
Appeal Decision

Site Visit made on 7 September 2021

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: Tuesday 19 October 2021

Appeal Ref: APP/G5180/W/21/3268094

Land to the rear of 5 Hamlet Road, London SE19 2AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Tal Mandola, CP Hamlet Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref: DC/20/02798/FULL1, dated 22 July 2020, was refused by notice dated 22 October 2020.
 - The development proposed is construction of a part single storey, part two storey terrace comprising four residential dwellings (2 two bedroom; 1 one bedroom; and 1 three bedroom) with associated pedestrian access to the side of No.5 Hamlet Road, cycle store, refuse store and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A new version of the London Plan (LnP) was published in March 2021 and a new version of the National Planning Policy Framework (the Framework) was published in July 2021. The parties have had opportunity to comment on the engagement of these policy documents in relation to the appeal, and so will not be disadvantaged by my consideration of them.

Main Issues

3. The main issues in this case are:
 - The effect of the proposed development on the living conditions of neighbouring residents, with particular regard to privacy, noise, disturbance, and parking; and
 - The effect of the proposal on highway safety.

Reasons

Living conditions of neighbours

4. The appeal site comprises an area of overgrown land to the rear of No 5 Hamlet Road and an accessway from Hamlet Road which runs between the side of this building and the side boundary of neighbouring dwelling No 3. No 5 is a detached residential building which contains several flats.

5. The relatively narrow strip of land to the side of No 5 would be the sole access route to the proposed four new dwellings for residents and their visitors, access to bins, and people servicing and delivering to these properties.
6. The appeal scheme would entail a substantial new refuse store located at the front of No 5 Hamlet Road. This would generate comings and goings, and noise of residents of the proposed dwellings carrying refuse close to flat No 5A's kitchen window and door. Other movement and activity, that would comprise residents of the proposed dwellings accessing these properties, their visitors and people servicing and delivering to these properties would further add to the comings and goings uncomfortably close to No 5A, and within its garden area. These comings and goings may well include people pushing bicycles and scooters.
7. The above together would result in a concentration of comings and goings at a pinch-point, that would uncomfortably intrude into the domestic tranquillity of residents of No 5A Hamlet Road, and to a lesser extent, No 3 Hamlet Road. It would also disrupt the privacy and sense of intimacy of home and garden space for residents of flat No 5A. Together, this would impair neighbouring residents' enjoyment of their homes.
8. Porous surfacing and a planter dividing the proposed ramp and steps would moderate some noise of footsteps, for example. However, these measures are unlikely to acceptably reduce the overall impression of comings and goings so close to the other dwellings. Also, I have no certainty of the longevity of the proposed porous surfacing, or resistance to potential future pressure to replace it with more conventional, hard surfacing. Consequently, these measures would not be a demonstrably dependable remedy to the above concerns.
9. That the noise levels arising from the new residents are forecast to not exceed World Health Organisation Guidelines for Community Noise for 'moderate community annoyance' and sleep disturbance¹ does not negate the above combination of adverse impacts in this case, and my consequent findings.
10. Furthermore, the reduction in off-street parking space on the forecourt of No 5 is likely to inconvenience residents of this building.
11. In conclusion, the proposal would harm the living conditions of neighbouring residents in terms of privacy, noise and disturbance, and parking. As such, the proposal would conflict with Policies 3, 4 and 37 of the London Borough of Bromley Local Plan (LP) and Policy D3 of the LnP. Together, the policies seek to ensure that development safeguards residents' living conditions and enhances the quality of local places.

Traffic and highway safety

12. The proposed refuse store would provide some separation of pedestrians and vehicles on No 5's forecourt. Judging by the swept path analysis by the appellant's transport consultant, the proposal may lead to safer manoeuvring on and off the forecourt. Also, the convenient access to walkable facilities and public transport in the locality, and proposed car-club membership would provide some opportunity for car-free living for future occupants.

¹ According to the Side Passageway Noise Assessment by the appellant's acoustic consultant.

13. That said, during my site visit, albeit a snapshot in time, I saw that on-street parking is restricted on the south-eastern side of Hamlet Road, with apparently limited spare capacity in the relatively built-up area in the vicinity of the appeal site. This is within the context of Hamlet Road apparently being regularly used by traffic to and from Anerley Road. Furthermore, the parking analysis evidence indicates that parking occupancy is typically especially high during the day, with parking stress at times just below practical capacity. The proposed four dwellings, with a total of eight bedrooms, are likely to generate some additional traffic and parking demand within this context,.
14. Together, the proposed refuse store and additional vehicle use generated by the proposed dwellings would increase pressure on on-street parking capacity. The proposal would also increase the risk of servicing and delivery vehicles parking at the bus stop in front of No 5, with associated risks to driver and pedestrian safety. This combination of factors would add new risk of hazardous vehicle manoeuvring in the locality, with consequent harm to highway safety.
15. As such the proposal would conflict with Policies 30 and 32 of the LP and Policy T6 of the LnP, which together seek to safeguard highway safety, including through adequate servicing provision.

Other Matters

16. Other developments beyond Bromley, as cited by the appellant, do not alter the above specifics in this case and my consequent findings.
17. Residents' concerns have been expressed about the impact of the proposal on the character and appearance of the Belvedere Conservation Area, and compliance with national spacing standards, which go beyond the reasons for refusal. As I am dismissing the appeal on other grounds, it is not necessary for me to consider these matters further in this instance.

Planning Balance and Conclusion

18. I consider that, for the purposes of making my decision, there is a supply shortfall of deliverable housing sites in the London Borough of Bromley of in the region of 1.7 years². Therefore, policies which are most important for determining the application are to be considered out of date. The tilted balance, as set out in paragraph 11 of the Framework, thus applies.
19. The proposal would contribute to local housing supply in the form of four dwellings with a total of eight bedrooms, with relatively convenient access to local facilities and public transport, and associated socio-economic benefit during and after construction. Also, the proposal may lead to safer manoeuvring on and off the forecourt of No 5 Hamlet Road, albeit this would be tempered by other, adverse highway safety impacts. Together the benefits would be limited in scale.
20. I appreciate that the Framework sets out a presumption in favour of sustainable development but even where the tilted balance is engaged, the benefits of additional housing do not necessarily outweigh all other concerns. Moreover, case law has found that even where policies can be considered out of date, this does not mean they carry no weight. The balancing exercise remains a matter of planning judgement.

² As indicated by the Council's Planning Officer's Report.

21. Given the totality of harm identified above, I conclude that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefit, when assessed against the policies in the Framework taken as a whole.
22. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal fails.

William Cooper

INSPECTOR