



Appeal Decision

Site visit made on 22 November 2022

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 March 2023

Appeal Ref: APP/G5180/W/21/3288814

515-519 Upper Elmers End Road, Beckenham BR3 3DE

- 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 Alltime Securities Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/21/01773/FULL1, dated 9 April 2021, was refused by notice dated 25 June 2021.
 - The development proposed is extensions and alterations to the existing building to create 8no. apartments with associated works.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The decision notice issued by the Council gave five reasons for which planning permission was refused. Reason 4 referred to noise impacts on future occupiers, and reason 5 referred to the potential impact of the proposed development on nearby protected trees. The appellant's appeal submissions included an addendum to the acoustic planning report which had accompanied the original planning application, and an arboricultural report. Having considered this additional information, the Council stated that it no longer wished to maintain those two reasons for refusal, subject to the imposition of relevant conditions in the event of the appeal being allowed.
3. None of the evidence before me indicates that I should take a different stance to the Council on those matters. The main issues in the appeal are therefore:
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on living conditions for occupiers of neighbouring properties on Upper Elmers End Road, with particular regard to whether or not it would be overbearing; and
 - Whether or not the proposed development would provide acceptable living conditions for future occupiers, with particular regard to the mix of uses within the building, and the siting, layout and accessibility of cycle storage.

Reasons

4. The appeal site is a three-storey flat-roofed building at the corner of Upper Elmers End Road and Eden Park Avenue. The ground floor is occupied by a Sainsbury's Local supermarket. The first and second floors are in office use, although prior approval under Part 3 Class O of the General Permitted Development Order 2015 ("the GPDO") was granted in December 2020 for a change of use from offices to 8 flats – four on each of the two floors¹. Planning permission was subsequently granted for a lift shaft on the Eden Park Avenue frontage and a first and second floor rear extension behind the existing offices to provide an internal access corridor for the prior approval flats².
5. The proposed development is the construction of an extension at the rear of the building behind the offices, with two flats on each of the first and second floors. A new third floor would be built at rooftop level, providing a further four flats.

Character and appearance

6. The appeal site is within a small neighbourhood shopping parade, close to Eden Park railway station. The character of the surrounding area, both to the east and west along Upper Elmers End Road and northwards along Eden Park Avenue, is overwhelmingly defined by typically suburban, two-storey housing with pitched roofs. Even within the neighbourhood parade the buildings generally fall into this pattern, albeit that they have commercial units on their ground floors. Eden House, a short distance to the south-east at No 531 Upper Elmers End Road, also has three storeys (although it has a pitched roof); along with the appeal property it is a notable exception to the more common built form of the area.
7. The additional floor of living accommodation would give the appeal property a degree of height and prominence in the street scene which would be at odds with the lower built form which is prevalent in the area. This would be exacerbated by the large rooftop plant enclosure and stairwell head, which in some views would create the appearance of there being a further storey on the building. The distance by which the additional floor would be set back from the edge of the building means that it would not be prominent in the street scene from close range. However, long views of the appeal site are possible for some distance either way along Upper Elmers End Road; in these views the combination of the additional storey and the assorted rooftop plant would be cumbersome and obtrusive.
8. I recognise that it is not unusual for corner buildings within commercial centres (even relatively low-key ones) to sometimes be a little taller, grander, or more prominent than their neighbouring buildings. However, the appeal property is *already* a taller and more prominent building than most of its neighbours, and the scale of the appeal proposal would make it incongruous. I recognise that elements of the detailing and materials – such as the use of herringbone brickwork on the western elevation and rooftop stairhead – would be reflective of features found on other buildings in the area; however, while this would be acceptable it would not mitigate the harm caused by the height and bulk of the

¹ LPA Ref: 20/04116/RESPA

² LPA Ref: 21/00462/FULL1

proposed extensions. I therefore do not agree with the appellant's argument that the appeal scheme would represent a positive addition to the streetscene.

