



Appeal Decisions

Site visit made on 10 January 2023

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2023

Appeal A Ref: APP/G5180/W/22/3299779

49 Southborough Road, Bickley, Bromley, BR1 2EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr C Hazeldine against the decision of the Council for the London Borough of Bromley.
 - The application Ref DC/21/03360/FULL1, is dated 29 July 2021, was refused by notice dated 2 March 2022.
 - The development proposed is demolition of existing dwelling and coach house; erection of 2no. apartment blocks consisting of 14no. apartments; new vehicular access with associated hard and soft landscaping.
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Appeal B Ref: APP/G5180/W/22/3303600

49 Southborough Road, Bickley, Bromley, BR1 2EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr C Hazeldine against the decision of the Council for the London Borough of Bromley.
 - The application Ref DC/22/00911/FULL1, is dated 28 January 2022, was refused by notice dated 23 June 2022.
 - The development proposed is the demolition of existing dwelling and ancillary Coach House, and erection of 4 no. detached two storey 4 bedroom dwellings with alterations to vehicular access, provision of associated parking and formation of new public footway.
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Decisions

1. Appeal A is dismissed
2. Appeal B is dismissed

Preliminary Matters

3. The Council has confirmed that a signed Section 106 agreement to secure on-site affordable housing provision, an early-stage review, a carbon offset contribution and highway works has been received in respect to **Appeal A**. This would overcome the fifth reason for refusal, and therefore I have confined my assessment of **Appeal A** to the remaining reasons for refusal.
4. I have noted the extensive planning history of the appeal site and, accordingly, I have taken these other applications, appeals and decisions into account as material considerations in my determination of these appeals.

Main Issues

5. The main issue on both Appeal A and B is the effect of the proposals on the character and appearance of the area taking into account the loss of the existing building.
6. With regard to **Appeal A**, there are additional main issues regarding i) whether the proposal would provide adequate living conditions for future occupiers, with particular reference to outlook, amenity space and internal space standards; and ii) the effect of the development on the living conditions of neighbouring occupiers, with particular reference to noise and disturbance.

Reasons

Character and appearance

7. The appeal site is located on the eastern side of Southborough Road in Bromley, which is a principally residential neighbourhood, with varying styles of dwelling, albeit these properties are generally large, detached houses sitting in generous plots. Despite the variation in style, there is a distinct rhythm and feel to the street. The existing dwelling and its adjoining coach house fronts onto Southborough Road at a point where the property boundary extends to the edge of the carriageway, resulting in the absence of the footway across much of the site frontage.
8. The Council has identified the site, through the application process, as a non-designated heritage asset (NDHA). The National Planning Practice Guidance (NPPG) advises that NDHAs are identified by plan-making bodies via a number of processes, which can include being designated as part of the decision-making process on planning applications¹. However, the NPPG further states that *'a substantial majority of buildings have little or no heritage significance and thus do not constitute heritage assets. Only a minority have enough heritage significance to merit identification as non-designated heritage assets'*.
9. The appellant considers that the property is not of sufficient significance to be considered as a NDHA, further suggesting that Policy 39 of the Bromley Local Plan, adopted January 2019 (BLP) should not be engaged as the site is not included on the local list. It is contended that the Council's position is overstated and that 49 Southborough Road does not possess a level of heritage significance that would trigger an automatic presumption in favour of its retention, or the complete preservation of the setting of the locally listed buildings at Nos 60 and 62 Southborough Road on the opposite side of the street.
10. The site contains a large, two-storey house which dates back to 1900. I am told, and it is not disputed, that the property is Domestic Revival in style. The four gables to the front and rear have timber framing reminiscent of the showy 16th century frames typical of the West Midlands. There are other Tudor references, such as the Ipswich-type window, the oriel window, and the overhanging verges and bargeboards². In my view, the building has a degree of local importance, based on its appearance and contribution to the street scene of Southborough Road, and as an example of the Domestic Revival style.

¹ Paragraph: 040 Reference ID: 18a-040-20190723

² Heritage Appeal Statement prepared by HCUK Group dated May 2022 (Ref: 7918)

11. Nevertheless, whilst relatively attractive, I would concur with the appellant's view that had this building been worthy of NDHA status, it would have been identified during the formal process when the properties at Nos 60 and 62 Southborough Road were added to the local list. It does not have a strong visual connection, nor any particular group value, with these properties, despite being in relatively close proximity.
12. Although the site was identified during the application process as being of heritage interest, there is no evidence of a formal assessment ever having been undertaken by the Council. This is surprising, given the extensive planning history at the site, which has been the subject of several previous schemes. These include the grant of planning permission³ for the demolition of the adjoining coach house, alongside some alterations and extensions to the existing property⁴, which would have undermined the building's architectural integrity and setting.
13. I acknowledge that by demolishing the entire building, the effect on any heritage significance it might possess would be substantial, or total. However, there is no substantive evidence that leads me to believe that the building is of sufficient heritage value as to be considered a NDHA. For the reasons set out above, the building does not have anything other than very limited heritage significance and I do not consider it to be a NDHA. As such, Paragraph 203 of the National Planning Policy Framework (the Framework), Policy HC1 of The London Plan, March 2021 (LP) and Policies 39 and 40 of the BLP are therefore not relevant to these appeals in this regard.
14. Turning now to the specifics of the proposals, **Appeal A** seeks to demolish the existing dwelling and provide a pair of large, detached buildings at the plot incorporating seven flats in each. The proposal seeks to address the shortcomings of previous dismissed schemes⁵ and makes changes to the design in response to those appeal decisions. The most significant of those changes is the removal of the hardstanding for car parking at the rear, and its replacement with communal gardens to maintain the suburban garden appearance.
15. The appellant contends that the buildings have been designed to resemble the large dwellinghouses which make up the general character and appearance of the surrounding area. Nevertheless, the provision of two buildings totalling 14 flats at the site provides a development type significantly more intense and denser than the prevailing character. In particular, the provision of additional accommodation at the second floor would require a crown roof and that would create mass and bulk which is unrepresentative of the street scene. This would give the buildings a squat appearance.
16. I concur with the Inspector in the most recent appeal⁶, that given the existing character of predominantly large detached single-family houses which sit on generously sized plots, a flatted development would not be characteristic of the surrounding properties in the area. Also, the increase in domestic paraphernalia associated with the proposal would have an adverse visual impact. Both of the previous Inspectors found that the intensification to 9 units at the site would be inappropriate. Given the plot size remains unchanged, it is unclear how a larger

³ London Borough of Bromley Planning refs: 16/05600/FULL1 and 20/01026/FULL1

⁴ London Borough of Bromley Planning ref: 16/01898/FULL6 (PINS ref: APP/G5180/D/16/3157986)

⁵ PINS refs: APP/G5180/W/18/3210945 and APP/G5180/W/19/3219836

⁶ PINS ref: APP/G5180/W/19/3219836

quantum of development (14 units) can be accommodated without having a similar adverse impact. The **Appeal A** scheme therefore provides a density that is unrepresentative, appearing as cramped and too dense within the site, to the detriment of the character and appearance of the area.

