
Appeal Decision

Site Visit made on 24 August 2021 by S Witherley CIHCM MRTPI

Decision by Zoe Raygen Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2021

Appeal Ref: APP/G5180/W/21/3268420

45 Gravel Road, Bromley BR2 8PE

- 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 Michael Theobald against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/20/03094/FULL1, dated 24 August 2020, was refused by notice dated 3 November 2020.
 - The development proposed on the application form is: Proposed subdivision of existing plot (No. 45 Gravel Road) into two with shared pedestrian and vehicular access and construction of a new single storey dwelling at rear.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. A new London Plan 2021 was published in March 2021 and this post-dates the Council's refusal notice. The Council referred to the following London Plan 2016 Policies 7.4, 7.5 and 7.6 in their decision notice. I afforded the main parties an opportunity to advise which policies in the new London Plan they now consider relevant to the development and to comment upon the implications of these for the purposes of determining this appeal. The Council confirmed that they now consider the following Policies, D3, D4 and D6 from the new London Plan 2021 to be the most relevant similar policies. I have determined this appeal in accordance with the relevant parts of the development plan including policies in the London Plan 2021.

Main Issue

4. The effect of the proposal on 1) the character and appearance of the area; and 2) the living conditions of neighbouring occupiers by way of noise and disturbance, and privacy.

Reasons

Character and appearance

5. The appeal site forms part of the rear garden of No. 45 which is an extended chalet type dwelling with first floor habitable rooms in the roof space and single storey garage to the side.
6. The appellant asserts that the appeal site is previously developed land primarily due to the presence of a dilapidated garage and due to it never being used entirely as a garden. However, the definition of previously developed land within the National Planning Policy Framework (The Framework) specifically excludes land in built up areas such as gardens. Furthermore, at the time of my site visit I was unable to observe any visible evidence that the site was used for any other purposes than a garden. Therefore, I do not consider the appeal site constitutes previously developed land.
7. Gravel Road like its surrounding streets comprise a mature suburban area which contains a varied mix of property types, sizes and styles with most properties being large and sitting in equally large and spacious plots. The majority of properties are set back from the road with the front gardens containing a mix of both soft and hard landscaping. To the rear, the gardens along this part of Gravel Road appear long with intermittent vistas of mature trees made possible between some properties. This gives the wider area, and the immediate vicinity of the appeal site, a sense of spaciousness.
8. The proposed dwelling would be sited towards the southernmost corner of the appeal site, with at least 1 metre from the boundaries with adjacent dwellings. Access would be taken from Gravel Road which would run past the side of the proposed replacement garage associated with No. 45.
9. Despite attempts to ensure the siting, form, orientation and layout of the proposed dwelling reduces the overall height and mass of the proposed dwelling, the resulting plot size of the proposal and that of the host garden would be significantly reduced in size which would be uncharacteristic of the area. Therefore, while the proposal may meet side space standards contained within Policy 8 of the London Borough of Bromley Planning Division Local Plan (2019) (BLP), it would still result in a form of development that would be clearly at odds with the established character of the area which is in part due to the important sense of openness that is derived from the existing generous back-to-back gardens.
10. Furthermore, the proposal's design, which features a flat green roof along with a number of elevations incorporating large vertical window openings, would be in stark contrast to the design and style of the surrounding dwellings. The majority of which feature traditional hipped or pitched roofs, simple elevations with notable front entrances which typically overlook the highway. As a result of these design and siting differences, the proposed dwelling would appear as an incongruous insertion into the surrounding rear garden and would not sit comfortably.
11. Whilst I acknowledge that there are existing single storey buildings in a number of the surrounding neighbouring gardens, these appear domestic in scale and ancillary to the host dwelling. The proposal, on the other hand would appear very much as a separate residential dwelling with its own separate residential parking area at odds with the surrounding properties and their associated plot sizes.

12. Furthermore, despite the proposal been located in the rear garden of No. 45 and thereby not readily visible from the front of Gravel Road, its rear location would not mitigate against the harm that would arise as a result of its uncharacteristic siting and design in relation to the established surrounding development. As such, while it may be considered an effective use of land, the proposal would give rise, as a result of its design, scale and density to an unacceptable impact upon the character and appearance of area.
13. Taking the above matters into consideration, I conclude on this main issue that the proposal would significantly harm the character and appearance of the area. This would be in contrast to the requirements of Policies 3, 4 and 37 of the BLP which seek to ensure that development in backland or garden land respects, complements and positively contributes to the areas existing character and appearance.
14. These policies are consistent with the design objectives of Policies D3, and D4 of the London Plan 2021 and the Framework the intentions of which are to ensure development is well designed, responds to the site context and takes account of the areas character.
15. The Council also refers to Policy 1 of the BLP in its reason for refusal. However, that policy concerns Housing Supply rather than character and appearance and therefore it has not been determinative in this matter.