9. The appellant drew my attention to earlier grants of planning permission for a scheme to add an extra storey to the building, most recently in 2008³ when the Council said that "the proposal would not impact detrimentally on the character of the area nor on the amenities of the occupiers of neighbouring buildings". I have been provided with the approved drawings of that scheme (though they are dated 2003) and, as well as the detailed design being very different from the proposal before me, it is evident that it would have had considerably less bulk at roof level. Given this significant difference, I do not consider that the earlier grants of planning permission carry significant weight in favour of the appeal scheme.
10. I conclude that the proposed development would, because of its height, siting and massing, be harmful to the character and appearance of the area. It would therefore conflict with Policies 4, 8 and 37 of the 2019 Bromley Local Plan ("the BLP") and Policies D3 and D6 of the London Plan 2021. Among other things, these policies seek to ensure that residential development, is well-designed, and makes a positive contribution to the street scene, including by complementing the scale, proportions and form of other buildings in the surrounding area.
11. There would be no conflict with Policy 1 of the BLP which is essentially a strategic housing supply policy, nor with Policies D1 and H2 of the London Plan which (although they refer to local character and the provision of housing on small sites) are principally concerned with identifying and understanding the capacity for growth and development in London, although this does not alter my overall conclusion on this matter.

Living Conditions – neighbours

12. The block 521–529 Upper Elmers End Road lies to the south east of the appeal site. Nos 521 and 529 at either end of that block are single-storey retail premises; the three central properties have each have a commercial unit on the ground floor and a residential flat above. The boundary between the appeal site and No 521 is angled; the appeal site gets wider towards the rear, while No 521 narrows. As a result, the rear corner of the appeal site is close to the north-east facing rear window on the first floor of No 523.
13. The proposed two-storey extension would be built on what is currently a flat roof at the rear of the appeal property; the end wall nearest to No 523 would be raised in height from one storey to three. While it would not directly obstruct the outlook from No 523, it would be an oppressive feature which would have the effect of increasing the sense of enclosure in a space which is already somewhat hemmed in by the appeal property and the adjoining railway embankment. I understand from the evidence before me that this window serves a bedroom; while the room is not therefore a main living space, I nevertheless consider that the overbearing height of the two-storey extension proposed at the rear corner of the appeal property would be detrimental to living conditions for the occupiers of the flat at No 523.

³ LPA Ref: 08/03027/RECON; this was an almost unaltered resubmission of an earlier scheme granted planning permission in 2003

14. I conclude therefore that the proposal would conflict with Policies 4, 8 and 37 of the BLP, and with Policies D3 and D6 of the London Plan 2021. Together, and among other things, these policies seek to ensure that housing is well-designed, has adequate surrounding space, and does not have adverse effects on the amenity of neighbouring occupiers. For the same reason as for the previous main issue, I find no specific conflict with Policies D1 and H2 of the London Plan.

Living Conditions – layout and uses

15. The submitted drawings show a room described as an office/store on the first floor of the building, with a cycle store in the corresponding space on the second floor. The planning application was not entirely clear about the intended purpose of the office/store room, and the Council expressed concern that it would not be appropriate to locate what may be a commercial use within the residential part of the building. The Council also considered that the siting of the cycle storage would mean that it would have poor accessibility for residents.
16. The appellant responded that “the purpose of the office/storage room is to provide a small, dedicated area for the building caretaker, to store maintenance equipment and plant”, and suggested that a restriction of commercial use for part of this building could be secured via condition. Notwithstanding that the office/storage space appears to be excessively large for its intended purpose, I consider that the appellant’s suggested condition preventing any commercial use would be a pragmatic way of addressing the Council’s particular concern in respect of the mix of uses, were the proposal acceptable in all other respects.
17. The development would provide an adequate amount of cycle storage, which would be secure and covered. Its proposed siting on the second floor would, however, be awkward for residents to access. The internal dimensions of the lift are not apparent from the submitted evidence, but as it would need to be fitted into a shaft with external dimensions of approximately 1.95m by 1.95m there is considerable doubt that could comfortably accommodate a bicycle and its user. The alternative would be for bicycles to be carried up the stairs to the second floor. On arrival at the second floor, bikes would need to be manoeuvred along the narrow corridor to the cycle store, which would be likely to be inconvenient. It would also involve passing through a doorway immediately outside the entrance to Flat 3 (as well as two of the permitted development flats granted prior approval in 2020); the arrangements would also therefore be likely to result in disturbance for occupiers of those flats.
18. The appellant’s alternative suggestion, that the first floor office/storage space could instead be used as an additional cycle store, would not address the shortcomings in respect of bicycle storage. Although it would mean that some residents would only need to take their bike up one storey rather than two, it would still mean their needing to manoeuvre their bike along the narrow corridor within the building, and so would not provide convenient access to the bike store. There would also still be an attendant risk of noise disturbance to occupiers of the flats between the lift or stairs and the cycle store.
19. I note the appellant’s comment that Sainsbury’s operational requirement and land ownership preclude the provision of cycle storage on the ground floor of the building. While I accept that point, it does not completely explain why other

more convenient or less disruptive alternative locations within the building could not be provided. Whether as originally proposed or modified as suggested, the siting, layout and accessibility of the scheme's cycle storage would not provide future occupiers of the building with the standard of living conditions they could reasonably expect.

