
Appeal Decision

Hearing Held on 1 November 2022

Site visit made on 1 November 2022

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 November 2022

Appeal Ref: APP/G5180/W/22/3300447

Land adjacent to 9 Meadow Close, Chislehurst, Bromley BR7 6JB

- 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 Infillworks against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/21/04375/FULL1, dated 2 September 2021, was refused by notice dated 18 January 2022.
 - The development proposed is the construction of a pair of two-storey, semi-detached, 2 bedroom houses.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are;
 - The effects of the proposal on the character of the area
 - The effects of the proposal on the living conditions of neighbours
 - The effects on a tree which is the subject of a TPO
 - The effects of the proposal in relation to parking and access.

Reasons

Character of the area

3. The appeal relates to this triangular plot of land which sits between the residential properties of Nos 8 and 9 Meadow Close. The land was last used as garden for No 9 Meadow Close. This short cul-de-sac contains 2 storey terraces, each of 4 houses. The local area contains many similar houses and some examples of 3 storey blocks of flats are found nearby. Nos 8 and 9 sit at a corner within Meadow Close where the 2 terraces are set at right-angles to each other and both original plots of Nos 8 and 9 were triangular in shape. Although not within the appeal site, there is a large Oak tree adjacent to the rear boundary which significantly overhangs the appeal site.
4. The gaps between the short terraces of houses provide visual relief from the built form and allow views through to the rear of the houses. The modest form

of the terraces and the regular gaps between them means that there is a degree of spaciousness to this road. The gap represented by the appeal site adds to this valuable degree of space by providing relief and views to the rear, including to the aforementioned tree.

5. The proposal would provide a flat roofed pair of houses, set back from the road frontage and partly behind the adjacent houses. The pair would be asymmetric due to them following the triangular site boundaries. Although they would be set a short distance off the side boundaries, in most views the proposal would appear to fill the gap between Nos 8 and 9. Their siting to the rear and their different design would mean that they would not integrate with the existing pattern and form of the development within this road. The almost total erosion of the existing important gap in the street-scene would have a significant detrimental effect on the character of this road. I have observed the other buildings within the area, including the larger blocks of flats and, whilst these are quite different to the character of Meadow Close, I note that there is a considerable degree of space around them which contributes positively to the area. I do not find that their presence or form compel me to look any differently on the proposal.
6. The proposed pair of houses would be sited close to the side boundaries and a short distance from the rear plot boundary. Proposed Plot A would have a particularly short rear garden and the proposed building would be deeper than the garden. As a result, the proposal would appear particularly cramped and lacking space around it and so would appear at odds with the surrounding pattern and form of development. For the reasons set out above, the proposal would conflict with Policies 4, 8 and 37 of Bromley's Local Plan (LP).

Effects on neighbours

7. The proposed house on plot A would extend rearwards of the neighbouring property at No 9. No 9 has a single storey rear extension and the proposed 2 storey house would be around 3m deeper. This would mean that the proposed house would have a considerable visual presence when seen from the adjacent garden and from within the rear facing rooms at No 9. Taking account of the proximity to the boundary and the depth of the proposal, I consider that the new building would appear overbearing and dominant when seen from the garden area at No 9 and to some degree from the rear facing rooms. I consider that this would have an unacceptable effect on the living conditions of those neighbours at No 9, even taking account of the appellant's offer of moving the building marginally further from the boundary.
8. In relation to No 8, the proposal would also be close to the dividing boundary. Although the garden at No 8 is more generous than that at No 9, I consider that the size and proximity of the proposal combined with its rearward projection would mean that it would appear overbearing from the garden area at No 8. Whilst the windows in the proposed facing elevation would be of obscure glass, I consider that the proposal would still be unacceptably oppressive to the residents of No 8. As a result, the proposal fails to comply with Policies 4 and 37 of the LP.

The effects on tree which is the subject of a TPO

9. The large Oak tree within the garden of No 24 Degema Road has its trunk very close to the site boundary and much of its canopy overhangs much of the

appeal site. The Tree Preservation Order (TPO) was made by the Council relatively recently.

