



Appeal Decision

Site visit made on 4 October 2022

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 November 2022

Appeal Ref: APP/G5180/W/22/3299061

45 Starts Hill Road, Orpington BR6 7AS

- 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 P O'Sullivan of Alpha Estates (London) Ltd against the decision of London Borough of Bromley Council.
 - The application Ref DC/21/05499/FULL1, dated 19 November 2021, was refused by notice dated 28 April 2022.
 - The development proposed is demolition of the existing detached dwelling and the erection of a single block containing 7 apartments (2x one-Bed and 5 x two bed) with 8 parking spaces.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the proposed development on: (i) the character and appearance of the area; and (ii) the living conditions of the occupiers of adjoining dwellings, with regard to outlook, noise and privacy.

Reasons

Character and appearance

3. As the name suggests, Starts Hill Road rises to accommodate local topographical features, and the appeal site is located on the brow of the hill. The local area is predominantly residential, with detached and semi-detached dwellings, flats in converted traditional school buildings, and a new estate containing a mix of 2-3 storey houses and flats.
4. The appeal site is a large detached 2-storey dwelling on a corner plot in a prominent location, and on higher ground than the surrounding roads and adjoining dwellings. From the street it appears beyond dense hedgerows on raised banks, which largely obscure its ground floor.
5. From the north, the appeal site is seen in the context of the recent flat development opposite. Flats and houses on the new development introduce modern design features and hold prominent positions on Starts Hill Road. On the corner of Starts Hill Road and Pinecrest Gardens they are less prominent, being set back significantly behind trees.
6. Adjoining the appeal site bungalows sit on lower ground. The greater height and scale of the existing building on the appeal site in relation to its neighbours

is accommodated by the separation distance from its boundaries and coniferous trees in its garden.

7. Despite what may be a modest increase in overall height, of just over 1m compared to the existing house, the proposed development would be a significantly larger building, being of a similar width along Pinecrest Gardens, but substantially deeper. It would be a bulkier structure as seen from Starts Hill Road and Pinecrest Avenue, and from the neighbouring dwellings and gardens. From the street, the gabled ends and mansard-style roof, with dormers either side, would increase the prominence of the building. As seen from lower ground on Pinecrest Gardens, and above No 2, its gable end and three storey frontage would be a large feature and unduly dominant in the street scene. It would also be more visible from the south on Starts Hill Road, where it would be a prominent and uncharacteristic building on the brow of the hill, without the level of screening afforded to the former school building opposite.
8. In terms of building design, most properties in the vicinity of the site display hipped or half-hipped roofs. I saw no examples of mansard-style roofs in the area, flat roofs¹, or buildings displaying several very different roof designs. I note the contemporary design features on the new estate, but also the consistency of design features across that development. In some settings wholly new styles of development can be successfully integrated into the surrounding area. However, the proposed building would introduce several contemporary urban features, with limited reference to the existing design features of the area, and an apparent multiplicity of styles. I note that the design approach is that the building would appear as two separate buildings on Starts Hill Road but, being so close, they would be read as one.
9. Therefore, although there are examples of contemporary design in the area, the proposed building would appear as a bulky and unduly dominant building. The appeal site is in a prominent location on the brow of the hill, and the proposed development would not reflect, or sufficiently acknowledge, the local character of the area.
10. In conclusion, the development would harm the character and appearance of the area and would be contrary to the relevant provisions of London Borough of Bromley Local Plan 2019 (BLP) Policies 4 and 37, which together require a high standard of design which positively contributes to the existing street scene, respecting local character and physical context. I have not found Policy 1 to be relevant to this issue.

Living conditions

11. Two different landscape drawings are referred to by the parties². Whichever applies to the appeal, those plans provide sufficient detail for me to consider them as indicative of the appellant's proposals, such that a planning condition could be imposed relating to landscaping and the retention of trees should the appeal be allowed. I have considered the proposed development on that basis.

¹ As proposed for the stairway and the flat 'green roof', although box dormers are found on the development opposite.

² LSDP 1762.01 Rev B (Figure 1 of the submitted Landscape and Ecological Management Plan by GPM Ecology and was dated 12h November 2021) or LSDP1762-01 Rev D (Plan DC1 of the appellant's Final Comments).