17. **Appeal B** seeks a significantly less dense development, with the provision of four dwellings at the site, with two large houses fronting Southborough Road and two further large houses in the rear garden. This scheme is similar to previously refused applications that have been subject to separate dismissed appeals⁷. Both Inspectors found that the addition of two dwellings to the rear of this site would have no physical or visual affinity with the pattern of development that is highly prevalent in the immediate vicinity.
18. The addition of two houses to the rear of the site would provide a significantly more built-up appearance in contrast to the existing open garden. The garden currently provides a sense of spaciousness which contributes positively to the character and appearance of the area. It is acknowledged that the houses at the rear have been reduced in size and, given the narrow gap between the units fronting Southborough Road, there would only be glimpsed views from the street of these new properties at the rear. Nonetheless, the proposal for development at the rear of the site, including the provision of accessways and parking, would erode the pleasant green suburban character.
19. There are other “back land” sites in the vicinity, notably at Laurel Gardens and Sibley Close. However, these appear to be located on larger plots and thus are not directly comparable to the scheme subject to Appeal B. Furthermore, these are isolated examples and do not reflect the prevailing character of the area. The proposal would provide a layout at odds with the established pattern of development in the locality. As such, I conclude that the scheme would harm the character and appearance of the area; this finding is consistent with previous appeal decisions.
20. Drawing matters together, I have found that 49 Southborough Road has very limited heritage significance and does not qualify as a NDHA. Nevertheless, I have found that the schemes for Appeal A and B would, for different reasons, be harmful to the character and appearance of the area. **Appeal A** would provide a cramped, dense development at odds with the prevailing character, while **Appeal B**, despite being less dense, would provide a significant reduction in garden size at odds to the adjacent properties and local suburban grain. Both proposals would be contrary to BLP Policies 3, 4, and 37 and LP Policy D3 which, amongst other things, require all development to be of high-quality design and layout, contributing positively and complementing adjacent buildings and areas. The proposals do not accord with the Framework insofar as it seeks to ensure that new development is sympathetic to local character.

Living conditions for future occupiers (Appeal A)

21. The Government’s nationally described space standard, March 2015 (NDSS) contains the minimum internal space requirements for new dwellings. These requirements are also applied in a local context within Table 3.1 of the LP and LP Policy D6 and also in BLP Policy 4. The Council contends that the units on the second floor of Block B would not meet these standards. Under the above requirements, a 2-bedroom 3-person dwelling laid out over one storey requires

⁷ PINS refs: APP/G5180/W/15/3087257 and APP/G5180/W/16/3145319

- 61m² as the minimum standard. Any area with a headroom of less than 1.5m is not counted within the gross internal area (GIA) unless used solely for storage.
22. The proposed apartments on the second floor of Block B are dual aspect with habitable room windows on the eastern and western facades. Units B6 and B7 are depicted as 61.1m² and 61m² respectively. However, the drawings show that some of the habitable space within the rooms is below 1.5m in height and this would not count towards the GIA of these units. The failure to meet the relevant NDSS space standards would compromise the quality of the living environment within these particular units.
 23. The Council is also concerned that there would be a poor outlook from Units B6 and B7, given that their second bedrooms would be served by rooflights only. However, it is clear from the sectional drawings that the rooflights would provide daylight into the bedrooms as well as a sill height which provides an outlook across Southborough Road. Occupants of the bedrooms would not feel hemmed in and the living conditions would be within acceptable limits.
 24. The plans before me indicate that all the units would be provided with adequate external private open space in excess of the minimum requirements set out within LP Policy D6. Given the provision of significant communal space for proposed occupants, this would be commensurate with the surrounding area.
 25. Notwithstanding the adequate amenity space provision, the living conditions of future occupiers of Units B6 and B7 would be unacceptable due to inadequate internal space. As such, the **Appeal A** proposal would fail to comply with LP Policy D6. There would also be conflict with BLP Policies 4 and 37 which seek, amongst other things, to achieve high quality housing, and with the aspirations of the Framework to deliver high quality design and a good standard of amenity for all existing and future occupants of buildings.

