



Appeal Decision

Site visit made on 10 October 2022

By Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th November 2022

Appeal Ref: APP/G5180/W/21/3288816

15 Oatfield Road, Orpington BR6 0ER

- 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 S Chen against the decision of the London Borough of Bromley Council.
 - The application Ref DC/20/04289/FULL1, dated 21 October 2020, was refused by notice dated 11 June 2021.
 - The development proposed is the demolition of existing detached bungalow and erection of 2 semi-detached two storey 4 bedroom dwelling houses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site location plan submitted with the planning application indicates that the proposal is bounded by a footpath, on the other side of which is a semi-detached house indicated on this plan as being 13 Oatfield Road. However, the numbering for this property varies in the documents submitted for the purposes of this appeal and is also indicated as being number 11A and 12A. As the appellant and the council have both predominantly used 12A to identify this property, I have done the same.
3. In their appeal submission the Council has stated that policy 6 of the Bromley Local Plan (2019) (the Local Plan), which refers to side space, as it relates to proposals for residential extensions, was used in error in the decision notice and that only policy 37 of the Local Plan should have been referenced. I am happy to accept this and have determined this appeal on that basis.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of neighbouring residential occupiers.

Reasons

5. The appeal site fronts on to Oatfield Road, and is located towards the end of the road, which terminates in a cul-de-sac. The street is fronted by generously proportioned detached and semi-detached houses and bungalows, set behind front gardens and driveways. The proposed development involves the demolition of the existing detached bungalow on the appeal site. Unlike other

- properties on the street, this is positioned towards the rear of the appeal plot, which backs on to rear gardens and narrows towards its street frontage on Oatfield Road.
6. The proposed semi-detached two storey 4 bedroom houses would be positioned further forward on the appeal plot and would sit between the existing detached bungalow at 17 Oatfield Road (No.17) and the semi-detached house at 12A Oatfield Road (No.12A), which is also separated from the appeal plot by a narrow footpath that runs from Oatfield Road to Stanley Road.
 7. The position of the proposed houses on the appeal plot would reflect the predominant building line of dwellings on the street. However, this would also result in them being positioned in proximity to the flank elevations of the dwellings at No.17 and No.12A.
 8. The appellant has commissioned two sunlight and daylight assessments from different specialists (the SDAs), the first of which forms part of the material submitted with the planning application and the second submitted as part of the appellants appeal submission. The technical results from these have been accepted by the council as technically accurately representing the proposal in relation to the existing situation and demonstrating the effect of the proposal on sunlight and daylight to neighbouring properties. Albeit the council have drawn different conclusions with regard to the effect of the proposal on the living conditions of neighbouring residential occupiers.
 9. I have likewise considered the technical results of these studies in my determination of this appeal. It is, however, noted that, whilst BRE Guidelines do provide a useful evaluation of the effect of planning proposals with regard to sunlight and daylight, they are not mandatory.
 10. There is only one single ground floor window in the flank elevation of the original house at 12A that would face directly on to the proposal. The other windows that would face onto the flank wall of the proposal, are in the rear extension and are more distant. Whilst there are also first floor windows in the flank elevation of No.12A the rooms that these serve appear to have a second front or rear window. Overall, I do not find that the proposal would result in a significant enclosure to No.12A or any significant loss of outlook.
 11. The SDAs indicate that, whilst there would be some slight loss of daylight to the flank ground floor windows of No.12A, the main loss of light would be to a window that does not appear to serve a primary part of the living space of this dwelling. Overall, I do not find that the slight loss of light indicated by the SDA's when combined with the less than significant loss of outlook would result in the proposal having an overbearing effect on this neighbouring property.
 12. The west facing original flank elevation of the bungalow at No.17 has two windows that appear to serve the lounge area that forms part of an open plan principle living space. There is also a single window in a rear sunroom extension that appears to form part of this open plan layout. The existing open aspect from these windows is of the large front garden of No.15. This would be significantly altered by the two storey flank elevation of the proposal that would have an approximate 3.65 metre separating distance to these windows and would define their outlook. Notwithstanding that the flank windows currently have a type of obscured glazing; the proposal would result in a significant overbearing sense of enclosure for the occupiers of No.17.

13. The appellant's SDAs concludes that the reduction in daylight and sunlight would be within the acceptable limits set out in the BRE Guidelines and that, although the proposal would result in some slight loss of daylight and sunlight to some rooms of affected dwellings, the effect of the proposal would be unlikely to be noticeable to their occupiers. However, the SDA's show that there would be a loss of daylight to the principle living space of No.17 from flank windows, albeit that there are rear glazed patio doors that also provides some daylight to this space, which appears to be fundamentally unaffected. I find that this loss of light, especially through the windows in the original flank wall of the bungalow would be a readily perceptible the occupiers of No.17. Combined with the significant loss of outlook detailed above, this loss of light would result in the proposal having an overbearing presence that would be experienced by the occupiers of No.17 as oppressive.
14. I acknowledge that the proposal seeks to overcome the reasons for refusal for previous applications to replace the existing bungalow on the appeal site with 2 detached houses¹. These would have been considered on their own individual merits and I have done likewise in my consideration of the appeal proposal.
15. For these reasons, I find that the proposal would have a significant harmful effect on the living conditions of the residential occupiers of No.17. This would be contrary to policy 37 of the local Plan, policies D3 and D6 of the London Plan (2021) (the London Plan) and paragraph 130(f) of the National Planning Policy framework (2021) (the Framework). These collectively seek to ensure that developments provide appropriate outlook, sufficient daylight and sunlight to surrounding housing and do not undermine the quality of life of neighbouring occupiers.

Planning Balance and Conclusion

16. Paragraph 11d, footnote 8 of the Framework states that where there are no relevant development plan policies, or the policies most important for determining the application are out-of-date (including housing, where the LPA cannot demonstrate a 5 year supply of deliverable housing sites), 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.
17. When this is the case, and as this appeal relates to the provision of housing, the need for the proposal to be considered against paragraph 11d is triggered. However, although the proposal must be determined within the context of paragraph 11d, I consider the Local Plan policies to be a material consideration within this decision, which carry full weight in so far as they conform to the Framework.
18. According to the Government's Housing Delivery Test: 2021, the London Borough of Bromley Council (the Council) has a significant projected housing shortfall on that required. Nothing is before me to indicate that this position has changed.
19. As I have identified above, the appellant has not submitted material that would justify the significant harm to the living conditions of neighbouring residential occupiers, contrary to policy 37 of the local Plan and Policy D3 and D6 of the

¹ Planning Ref: 16/02629/FULL1 and 17/03902/FULL1

London Plan. In light of the Council's housing land supply position, paragraph 219 of the Framework makes it clear that weight should be given to existing development policies according to their degree of consistency with the Framework. Section 12, paragraph 130 of the Framework recognises that development should promote health and well-being, with a high standard of amenity for existing and future users.

20. Even taking account of the objective of significantly boosting the supply of homes and the Council's supply position, the conflict between the proposal and 37 of the local Plan and Policy D3 and D6 of the London Plan should be given significant weight in this appeal.
21. Set against the harm identified there would be social and economic benefits associated with the development. The appeal site is small in terms of its ability to provide housing, and the proposal would provide only a single additional dwelling compared to existing. Although a small contribution to the overall housing target within the Council area, small housing schemes do collectively make a significant contribution to the number of new residential units, and I have given this significant weight in my considerations. The proposal would also generate employment opportunities during its construction and through the employment of local services for its upkeep and maintenance when occupied. In connection with the single additional dwelling proposed, these benefits attract modest weight in favour of the proposed development.
22. Consequently, I conclude that the harm to the living conditions of neighbouring residential occupiers that I have identified, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
23. The proposal would conflict with the development plan as a whole and there are no other material considerations which outweigh this finding. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Victor Callister

INSPECTOR