Effects on 45a Starts Hill Road

12. No 45A sits at a lower level than the appeal site, beyond a retaining wall and a timber fence. From its parking area at the front, the existing dwelling is seen on higher ground set back from the boundary. At the rear, No 45's kitchen/living/dining area faces the appeal site, and from its patio doors parts of the existing dwelling on the appeal site are seen above trees within the appeal site.
13. The proposed development would extend significantly closer to No 45a. The appellant's "Footprint and massing comparisons drawings" indicate that the entire ridge-roofed element of the proposed building would run from the ridge of the existing master bedroom towards No 45a. The ridge-roofed element of the proposal would be higher, significantly wider and closer, and would be gable ended.
14. Whichever version of the appellant's landscape plan is considered, with the removal of existing trees near its south-eastern corner, visibility into the appeal site from the kitchen/living/dining room of No 45a, and its rear garden, would be significantly increased. The development would be significantly more visible than the existing building, and would be seen as a substantial mass at a higher level from the house and rear garden. Similarly, from its frontage, outlook towards the appeal site would be unduly dominated by the scale of the proposed development without significant planting along the boundary. In the alternative, planting of the height required to obscure the proposed development, such as that proposed in landscape plan revision D, would itself be oppressive and harmful to outlook from No 45a's frontage.
15. There would also be intervisibility between the kitchen/living/dining room and rear garden and first-floor windows and balconies of proposed flats 4 and 5. The development would be set back at least 10m from the boundary, and No 45a's kitchen/living/dining room would be set back a similar distance. Nevertheless, it would introduce a significant degree of overlooking from first floor flats on higher ground into a currently private house and garden, resulting in a harmful loss of privacy to occupiers of No 45a. The appellant suggests that 1.5m high balcony balustrading could overcome overlooking impacts, but that height would not be sufficient to prevent it, neither would it address overlooking from living/kitchen/dining rooms and bedrooms. No 45a's parking and turning area is less private than its rear garden, and there would not be significant intervisibility with windows at the front of the house.
16. The nearest five car parking spaces would be at higher site levels than No 45a, offset from the boundary, and traffic movements would be required to access them. There would also be balconies, terraces and a communal amenity area. Although these areas would be accessible to greater numbers of people than at present, they would not necessarily generate levels of noise not commonly found in residential areas. With the evidence before me I do not anticipate that noise would reach unacceptable levels as a result of the development.

Effects on No 2 Pinecrest Gardens

17. No 2 sits at a lower level, which is particularly apparent from the street. Coniferous trees run along most of the boundary, and the indicative landscaping schemes both indicate they would be retained. From the rear conservatory there are limited views of the hipped roof of the existing building.

18. From No 2's frontage, entrance door and driveway the existing house on the appeal site stands as a much higher building, with its hipped roof falling away from view above a grass bank, timber fence, and coniferous trees. At the rear, the guttering and hipped roof of the building is seen above the trees, which themselves are seen over a timber fence and terraced garden verge.
19. The proposed development would be slightly closer to the boundary. It would be a similar height, but would be a gabled wall with a bulkier mansard roof. The flat roofed 3-storey enclosed stairway may also be visible, depending on the retained height of the trees. The development would therefore be more prominent than the existing building, and a significantly larger mass than the dwelling at No 2. The proposed development would therefore be harmful to outlook from the front and rear gardens of No 2, and from its conservatory.
20. There are no windows or balconies proposed on the elevations facing No 2, except a balcony on the 1st floor at the rear of the proposed flat roof. A rear dormer window on the 2nd floor would serve a bathroom and could be obscure glazed. Should the coniferous trees on the boundary be retained at their current heights or higher there would be no loss of privacy to occupiers of No 2, and this could be controlled by a suitable planning condition.
21. The proposed communal amenity area would be located adjacent to the rear of No 2's back garden, beyond private terraces adjoining it. Although greater numbers of residents are likely to make use of those spaces, from the evidence before me, noise levels are not likely to be unacceptably high as a result of the development.

Conclusion

22. In conclusion on this issue, although there would not be unacceptable noise impacts, the proposed development would be unduly harmful to the outlooks from No 54a and No 2. There would also be a harmful loss of privacy for occupiers of No 54a. Consequently, the development would conflict with the relevant provisions of BLP Policies 4 and 37, which require a high standard of design which respects local character and physical context, and complement the scale of adjacent buildings and areas.

Other Matters

23. The Council can demonstrate only 3.99 years of housing land supply (HLS). Paragraph 11d)ii of the National Planning Policy Framework (the Framework) therefore applies, and planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
24. The Framework and the London Plan acknowledge that small and medium sites can make an important contribution to HLS, and can often be built out relatively quickly. The development would provide a net increase of 6 housing units towards meeting the shortfall and may increase the diversity of the housing stock in this area, albeit in an area of relatively poor public transport accessibility³. The London Plan indicates that development plans should recognise that local character evolves over time and will need to change in appropriate locations to accommodate additional housing on small sites; although at the present time I have not seen explicit reference in development

³ The Council states the site is within a PTAL 1b area.

plan policy to a need for particular change in this location. I have attached some weight to these factors, but given the small scale of the development proposed, only moderate weight can be attributable to them.

25. The Framework also states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. It expects planning policies and decisions to ensure developments add to the overall quality of the area, are sympathetic to local character, and maintain a strong sense of place. I have found there would be harm to the character and appearance of the area and the living conditions of occupiers of 45a Starts Hill Road and 2 Pinecrest Gardens, and conflict with development plan policies. Together these amount to significant weight against the development.
26. The adverse impacts of the development would therefore significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole, and therefore the presumption in favour of sustainable development does not apply.
27. I appreciate that the appellant has sought to make changes to the proposal since a scheme for a replacement building was dismissed at appeal in 2021. Nevertheless, I have considered the proposed development on its own merits and have found concerns relating to the main issues.

Conclusion

28. For the reasons above, having regard to the development plan as a whole, the approach in the Framework, and all other material considerations, I conclude the appeal should be dismissed.

Peter White

INSPECTOR