



Appeal Decision

Site visit made on 18 January 2022

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 22nd March 2022

Appeal Ref: APP/G5180/W/21/3275563

Workshop Rear of 70a Kimmeridge Road, Mottingham, London SE9 4EB

- 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 John Buckingham against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/20/05095/FULL1, dated 11 December 2020, was refused by notice dated 30 April 2021.
 - The development proposed is described as "the demolition of the existing garage / workshops to rear of site to make way for proposed 2 no., 2 storey with subterranean basement level, mews house type dwellings. Existing main building facing onto Kimmeridge Road is proposed to adopt an infill extension to the flank at first floor level with pitched roof to tie into existing pitch and materiality to suit existing. The existing ground side entrance at street level (Kimmeridge Road) is intended to be remodelled to allow separated private access to the main building and to the proposed mews house type dwellings and existing commercial unit rear amenity space, and to shared refuse and cycle storage enclosures at ground floor level".
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council states that it cannot currently demonstrate a five year supply of deliverable housing sites. In such circumstances, paragraph 11.d) of the National Planning Policy Framework (2021) (the Framework) indicates that the policies which are most important for determining the application are out-of-date. Planning permission for the proposed development should consequently be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or 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. I have determined the appeal on this basis.

Main Issues

3. The main issues are the effect of the proposed development on:
 - The character and appearance of the area; and
 - The living conditions of the occupiers of neighbouring properties with particular regard to light, outlook and privacy, and the living conditions of the future occupiers of the new dwellings with particular regard to outlook and ventilation.

Reasons

Character and appearance

4. The appeal site is rear garden land which holds a shed and garage. The garden is of a reasonable size and this, together with the single storey scale of the garage, allows for an appearance which is characteristic of the surrounding area of reasonably well sized plots. Whilst much of the surrounding built form covers almost the full width of its plot, the reasonable levels of front and rear space associated with most properties prevent any harmfully cramped appearance.
5. The appeal proposes the construction of a pair of semi-detached dwellings ("the new dwellings") at the site of the shed, garage and part of the garden land. The building would occupy almost all of the plot's width, and would have rear gardens of a limited scale. The proposed development would be highly visible within views from the rear of surrounding development and from the yard and garage block area to the south of the appeal site.
6. The limited plot size of the development proposed would appear cramped and overly prominent within this area of development of a generally looser density. The visual harm would arise in large part from the restricted dimensions of the new dwellings' plots rather than the use of almost the full width of the site. This is because much of the development in the area occupies a similar proportion of its plot width to that currently proposed.
7. As a result, the proposal would have a moderately harmful effect on the character and appearance of the area. It would consequently conflict with Policies 4 and 37 of the Bromley Local Plan (the BLP), which state that development should be of a high quality design that respects the scale and form of the host dwelling.

Living conditions

8. No. 74 Kimmeridge Road is a dwelling which lies adjacent to the appeal site. The outlook from its rear elevation and garden includes adjacent development at King and Queen Close and a mature conifer tree. Whilst these are substantial built and natural forms, the absence of built form within views from No. 74 across the appeal site allows for a relatively open outlook to the west of sky and trees. Whilst oblique views of the garden at No. 74 from the first floor of the adjacent dwelling at No. 76 are likely to be possible, the garden is otherwise reasonably private.
9. The new dwellings would be highly visible from the rear elevation and garden to No. 74 as a result of their proximity to the boundary, their location within the site and their scale. The development would replace the majority of the open view over the appeal site with a significant projection of two-storey height built form which would form an unduly dominant and overbearing frame to the outlook from the dwelling and garden at No. 74, which would cause moderate harm to the living conditions of occupiers with regard to outlook.
10. The boundary treatments to a first floor terrace area to the new dwelling at Unit 2 would allow for views from the development of the rear elevation of No. 74, which contains French doors and a first floor window apparently serving a bedroom. Such views from the development would be at a much greater proximity than any existing views from surrounding properties. This would

cause harm to the living conditions of the occupiers of No. 74 due to the reduction in privacy levels of areas which were not previously overlooked at close proximity. This harm would be limited as only one of the proposed new properties would carry the potential for harmful overlooking in this way.

11. The proposal includes the conversion of accommodation above the retail premises at the host property to a House in Multiple Occupation (HMO). Views of the first floor windows serving proposed HMO rooms, in the absence of the proposed new dwellings, are not currently possible at close proximity. This results from the scale of the host dwelling's garden and the distance to surrounding accommodation. This would allow for reasonable levels of privacy at the proposed HMO.
12. The new dwellings would have three glazed doors within the rear elevation to each, at lower ground floor level. These would serve a living area, with one door capable of opening. Two glazed doors would lie within each of their rear elevations at ground floor level, serving bedrooms. Whilst the appellant submits that the ground floor glazed doors would be capable of being opened, it is unclear from the plans how this could be achieved.
13. Rear windows and terraces to both of the new dwellings would directly face the HMO windows identified at close proximity. This would cause regular intervisibility between the properties and resulting harm to the living conditions of occupiers of the HMO with regard to privacy. This harm would be moderate due to the close proximity of the properties and resulting direct views which would be possible.
14. The glazed rear doors of the new dwellings would face a small yard area which would be enclosed by fencing or other boundary treatments. The outlook from the lower ground floor doors would be restricted due to the small scale of the yard area and the proximity of boundary treatments, with resulting limited harm to the living conditions of occupiers of the new dwellings with regard to outlook. The outlook from ground floor glazed doors would not be so restricted as to cause unacceptable harm.
15. Whilst I have concerns about the ability of the glazing arrangement to the rear elevation of the new dwellings to offer concurrent security and ventilation, this is a matter which I consider could be resolved by the imposition of a suitable condition were I to find the scheme acceptable in all other regards.
16. I acknowledge that the proposal would be likely to result in some reduction in the levels of sunlight and daylight reaching the garden of No. 74 at some times of the year. Nevertheless, the evidence in this regard is limited and consequently does not form a compelling case that the scheme would cause any significant harm to the living conditions of the occupiers of that property in this regard.
17. However, the proposal would cause moderate harm to the living conditions of occupiers of No. 74 with regard to outlook and limited harm to those occupiers with regard to privacy. It would additionally cause moderate harm to the living conditions of occupiers of the proposed HMO with regard to privacy and limited harm to the living conditions of the occupiers of the proposed dwellings with regard to outlook. As a result, it conflicts with Policy 37 of the BLP, which sets out that development should respect the amenity of occupiers of neighbouring buildings and those of future occupants.

Other Matters

18. I note the appellant's concerns regarding the Council's approach, however, these are not matters for this appeal, which I have determined on its planning merits.
19. I have had regard to other matters raised, including concerns about the proposal's effect on noise levels and security. However, as I am dismissing the appeal on the main issues for the reasons given above, I have not pursued these matters further.

Other Considerations

20. The proposal would contribute to the supply of housing by a modest degree, in view of its small scale.
21. The modernisation of the entrance to No 70a Kimmeridge Road would have a reasonably enduring beneficial effect on the character and appearance of the area. This would be a modest benefit due to the limited scale of this aspect of the proposal.
22. Any compliance with space standards is a neutral matter which does not add weight in favour of the proposal. The evidence in support of the proposal's suggested ability to improve fire safety, navigation within the site, refuse provision, cycle provision and any local vermin or environmental issues is minimal and consequently these do not form benefits of the scheme.

Whether the proposal conflicts with the development plan as a whole

23. Whilst the policies which are most important for determining the application are deemed to be out-of-date in accordance with paragraph 11 of the Framework, two policies from the BLP are central to an assessment of whether the proposal conflicts with the development plan as a whole. These are Policies 4 and 37. I find the relevant sections of these policies to be consistent with the Framework.
24. The Council considers that it has a shortfall of approximately 1.01 years of housing supply. This is a relatively significant shortfall and consequently it tempers the weight which I give to the proposal's conflict with development plan policies.
25. Nevertheless, in view of the proposal's multiple areas of identified harm, despite its small scale, and the consistency of the relevant sections of Policies 4 and 37 with the Framework, I give significant weight to the degree to which the development conflicts with these policies. The proposal consequently conflicts with the development plan as a whole.

Paragraph 11d) balance

26. I have not identified policies in the Framework that protect areas or assets of particular importance which are relevant to the proposed development. That being the case, it is necessary to assess the proposal against the policies in the Framework taken as a whole.
27. The Framework states that planning decisions should ensure that developments are visually attractive as a result of good architecture and layout, and that they should be sympathetic to the surrounding built environment, while not preventing or discouraging appropriate innovation or change (such as increased

densities). It sets out that development that is not well designed should be refused, and that planning decisions should ensure safe and healthy living conditions. As I have identified a number of areas where the scheme would conflict with these policies, most of which would cause moderate harm, I attach considerable importance to the overall adverse impacts which the proposal would cause.

28. The scheme's benefits comply with Framework policy to boost the supply of homes and, where it concerns the modernisation of the front of the host dwelling, to add to the overall quality of the area. However, these benefits are modest in scale due to the proposal's small scale.
29. Thus, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As a result, the proposal does not benefit from the presumption in favour of sustainable development.

Section 38(6) balance

30. The outcome of the paragraph 11d) assessment indicates that permission should be refused. There are no material considerations that indicate that the decision should be made other than in accordance with the development plan. Thus, for the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR