



Appeal Decision

Site visit made on 3 January 2023

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2023

Appeal Ref: APP/H5960/W/22/3300244

53 Brathway Road, London SW18 4BE

- 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 Tahir Ahmed against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref 2021/4906, dated 20 October 2021, was refused by notice dated 31 January 2022.
 - The development proposed is 'demolition of single storey garage block to the rear and replaced with a basement and ground 2 bed dwelling unit'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) whether or not the proposed development would provide a suitable location for housing with particular regard to flood risk;
 - ii) whether or not living conditions for future occupiers of the development would be acceptable with particular regard to outlook;
 - iii) the effect of the proposal on the character and appearance of the area; and
 - iv) the effect of the proposal on the living conditions of the occupiers of neighbouring dwellings with particular regard to outlook.

Reasons

3. The appeal site includes an end of terrace dwelling on Brathway Road at the junction of Avening Road. To the rear of the dwelling is a detached garage which the appeal proposes would be replaced by a dwelling with access from Avening Road.

Flood Risk

4. The National Planning Policy Framework ('the Framework') outlines that inappropriate development in areas at risk of flooding should be avoided, and that where development is necessary in such areas, it should be made safe for its lifetime without increasing flood risk elsewhere. Despite the appellant's assertion to the contrary, the flood map details before me indicate that at least part of the rear of the dwelling would be within Flood Zone 2 which is land defined as having a medium probability of flooding. Although much of the footprint of the dwelling would be on part of the site that is not identified as

flood zone, I cannot therefore agree with the appellant that the site is not within an area at risk of flooding.

5. No flood risk assessment has been provided as part of the appeal. Given that the proposal includes development that would be within Flood Zone 2, there would be conflict with the requirements in the Framework and Policy DMS 5 of the Development Management Policies Document 2016 ('the DMP') for a site specific flood risk assessment for all development within Flood Zone 2.
6. Moreover, the dwelling includes bedrooms within a basement level which would be contrary to the restriction in Policy DMS 5 of the DMP where development is proposed in Flood Zone 2 in undefended fluvial areas (River Wandle and Beverley Brook). In addition, it has not been demonstrated that the proposal would meet the further requirements within Policy DMS5 variously for floor levels for more vulnerable development with a sleeping element to be raised above the 1 in 100 year fluvial flood level (including climate change), nor for provision of a safe refuge above the 1 in 100 year fluvial flood level or safe access and egress.
7. The appellant suggests that flood risk remedial measures could be secured through a planning condition. However, in the absence of a flood risk assessment, risks to and from the development are uncertain, and I cannot be sure that flood risk would be acceptable nor that mitigation measures would be practical or effective. It would not therefore be appropriate to defer consideration of this matter to a planning condition.
8. The appellant has also referred to permission granted for a dwelling to the rear of 60 Granville Road which contained basement bedrooms, but this site is further from the River Wandle and it is not clear from the evidence before me that the site was subject to similar Flood Zone constraints. It does not therefore alter my findings in respect of the appeal proposal.
9. The appellant comments that the Council has not provided technical supporting information for the refusal, and that there has not been input from the Flood Risk or Sustainability Officer. Be that as it may, I am unable to find on the basis of the evidence before me that the development would remain safe during its lifetime, and I conclude for the above reasons that it has not been demonstrated that the proposed development would provide a suitable location for housing with regard to flood risk. The proposal would further conflict with Policy DMS 5 of the DMP and with the Framework.
10. There would also be conflict with Policy LP12 of the Council's emerging Local Plan which similarly sets out that bedrooms should not be provided within basements in locations at risk of fluvial flooding. The emerging Local Plan was submitted for examination in April 2022, but it is yet to be adopted and is therefore subject to change. In addition, I have not been provided with details of unresolved objections to the plan. These factors limit the weight that I afford to this additional conflict.

Living Conditions – Future Occupiers

11. The dwelling would meet minimum quantitative standards for internal space provision. It would also have a courtyard at lower-ground level which would provide the required area of outdoor amenity space sought by Policy DMH 7 of the DMP.

12. However, while there would be additional high level windows and a rooflight to the living/dining room, the only potential source of meaningful outlook for this room and for the bedrooms at lower-ground floor level would be glazing facing onto the courtyard garden. The courtyard would be of relatively modest width and depth, and would be surrounded by the boundary with properties on Cambourne Road and the dwelling itself which would effectively be two-storeys in height relative to the courtyard. As a result, there would be a considerable degree of enclosure to views, and I consider that it would feel somewhat confined and hemmed in. In addition, the modest dimensions of the courtyard mean that views onto it from windows would be enclosed at close proximity, significantly reducing opportunities for open aspect or a range of views to provide visual interest, particularly for the bedrooms given their lower ground floor level. In my judgement, outlook for the bedrooms, the living/dining room and the amenity space would in each case be very limited.
13. The appellant has provided an Internal Daylight Report ('IDA') which refers to the 2011 edition of the Building Research Establishment ('the BRE') Site Layout Planning for Daylight and Sunlight guidance and concludes that daylight for the dwelling would be acceptable. The Council has highlighted that the IDA does not reflect the updated guidance published by BRE in 2022. Nevertheless, while there can be a relationship with factors which also affect light levels, outlook is a distinct concept. Accordingly, the fact that there may be adequate natural light is not compelling evidence that there would be satisfactory outlook for future occupiers of the development.
14. The appellant has again drawn my attention to the permission granted for a dwelling to the rear of 60 Granville Road where the report to Committee noted that occupiers would have limited outlook. However, the details submitted by the appellant show that the dwelling in that case was a one-bedroom property with a different internal layout and arrangement to the appeal development, including an open plan kitchen/living/dining room served by a window onto an adjacent playing field as well as large glazing to the street in addition to glazing onto the courtyard. Although I appreciate the importance of consistency in decision-making, the circumstances are not directly comparable to those that apply here, and it does not therefore alter my conclusions which I have reached having regard to the specific merits of the development before me.
15. Given these factors, I conclude that living conditions for future occupiers of the dwelling would not be acceptable having regard to outlook, and the dwelling would not provide a good standard of accommodation overall. The proposal would therefore conflict with Policy DMH 4 of the DMP and Policy D6 of the London Plan 2021 which include requirements for high quality housing development and provision of a satisfactory environment for housing.

Character and Appearance

16. The lower-ground floor level to the proposed dwelling would not be readily apparent from outside of the site, and it would appear as a single-storey building with a flat roof. This would contrast with the two-storey terraced dwellings of similar design and appearance with pitched roofs which generally characterise Avening Road, Cambourne Road and Brathway Road to the west of the Avening Road junction. However, I saw more diversity in the form and appearance of buildings close by on Brathway Road to the east of the Avening Road junction including flatted blocks of mixed scale and design, some of which

are visible from the appeal site. There are also views of mixed extensions and alterations to some of the buildings nearby, particularly those near to corners, which adds further variety. Moreover, the dwelling would replace the existing garage on the site which is similarly of different appearance to the surrounding development on account of its single-storey scale, roof design and some of the external materials including the corrugated roof and large grey panel doors onto Avening Road. Seen in this context, I do not consider that the different appearance of the dwelling would be unduly conspicuous or striking.

17. In comparison to the garage, the dwelling would be of increased height at the eaves. However, it would be of lower maximum height. While the garage roof includes sloping sections, these have fairly steep slope angles from the eaves up to a large flat section which is readily appreciable from the surrounding area. Having regard to the resulting significant bulk and mass of the roof form, I consider that the increased height of the dwelling at the eaves would be offset by the greater reduction in its maximum height relative to the existing garage roof. In addition, while I appreciate that the majority of the Avening Road elevation would be rendered with only one window, this would provide for slightly greater visual relief in comparison to the current garage street elevation which is entirely brick and solid panel doors. The simple appearance would also be relatively unobtrusive, reducing the visual impact of the development. Given these factors, the proposal would not in my judgement result in an appreciable increase in the impression of the scale or bulk of development on the site overall, and the dwelling would be no more prominent in the street scene than the garage currently.
18. The DMP indicates that the development of back gardens is generally regarded as an inappropriate form of development, noting that open spaces between buildings are an integral part of the character and appearance of much of the borough. Policy LP7 of the emerging Local Plan also sets out that additional housing on private residential gardens will not normally be permitted due to the need to maintain local character, amenity space and biodiversity. The appellant comments that the site has not historically been used as a garden, referring to permission granted for reconditioning of motor car dynamos and starters. However, the Council indicates that the permission was for a temporary period only. In any event, there is an existing building present on the site, and I have found that there would not be an appreciable increase in the impression of the scale or bulk of development on the site overall. Accordingly, I find that the proposal would not harmfully erode open space between buildings, and I consider having regard to the specific circumstances of this case that there would not be detriment to the character or appearance of the area through development of garden land.
19. For these reasons, I am satisfied that the proposal would make effective use of the site while assimilating suitably with its surroundings, and I conclude on this main issue that the character and appearance of the area would not be unacceptably harmed. Consequently, I find no conflict with Policy DMS 1 of the DMP which includes requirements for a design-led approach that optimises the potential of sites, and that ensures a high level of physical integration with their surroundings and a positive contribution to local character.

Living Conditions – Neighbouring Occupiers

20. The Council's second reason for refusal relates to the effect of the development on neighbouring properties through enclosure and loss of outlook. The dwellings that the Council considers would be affected are not identified within the reason for refusal. Its officer report refers to 51 and 52 Brathway Road and 59–63 Camborne Road, and its appeal statement suggests that it is occupiers of these dwellings that would be harmed. However, 52 Brathway Road is located to the opposite side of the street some way from the site, and I am satisfied given this relationship that outlook for occupiers of No 52 would not be meaningfully affected by the proposal. Instead, I consider that it is occupiers of 51 and 53 Brathway Road, and 59-65 Cambourne Road which share boundaries with the proposed dwelling that could be affected. I have determined the appeal accordingly, and I am satisfied in light of my findings on this main issue that no party would be unfairly prejudiced by my doing so.
21. The greater height of the dwelling at the eaves in comparison to the existing garage would result in an increase in the height of development on the boundaries with 51 and 53 Brathway Road and 59-65 Cambourne Road. However, I have already noted the fairly steep angle of the roof slopes to the garage. As a result, there is only relatively modest additional spacing between the boundaries and the higher flat part of the garage roof that runs along the depth of the building such that visual relief is limited. Based on my observations at my visit, the higher part of the roof remains conspicuous and a pronounced element in views from the neighbouring dwellings.
22. The flat roof to the dwelling would be significantly lower than the higher part of the garage roof, and in my judgement would result in a reduction overall in the impression of mass and bulk when seen from neighbouring properties in comparison to the garage. I acknowledge the constrained nature of the site and the very shallow gardens to the neighbouring dwellings. Nevertheless, I find that the increase in height of development on the boundaries of the site would be mitigated by the greater reduction in maximum height, and the lesser overall bulk and mass of the upper part of the development. In my view, the proposal would be no more overbearing, and would not cause a notable increase in the degree of enclosure nor a harmful loss of outlook for neighbouring occupiers in comparison to the existing situation.
23. I therefore conclude on this main issue that the proposal would not cause unacceptable harm to the living conditions of neighbouring occupiers through loss of outlook. Accordingly, I find no conflict with the requirement within Policy DMS 1 of the DMP that development does not harm the amenity of occupiers of nearby properties including through unsatisfactory outlook. For similar reasons, the proposal would accord with Policy LP2 of the emerging Local Plan insofar as it sets out that development must not adversely impact the amenity of neighbouring properties, albeit that I afford limited weight to this policy given that it is not yet an adopted part of the development plan.

Other Matters

24. The Framework seeks to significantly boost the supply of housing, and further highlights the need to make effective and efficient use of land. The proposal would make effective use of the site to deliver an additional dwelling towards the supply of housing locally, and I have found that there would not be unacceptable harm to the character and appearance of the area or to the living

conditions of neighbouring occupiers. However, the contribution made to the supply of housing overall would be limited by the modest scale of the proposal, and I have further found that the dwelling would not offer a good standard of living for future occupiers which limits the weight that I give to this benefit. In addition, it has not been demonstrated that the development would provide a suitable location for housing with regard to flood risk.

25. In my assessment, the benefits of the proposal are insufficient to outweigh the cumulative harm arising as a consequence of flood risk and to the living conditions of future occupiers. I find that the proposal would conflict with the development plan as a whole and there are no material considerations which indicate that a decision contrary to the development plan should be reached.
26. I have had regard to representations made by interested parties, including those raising additional concerns including in relation to parking stress, effects on trees and biodiversity and disruption during construction. However, none of the matters raised alter my conclusions on the main issues or the proposal overall.

Conclusion

27. For the reasons given above, I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR