



Appeal Decision

Site visit made on 31 January 2023

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th March 2023

Appeal Ref: APP/G5180/W/22/3303445

1 Mayfield Close, Penge, Bromley, London, SE20 8EJ

- 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 Ahmet Tahir against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/22/01561/FULL1, dated 8 April 2022, was refused by notice dated 17 June 2022.
 - The development proposed is Removal of existing pitched roof and addition of 4 new flats over 2 storeys with flat roof. Over cladding and adding additional insulation to existing building. Existing windows to be replaced with grey aluminium glazing. Associated landscaping and additional parking provision.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Ahmet Tahir against the Council of the London Borough of Bromley. This application is the subject of a separate Decision.

Preliminary Matter

3. As part of the appeal the appellant has submitted revised plans showing a small reduction in the width of the proposed roof terraces. As this is a minor amendment, and the nature of concerns of those who would normally have been consulted are clear from the consultation on the original set of plans, I do not consider that their interests would be prejudiced if I take the amended plans into account. I shall therefore determine the appeal and the application for planning permission on the basis of the original set of plans, as amended by plan ref. P204/A, P220/A and P221/A.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the surrounding area; and
 - The effect of the proposal on the living conditions of occupiers of neighbouring properties.

Reasons

Character and appearance

5. The appeal property is a two-storey building in use as four flats. It is located to the rear of 193 Anerley Road which is an apartment building arranged over 5 floors.
6. The surrounding area comprises of residential and other uses and is highly mixed in character and appearance. Buildings are typically 3-4 storeys in height although Inchbare and Samaria which front Maple Road to the east of the site are two storey properties. The surrounding buildings also vary in terms of their age and design, with many examples of flat roofed apartments close to the site.
7. The appeal proposal would result in two additional floors of accommodation following the removal of the pitched roof of the existing building. The building would also be insulated and clad with vertical timber cladding.
8. Whilst the resultant building would be approximately 3.1 metres higher than the existing building, its bulk and mass would be significantly greater. This would be further emphasised by the stepped design of the building whereby the upper floors would be larger and slightly overhang the floor beneath. The proposal also includes a roof terrace for use by upper floor flats 7 and 8. This terrace would be set in from the edges of the building and would be enclosed by a wire mesh enclosure.
9. There would however be no change to the footprint of the building. The amenity area to the rear of the building would be retained and the building would continue to be set in from the side boundaries of the site. The building would continue to be separated from the rear elevation of 193 Anerley Road by about 22 metres.
10. The proposed building would undoubtedly be more prominent in the local landscape than the existing building by virtue of its additional height and bulk. However, there are other large buildings in the immediate area, and I do not consider that the proposal would appear unduly cramped in relation to the boundaries of the site and it would continue to be provided with an appropriate setting.
11. I acknowledge that the site is in a backland location and the Council's concerns that other buildings of a similar height and scale tend to be orientated towards principal roads. Notwithstanding this, I noted on my site visit that surrounding buildings are not uniformly sited and there are examples of larger buildings that are well set back from the road frontage, particularly along nearby Maple Road. There are also large, flatted developments that extend deep into their plots. This leads me to conclude that the proposal development would not be significantly out of keeping with the mixed pattern of development and character of the area in this regard.
12. The Council consider that the stepped design of the building would have a unbalanced top-heavy appearance. Whilst I agree that the design of the building is unusual, in my view the contemporary design is imaginative and would add interest and articulation to the building. Furthermore, I consider that the use of timber cladding, whilst a deviation from other local materials, would be appropriate in this setting and would respect the green, treed nature of its

surroundings. I consider that the proposal would be of a good architectural quality and would complement the scale, proportions, form and layout of adjacent buildings and area.

13. I therefore conclude on this issue that the proposal would not have a materially harmful effect on the character and appearance of the area. It would comply with Policy D4 of the London Plan (2021), Policies 4 and 37 of the Bromley Local Plan (2019) (LP) and Bromley's Supplementary Planning Guidance 1 and 2 (SPD). These policies and guidance require development to be of high standard of design and layout whilst enhancing the quality of local places.