Living conditions for neighbouring occupiers (Appeal A)

26. It is common ground that there would be no adverse impacts on the living condition of neighbouring residents with regard to privacy or loss of light. There is no reason for me to take a different view. The parties disagree on whether the proposed development would be likely to result in increased noise and disturbance for nearby residential occupiers.
27. The Council highlights that under a previous scheme⁸ the Inspector found that there would be harm to the living conditions of neighbouring occupiers from an increase in noise and disturbance as a result of the proposal. This would have been due to the increase in activity in the rear garden due to the location of the proposed parking area.
28. It is acknowledged that there are similarities between the previously refused and dismissed scheme; however, the current scheme provides less parking, and it is located at the front of the site. Previous schemes proposed parking at the rear and underground. Many of the surrounding properties have large expanses of hardstanding to the front for off-street parking. The new forecourt would be used in a similar fashion, albeit more intensively. While the larger quantum of units is likely to generate more comings and goings, I have not been presented with any evidence to suggest that this is likely to cause significant harm to the living conditions of existing residents. Furthermore,

⁸ PINS ref: APP/G5180/W/18/3210945

refuse collection and servicing would remain the same, via Southborough Road to the front, and thus it would not result in any additional impacts.

29. In conclusion, the proposed development would not cause material harm to the living conditions of the occupiers of the neighbouring residential properties. Therefore, I find no conflict with the amenity protection aims of BLP Policy 37 and the Framework, which amongst other things, seeks high quality design and a good standard of amenity for all existing and future occupants of buildings.

Other Matters

30. Other appeals and schemes have been referred to by the appellant⁹. I have had regard to these decisions; however, they relate to significantly larger multi storey developments. These developments are not directly comparable to the appeal proposals and are a substantial distance from the appeal site. On the basis of the information I have about these other cases the context would appear to be materially different. The character of each site and how the schemes would relate to the local street scene also varies. Proposals need to be considered on its own merits and circumstances.

Planning Balance

31. The Council accepts that it cannot demonstrate a five-year housing land supply at present. The authority advises that the supply figure is 3.99 years, and this is not disputed by the appellant.
32. Paragraph 11 of the Framework sets out that for applications involving the provision of housing where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, permission should be granted, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
33. In regard to **Appeal A**, the proposal would provide 14 new dwellings that would assist the Council in addressing its housing undersupply. The delivery of seven affordable homes, in an area where there is an inadequate supply of housing land and a shortage of affordable housing, weighs significantly in favour of the proposal.
34. Based on the information before me and my visit, the appeal site is in a sustainable location with a range of shops and facilities in relatively close proximity and with convenient access to alternative transport modes. Thus, any future residents would have good access to facilities. Furthermore, it would also benefit the local economy in the short term through construction activity and in the longer term through the introduction of an increased population to support businesses. Further benefits of the scheme would include carbon offset, biodiversity net gain, urban greening and footpath improvements, all of which attract moderate weight in favour of the proposal.
35. However, the Framework requires the creation of a high-quality environment and I have identified that the proposals would result in significant harm to the character and appearance of the area. Furthermore, I have found that the proposal would create a poor residential environment for future residents of certain units through inadequate internal space. Notwithstanding the emphasis

⁹ PINS refs: APP/G5180/W/18/3206569 and APP/G5180/W/20/3257010

of the Framework on boosting the supply of housing, in my view the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

36. In regard to **Appeal B** I have considered the contribution of the proposal to the supply of housing, set against the positive approach to housing growth within the Framework. The Framework makes clear that small sites such as this can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. However, in the context of the overall housing needs of the area, there would only be limited benefits in the provision of four new dwellings and given the harm that I have identified in respect to the character and appearance of the area, I consider that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

Conclusions

37. Bringing together my conclusions on the main issues, I have had regard to the benefits of both appeal schemes, and recognise that the appeal proposals accord with various development plan policies and in particular the provisions of LP Policy H2 in relation to housing delivery. However, neither the benefits of the schemes nor any other matters provide clear and convincing reasons to outweigh the harm identified to the character and appearance of the area, and in terms of **Appeal A** the substandard living conditions for future occupants.
38. Both schemes would conflict with the development plan when considered as a whole and there are no material considerations to justify a decision otherwise than in accordance with the development plan. For the reasons given above, I conclude that both Appeal A and B should be dismissed.

Robert Naylor

INSPECTOR