Turning to the appearance of the dwelling, it would have a modern design that would not seek to compete with the heritage style of the adjoining dwellings. The use of high-quality materials, together with its massing, would not necessarily cause it to stand out in street views; rather, it would complement the existing buildings and appear subordinate in terms of height, whilst retaining its own clear identity.
8. The main outlook of the rooms within the new dwelling would be towards the retained tree. Bespoke construction techniques would avoid interference with roots and branches, and I am satisfied that the methods set out in the appellant's arboricultural statement are sufficient to ensure the longevity of the tree. The plans indicate that the windows would be generally set away from the crown, and would be south-facing. Although there may be pressure by future inhabitants to reduce the crown, the required works would be minimal and would not inhibit the tree's long-term survival.
9. I therefore conclude that the proposed development would not have a harmful effect on the Belvedere Road Conservation Area, and that it would preserve its character and appearance, and its heritage significance. There would also be insubstantial harm to the birch tree, and the proposal would not conflict with the Council's *Local Plan* (2019) Policies 3, 4, 37, 41, 43 and 73, or London Plan Policies D1, D4 and HC1. Together, these require high quality development that respects and complements the design of conservation areas, among other considerations.

Living conditions

10. The side and rear building elevations would have limited windows and none would enable overlooking into adjoining properties' habitable rooms or gardens; rather, high-level and galleried windows on these elevations would allow light ingress and restrict views. Whilst I acknowledge that there could be an impression of overlooking by nearby residents, the lack of direct views would not justify a dismissal of the appeal on this basis.
11. The building would be to the south of adjoining properties' gardens. I am aware that the previously existing tree cover on the appeal site has been significantly reduced and that this affected sunlight levels in the gardens of the flatted buildings of 13 Tudor Road and 17 Fox Hill. The garden of No. 13 is terraced, with different garden areas used by the occupiers of the various flats on this

site, and appeared well-used and tended at the time of my visit. Although the site's overall garden area is long, I am concerned that the rear portion of the garden would be overshadowed by the building, thereby depriving the residents of the ground floor flat sunlight within their garden area. I have minimal evidence that this would be better or worse than that of the previous tree cover, but the effect caused by the dwelling would detrimentally affect the living conditions of the occupiers of this property.

12. Shadowing of the garden and upper balcony of No. 17 would be less pronounced and I am satisfied that the massing of the appeal building and the layout of the neighbouring property's garden areas would lead to minimal loss of daylight.
13. The building would be a direct presence in views from both of the aforementioned adjoining sites. I appreciate that its stepped design is intended to reduce the visual impact on adjoining properties and that outward views from these homes would be largely unaffected. However, its proximity to the boundary would have an enclosing effect on the lower garden terrace of No. 13 and the patio and balcony areas of No. 17, and despite the façade treatment, the building would appear dominating in other views from these areas.
14. I therefore conclude that the proposed development would have a harmful effect on the living conditions of surrounding occupiers, with particular reference to outlook, and daylight and sunlight, although privacy would be unaffected. It would conflict with Local Plan Policies 3, 4 and 37, which require new development to respect the amenity of occupiers of neighbouring buildings, amongst other considerations.

Other Matters

15. The appellant has indicated that the Council does not have a deliverable five-year housing land supply. However, in this case I have given housing supply issues only limited weight, as I consider that the benefit gained in providing an additional housing unit is outweighed by the detrimental impact of the proposed development.
16. I have read the large number of submissions from interested parties, both objecting to and in favour of the development, and taken these views into account, together with the appeal decisions for other sites within the Conservation Area and beyond, which were provided to me by the main parties.

Conclusion

17. Although the proposal would provide a new dwelling built to a high standard of design which would preserve the Conservation Area, it would harm the living conditions of adjoining property occupiers. The harm outweighs any other benefits derived from the development.
18. For the reasons given above I conclude that the appeal should be dismissed.

G Rollings

INSPECTOR