20. The proposal therefore conflicts with Policies 4 and 37 of the BLP, and Policies D3 and D6 of the London Plan 2021; among other things these require development to be of a high standard of design and layout, to provide a high standard of amenity for occupiers, and to include convenient cycle parking.

Other Matters

21. The appellant has referred to the possibility of adding a two-storey upward extension to the existing building to provide additional dwellings using permitted development rights. However, the construction of additional storeys permitted by Schedule 2, Part 20, Class AA of the GPDO requires prior approval from the local planning authority in respect of impact on amenity and external appearance. While it is not for me to attempt to address any hypothetical future application for prior approval which might come forward, taking into account my conclusions on the first and second main issues in this appeal there must be a significant probability that such approval would be granted. This consideration is not therefore a fallback position which carries significant weight in favour of the scheme before me.
22. The appellant has also drawn my attention to two other appeal decisions relating to the former Dylon works⁴ and sports ground (Footzie Social Club)⁵ elsewhere in Bromley, in which Inspectors considered the shortfall in the housing supply within the borough. I address the relevance of these decisions in the following section.

Planning Balance and Conclusion

23. As a result of the harm I have found I consider that the proposal would conflict with the development plan taken as a whole. However, there is no dispute between the main parties that the local planning authority cannot demonstrate a deliverable five-year supply of housing sites. The Council accepts that under the provisions of Footnote 8 of the 2019 National Planning Policy Framework the most important policies for determining the appeal should be considered out of date, and the presumption in favour of sustainable development set out in paragraph 11(d) of the Framework applied. As such, planning 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.
24. Paragraph 60 of the Framework seeks to significantly boost the supply of homes nationally, and Paragraph 69 recognises that small- and medium-sized sites – which can often be built out quickly – can make an important contribution to meeting the housing requirement of an area. Paragraphs 124 and 125 seek to support development which makes efficient use of land, and that where there is an existing or anticipated shortage of land for meeting identified housing needs, developments should make optimal use of the

⁴ PINS Ref: APP/G5180/W/18/3206569

⁵ PINS Ref: APP/G5180/W/20/3257010

- potential of each site and planning decisions should avoid homes being built at low densities.
25. The proposed development would provide eight additional dwellings, in an area reasonably well-located for access to shops, other services and transport links. There would be likely to be some additional benefits arising from supporting local employment during the construction phase, and the use of local businesses once the development was occupied. Given the small scale of the appeal scheme before me, these would in total be modest social and economic benefits; I give these considerations moderate weight in favour of the proposal in the overall balance.
26. I note that in the two other appeal decisions to which I was directed the Inspectors gave “very substantial weight” to the contribution which the schemes would make to meeting the pressing need for housing within Bromley. However, the Dylon works decision relates to a scheme which would provide 151 dwellings, while the Footzie Social Club decision relates to a 254-unit scheme. Both are therefore very different in scale to the proposed development in this appeal, which would make a very limited contribution to tackling the borough’s housing backlog. As a result, while I have no reason whatsoever to disagree with my colleagues’ conclusions in those appeals, they do not indicate that I should give greater weight to the much more limited benefits which would arise from this proposal.
27. I have found that the height, siting and massing of the proposed rear and rooftop extensions would cause significant harm to the character and appearance of the area. This would conflict with the provisions of Paragraph 130 of the Framework which require development to add to the overall quality of the area, to be visually attractive, and sympathetic to local character. The bulk and massing of the rear extension would harm neighbouring occupiers’ living conditions for neighbouring occupiers, while the layout and siting of the proposed cycle store would not provide future occupiers with acceptable living conditions. In these respects, the proposal would conflict with the requirement in Paragraph 130 of the Framework that development should provide a high standard of amenity for existing and future users.
28. Overall, the harm from the development significantly and demonstrably outweighs the benefits when assessed against the Framework taken as a whole. The proposal would not amount to sustainable development in the terms set out in the Framework. The appeal is therefore dismissed.

M Cryan

Inspector