



Appeal Decision

Site visit made on 26 January 2022

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February 2022

Appeal Ref: APP/G5180/W/21/3278379

44, Lynton Avenue, Orpington BR5 2EH

- 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 Zona Nathan Onubogu against the decision of The Council of the London Borough of Bromley.
 - The application Ref DC/20/04351/FULL1, dated 20 October 2020, was refused by notice dated 2 March 2021.
 - The development proposed is the proposed conversion of existing class B1 office into 2 self contained flats with, basement excavation, front and side extension with associated refuse and bicycle storage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect of the proposed development on the living conditions of the future occupiers of the proposed basement flat with particular reference to outlook.

Procedural Matters

3. The most recent London Plan was published in March 2021. Reason 2 of the Council's decision notice refers to superseded Policy 3.5 of the 2016 London Plan. Both the Appellant's and the Council's statements of case acknowledge the 2021 London Plan. I have therefore referred to the London Plan 2021.
4. The National Planning Policy Framework (the Framework) was also updated in July 2021. The Appellant's statement pre-dates this update, however, regarding the relevant sections of the Framework identified in my decision, the updates to the Framework in July 2021 did not materially change these relevant sections.

Reasons

Character and appearance

5. Located adjacent to the existing detached house at 44 Lynton Avenue, the existing building is a single-storey building with an asymmetrically pitched roof.

While it is adjacent to No 44, it faces Sidmouth Road. The immediate character of the area is primarily residential, defined by a mix of detached, semi-detached and terraced two storey dwellings of differing architectural styles. Plot sizes vary and there is a general sense of spaciousness between the buildings with some generous gaps evident. This part of Sidmouth Road has a strong building line and this contributes positively to the established street scene.

6. Following the earlier refusal of a proposal to demolish the existing building and erect a 2.5 storey build containing 2 flats, the proposed development seeks to excavate ground levels around the appeal building to create a basement floor as well as extending it to the front and side at ground floor and basement level. While the basement area would be partially below ground level, the ground floor would be visible in the street scene.
7. The appeal proposal would extend significantly toward Sidmouth Road and would substantially close the gap between the existing appeal building and the front boundary. Notwithstanding the mixed character of the area, this forward projection would occupy much of the frontage of the appeal site and given its height, width and depth would be prominent within the street scene. This projection would breach the well-defined building line along this side of Sidmouth Road. This would undermine local character and appear incongruous within the street scene.
8. The proposed plot size would be smaller than surrounding plot sizes. Given the change in levels, the proposed side extension would have a reduced presence in the streetscape. Nevertheless, the proposed side extension would still be visible and it would substantially close the existing gap with the house at 44 Lynton Avenue. While I acknowledge the minimum side space requirements of Policy 8 of the Bromley Local Plan 2019 (Local Plan), Policy 8 also explains that 'where higher standards of separation already exist within residential areas, proposals will be expected to provide a more generous side space'. In this case, the proposed side extension, significant closure of the gap to No 44, the smaller proposed plot size, and loss of spacing to the front of the site would all combine to create a cramped development. Consequently, it would be harmful to the character and appearance of the area, particularly when viewed within the spacious context in which the appeal site sits.
9. While the appeal proposal would promote efficient and effective use of brownfield land and appropriate innovation or change should be encouraged, development should also safeguard and improve the environment and maintain an area's prevailing character and setting. In this case, I have found harm to the character and appearance of the area and the efficient and effective use of land would not outweigh this harm.
10. The appellant states the appeal proposal has been subject to pre-application advice with the Council and this shaped the submission. While the appeal proposal may have evolved following Council feedback, I have considered the appeal on its own merits and the existence of pre-application feedback does not change my findings.
11. I have also considered the planning history and findings of the Inspector in the previous appeal decision, reference APP/G5180/A/12/2181751, in coming to my decision.

12. The proposed development would therefore harm the character and appearance of the surrounding area. Accordingly, I find conflict with Policies 4, 8 and 37 of the Local Plan which, amongst other things, seek to ensure that development is sympathetic to the character and appearance of the area and retains sufficient side space.

Living Conditions

13. The proposed basement would be sited partially underground within the area to be excavated. Views outside from all the openings within the proposed basement flat would be principally onto hardstanding, boundary treatments and retaining walls. These boundary treatments and retaining walls would be sited close to these openings. Consequently, there would be reduced opportunities for a clear outlook from the basement flat or for occupiers to have open views of the sky and land beyond the tight confines of the appeal site. While dual aspect design has been incorporated, the limited separation from retaining walls and austere view from all the openings within the proposed basement flat would harm the outlook for future occupiers of this flat to an unacceptable degree.
14. My attention was drawn to examples of other dwellings elsewhere these are in different streets with varying layouts, building lines and internal layouts. These examples are not directly comparable to the appeal proposal. Consequently, they do not alter my findings set out above.
15. The Council raises a concern about the loss of outlook from the garden area of No 44, in its Statement of Case. However, this is not reflected within the reasons for refusal as articulated in the decision notice. Given my findings on the main issues there is no need for me to consider this matter further.
16. The proposed development would therefore have a harmful effect upon the living conditions of future occupiers of the proposed basement flat with particular reference to outlook. It is therefore contrary to Policies 4 and 37 of the Local Plan and Policy D6 of the London Plan 2021. These policies, amongst other things, address the need for high quality housing design and layout and to respect the amenity of future occupants.
17. The Council made reference to the Mayor of London's Housing Supplementary Planning Guidance 2016 in their reason for refusal. However, it is not clear which sections of this document the Council relies on in relation to outlook. Accordingly, I have not referred to this document in my conclusion.

Planning Balance

18. The Council is unable to demonstrate a five-year supply of deliverable housing sites in accordance with the framework. As such, paragraph 11 of the Framework should therefore be applied.
19. Paragraph 60 of the Framework refers to boosting significantly, the supply of housing and the provision of two additional units would make a limited contribution in this regard. I also accept this is in an urban area where access to facilities is likely to be greatest and there would be a small social benefit in providing two extra housing units. There would also be modest economic advantages which would arise from the construction and occupation of two new units.

20. The appellant also considers that the design of the proposal would be sustainable and reduces the carbon footprint of the development, however, no details have been provided on how this will be achieved. Consequently, this carries modest weight.
21. While I afford the benefits modest weight the harm to the character and appearance of the area and living conditions of future occupiers of the basement flat as identified above would be significant and I consider that the benefits set out above would not outweigh this significant harm. As a result, the environmental role of sustainable development would not be achieved. When assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework. Furthermore, the imposition of planning conditions or planning obligations would not overcome this harm.

Other Matters

22. The parties have referred to numerous policies and paragraphs of the Local Plan, London Plan and the Framework in their appeal documentation as well as the National Design Guide and various other Supplementary Planning Guidance documents. While I have had regard to these, they do not alter my findings.
23. Neighbours have raised concerns in respect to parking, privacy and light. Given my overall findings, there is no need for me to consider these matters further.

Conclusion

24. For the above reasons, having regard to the development plan as a whole, the approach in the Framework and all other relevant material considerations, the appeal is dismissed.

N Praine

INSPECTOR