Living Conditions

16. The Council are concerned the proposal would give rise to unacceptable levels of noise and disturbance, particularly as a result of the proposed access and parking area. Although the proposed driveway would replace an existing garage, it would continue to run along the rear of adjacent properties introducing activity into what is currently quiet private garden space. Even though there are some small outbuildings, given the intrusion into garden space, I consider that as a result of vehicle lights, noise from car radios, vehicle doors closing and vehicle comings and goings, adjoining neighbouring occupiers would be subjected to an unacceptable material increase in the levels of noise and disturbance above what is already experienced.
17. In addition, the Council note that the proposal would result in the loss of privacy from overlooking to neighbouring dwellings and gardens along Barnet Drive. Having said that, as the proposal is single storey and there are already existing high boundary treatments, I do not consider it likely that the proposal would impact on neighbouring or future occupiers' privacy whilst they are in their respective gardens or when in their homes given the separation distances and existing boundary treatments. The proposal would not therefore impact on the living conditions of neighbouring occupiers by loss of privacy.
18. In conclusion on this main issue, whilst not being material harmful to the living conditions of neighbouring occupiers by way of loss of privacy, it would have an adverse impact as a result of noise and disturbance. It would therefore not fully comply with Policies 3,4 and 37 of the BLP which, amongst other things, seek to achieve suitable living conditions and amenity for occupiers and which are consistent with the aims of Policies D3 and D6 of the LP and the Framework which also seek to ensure the amenity of existing and future occupiers is not affected by new development.

Other Matters

19. The appellant has drawn my attention to a number of previously approved planning applications and an appeal and asserts these have set precedents for future development proposals.
20. I have reviewed each in turn. Example 1 – Langham Close. This approved scheme relates to a single storey side extension and conversion to an existing garage to a habitable room. The permission, granted in 2012, pre-dates the adopted 2019 BLP. Whilst I have not been provided with the full details of the approved scheme or the circumstances around its approval, I do not consider that the schemes are comparable. Particularly, as the previous scheme relates to a household extension and the site circumstances appear very different.
21. Example 2 – Petten Grove. Approval was granted for the demolition of an existing garage and erection of a two storey three-bedroom dwelling. Having viewed the details submitted, given the differences between the schemes and the differing site circumstances, there are no comparisons to be made between them. Moreover, I am not aware of the circumstances behind its approval and given that the scheme was granted in 2017 it is unclear whether the previous policies in that assessment were comparable to the requirements of the policies in the adopted 2019 policies of the BLP.
22. Example 3 – Clarendon Road. This planning approval was granted permission for a detached two storey 3 bed dwelling on land adjacent. This approval was granted in 2016, no details of the circumstances around its approval have been submitted and again its permission predates the policies adopted in the 2019 BLP. From reviewing the details before me, the scheme sought permission for a two-storey dwelling on land that appears to traverse the rear of a number of different residential plots with an independent access. I see no comparisons between that previously approved scheme and the one before me.
23. Example 4 – Gillmans Road. This planning approval relates to a detached dwelling on land at the rear of 91 Gillmans Road. This approval was granted in 2018 and again predates the adopted 2019 BLP. Whilst limited details of the scheme have been provided, the site context of the approved scheme is in no way comparable to the one before me given that it sits adjacent to a highway.
24. Example 5 – 22 Crofton Lane. This relates to a planning appeal from 2013 for access and the erection of 2 two storey dwellings. Again, given the date of the appeal, it was assessed against earlier policies and it is unclear whether the policy requirements were the same as those adopted in the 2019 BLP. The details before me indicate the 2013 appeal site comprised of the ends of three long gardens which I do not consider is comparable with the appeal site before me.
25. Having reviewed the examples provided, I do not consider that they set a precedent for future development proposals. In the main, the examples submitted by the appellant are not considered comparable to the proposal or the site-specific circumstances of the appeal before me. In any case, each appeal is to be considered on its own individual merits and I have found that the proposal for the above reasons would harm the character and appearance of the area and also harm the living conditions of nearby neighbouring occupiers by way of noise and disturbance.

Planning Balance and Conclusion

26. The Council note that they have a significant undersupply of housing and cannot demonstrate a five-year housing land supply. Therefore paragraph 11 of the Framework and the presumption in favour of sustainable development is engaged.
27. Paragraph 11 (d) states in circumstances such as this, 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.
28. The addition of one single storey dwelling would make a minor contribution to the short fall of housing and I afford the associated social and economic benefits limited weight. Therefore, the significant adverse impacts to the character and appearance of the area and the harm to resident's living conditions would significantly and demonstrably outweigh the limited benefits when assessed against the policies in the Framework as a whole.
29. The Framework does not change the statutory status of the development plan in terms of decision making. I conclude that the identified harm arising from the proposal results in conflict with the development plan that is not outweighed by the other material considerations in this case.
30. For the reasons given above, and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

S Witherley

APPEAL PLANNING OFFICER

Inspector's Decision

31. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall dismiss the appeal.

Zoe Raygen

INSPECTOR