Living Conditions

14. According to the Council's appeal Statement, their main concern in this regard is the effect of the proposal on the living conditions of the occupiers of Inchbare and Samaria which back onto the appeal site. These dwellings have a rear garden depth of about 17 metres with the distance to the flank elevation of the appeal building being slightly greater, as its footprint is set approximately a further 2.3metres from the side boundary.
15. The proposed building would be about 3.1m higher than the existing building. However, as the existing hipped roof structure would be replaced by two additional storeys of development, it would be of a significantly greater scale, bulk and mass. This would be apparent by the significant increase in eaves height, resulting in the building being far more prominent when viewed from the rear elevations and rear gardens of Inchbare and Samaria.
16. The appeal building straddles the boundary division between Inchbare and Samaria roughly evenly. As such, it would not extend along the full width of either garden. However, due to its closeness to the boundary together with the significant increase in height and bulk, I consider that the building would be overbearing and would dominate the outlook from windows on the rear elevation of Inchbare and Samaria to an unreasonable extent.
17. Any additional overshadowing by virtue of the increase in height and bulk of the proposed building would be later on in the day as it is located to the north-west of Inchbare and broadly to the west of Samaria. The existing building and other buildings in the vicinity would already have some effect on the amount of light received by rear windows and the rear gardens of Inchbare and Samaria. However, in the absence of any substantive evidence to the contrary in the form of a daylight and sunlight assessment, I conclude that the proposal, with its additional height and bulk close to the boundary of the site, would be likely to have an additional harmful effect in terms of overshadowing.
18. The appeal scheme proposes second and third floor balconies on its rear elevation and a roof terrace which would be divided and would serve the top floor flats.
19. The main aspect from the balconies would be over the existing rear communal amenity area and the open land beyond. Any views from the balconies towards the rear elevation of Samaria would be at an angle and would be restricted to the rear section of the garden. Views towards the flats in Carole House would be at a considerable distance and I am therefore satisfied that the proposed balconies would not give rise to unacceptable levels of overlooking.

20. Roof terraces are a common feature associated with the flatted developments in the local area, including the large roof terrace on 193 Anerley Road which is enclosed by opaque balustrading.
21. Whilst the proposed roof terrace would be set back from the edge of the building, the submitted drawings show a stainless steel wire mesh enclosure of only 1.1m in height which, in my view, would not be sufficient to prevent direct views towards the gardens and rear elevations of Inchbare and Samaria. Therefore, in the absence of any further details of privacy screening, I conclude that the proposal would result in overlooking of the adjacent dwellings which would be harmful to the living conditions of the occupiers of those properties.
22. Each terrace would be used in association with a single household and given the likely intensity of use and the separation distances to adjoining users, I am satisfied that the proposal would be unlikely to give rise to unacceptable levels of noise and disturbance.
23. However, having regard to all of the above considerations, I conclude that the proposal would have a harmful effect on the living conditions of the occupiers of neighbouring properties with particular reference to outlook, privacy and light. The proposal would conflict with Policy 37 of the LP which seeks to protect the amenities of occupiers of neighbouring buildings.

Other Matters

24. The appellant has referred to several appeal decisions where permission has been sought for the redevelopment of low profile flatted development resulting in development with an increase in dwelling numbers and bulk. Whilst I acknowledge these examples and that the proposal would make the effective use of land, I have assessed the appeal scheme, including its effect on the living conditions of neighbouring occupiers, on the individual merits of the proposal.

Planning Balance

25. The Council has accepted that their deliverable housing land supply is less than five years for current decision-making, with 3.99 years identified in their statement. The application of policies in the National Planning Policy Framework (the Framework) that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed, as outlined in paragraph 11 d (i) of the Framework. Accordingly, paragraph 11 d) ii of the Framework is engaged in this case.
26. Four additional dwellings would make a small but meaningful contribution towards increasing housing supply and addressing the shortfall which would align with paragraph 60 of the Framework. In delivering four small units of accommodation the proposal would also bring about social and economic benefits. However, given the long-lasting effects of the proposal, I give significant weight to the harm that I have identified to the living conditions of the occupiers of adjacent dwellings, which would be contrary to paragraph 130 of the Framework which seeks amongst other things, to ensure development provides a high standard of amenity for existing and future users.
27. In considering the above factors, the adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits when assessing against the policies in the Framework as a whole.

Conclusion

28. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise. The proposal conflicts with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm. The appeal is therefore dismissed.

J Davis

INSPECTOR