10. The appellant considers that the tree does not merit protection by a TPO and has submitted statements in this respect. For my consideration of the appeal, it is important to consider that, notwithstanding the disagreement about its merits, the tree is covered by a TPO. Nevertheless, I shall consider the appellant's representations about the quality and form of the tree and its contribution to the amenity of the area.
11. The tree has been pruned heavily to the south-east side such that its canopy is predominantly overhanging the appeal site (north-west of the trunk). On this side, the canopy is considerable and extends over much of the appeal site. Its height is said to be around 15m and as a result, it is visible in a number of the rear gardens on this and adjacent roads. I noted that it is also visible from much of Meadow Close and some parts of Barham Road and Degema Road. Setting aside its merits in relation to the justification for inclusion in a TPO, the tree contributes positively to amenity in the surrounding area. Whilst it is situated in a private rear garden, it is visible from a number of other gardens and in public views between the houses, from the roads. Its eccentric canopy may put some limit on its visual contribution in some aspects, but it certainly does not negate it in my judgement. I find that it adds positively to the amenity of the area.
12. The appellant's submissions indicate that a number of specific measures would be necessary during the construction of the development, so that the tree would not be unacceptably affected. These would include the prevention of machinery and storage of materials within certain parts of the site, the use of pile foundations with ground beams, a rainwater pipe to supply the tree, no excavation areas, including for landscaping. In addition, the submissions propose to lift the canopy of the tree to 6m off the ground and a crown reduction of 3m.
13. In relation to the proposed works to the tree to reduce its crown, I acknowledge that some works are desirable. However, as was demonstrated at the site visit, lifting the crown to around 6m would involve the removal of a number of significant limbs of the tree and would affect its existing positive appearance. It seems that lifting the crown to this level is only necessary so that the proposed building could be accommodated and would not be proposed otherwise. In my judgement, the proposed works to the crown alone would be unacceptable and would have a negative overall effect on the contribution that the tree makes to the area, notwithstanding that some works in isolation may be desirable.
14. In relation to the proposed building works, much of the proposal would sit within the Root Protection Area (RPA). I have noted the specific measures set out by the appellant in relation to seeking to protect the tree. Notwithstanding the measures proposed, it would seem inevitable to me that the tree would suffer to some extent as a result of the construction works.
15. If the tree were to survive, it would be left with its canopy overhanging much of the rear gardens of the proposed houses. I consider that the tree would dominate the rear gardens and would mean that much of the rear garden area would be substantially overshadowed by the tree, particularly that of the proposed Plot A. In my consideration, the overshadowing and the resultant

debris that the tree would deposit would mean that the enjoyment of the garden area by any future residents would be severely limited. It is also likely in my judgement that the rooms within the rear-facing elevation would suffer overshadowing from the tree. This would then be likely to generate pressure to remove the tree or to undertake other significant work to it that would substantially reduce its amenity value. Taking account of the proximity of the tree and the disposition of the proposed rear gardens, I consider that such pressure would be difficult for the Council to reasonably resist.

16. Taking these points together, I consider that the proposal could not reasonably ensure the future well-being of the tree and its loss or significant reduction would have an unacceptable effect on local amenity, contrary to Policy 73 of the LP.

Parking

17. Meadow Close contains 20 dwellings and parking is permitted on the road. However, a number of the properties have parking within their frontages and the associated dropped kerbs limit the practical use of kerb-side parking. The proposal contains 1 parking space for each of the dwellings and the Council points out that the severance of the appeal site from No 9 Meadow Close has deprived that dwelling of its off-street parking.
18. The London Plan indicates that a maximum of 1.5 spaces should be provided for each house and Bromley's Local Plan states that a minimum of 1 space per dwelling should be provided. Statements and available evidence indicate that parking occurs on the road which often restricts access/egress from driveways. The implication is that there is high demand for on-street parking, notwithstanding the availability of some off-street spaces.
19. The appellant has submitted a swept-path analysis which indicates that vehicles could leave the site (probably reversing) and turn within the road in order to leave the Close. The appellant indicates that parked cars would be unlikely to hinder such a manoeuvre as the adjacent dropped kerbs would mean that on-street parking would be unlikely. However, local residents indicated that cars do park in such a manner, particularly in cases where the on-street car is associated with the house with the dropped kerb.
20. I have noted the stated PTAL scores for this and surrounding roads, which indicates a relatively low level of access for the site. Notwithstanding this and the possible difficulties in manoeuvring out of the site, I consider that the proposal complies with the requirements set out within The London Plan and the Local Plan. Whilst I can understand that on street parking may be in demand within Meadow Close, I find this is insufficient to outweigh the compliance with such requirements.

Planning Balance and Conclusion

21. The proposed development would provide 2 new homes which would be a benefit, although a modest one due to the very limited size of the development. I also note that the proposal would have a green roof and would make a modest environmental contribution in this respect. However, I have concluded that the proposal would have an unacceptable effect on the character and appearance of the area, an unreasonable effect on neighbours and would be likely to bring about conditions which would not ensure the long-

term retention of the important tree, contrary to the provisions of the development plan.

22. The Council indicates that it cannot demonstrate a suitable supply of housing land, falling short of 5 years (plus an appropriate buffer). The Council states that it can demonstrate a 3.99 years' supply. In accordance with the provisions of the Framework, this means that policies which are most important for determining the appeal are out-of-date, and the proposal should be considered in the context of the presumption in favour of sustainable development as set out in the Framework; the so-called tilted balance in paragraph 11d)ii is engaged. I have identified considerable environmental harm in relation to the development of the proposal and also judge that there is a considerable degree of social harm in respect of the effects on neighbours' living conditions. As a result of the harm identified, I consider that this would significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework as a whole.
23. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the appeal should be determined in accordance with the development plan unless material considerations indicate otherwise. I have concluded that the proposal conflicts with the development plan when read as a whole. Given that on the basis of the planning balance it would not be sustainable development, there are no material considerations warranting a decision other than in accordance with the development plan. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

T Wood

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

O Sanger
M Mixa
A Osbourne
A Jegerov

FOR THE LOCAL PLANNING AUTHORITY:

K Daye
C Ryder

INTERESTED PERSONS:

C Laughlin and M Urdaneta