



Appeal Decision

Site visit made on 12 January 2023

by L Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2023

Appeal Ref: APP/G5180/W/22/3307258

18 Bromley Common, Bromley BR2 9PD

- 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 Baron Homes Bromley Ltd against the decision of the London Borough of Bromley.
 - The application Ref 22/02102/FULL1, dated 20 May 2022, was refused by notice dated 20 July 2022.
 - The development proposed is the erection of 2no. two-bedroom single storey dwellinghouses including access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development:
 - on the character and appearance of the area; and
 - on the living conditions of neighbouring occupiers.

Reasons

Character and appearance

3. The site at 18 Bromley Common comprises part of a large plot hosting a recently completed and occupied 2 and 3 storey building called Baran House, comprising 9 x 2 bedroom flats.¹ Baran House fronts onto the carriageway of Bromley Common, and has a substantial rear back garden for communal use comprising different areas of patio, lawn, vegetation, and tree cover. The topography slopes slightly down to its rear. Bromley Common and the surrounding area is predominately residential with a mix of large detached and semi-detached houses and apartments. A school and a large park within the Green Belt adjoins the site to its rear.
4. The appeal scheme would be situated on the majority of the garden of Baran House, and proposes 2 single storey dwellings sited in tandem towards its rear boundary. They would be semi-detached and of an irregular, tapered form, with timber clad walls and green roofs. Each would have a private garden enclosed by hedgerows and fencing, and a car parking space within the existing parking area in front of Baran House. Pedestrian and cycle access would be to

¹ Reference 19/01537/FULL

the side of Baran House as at present, and then via new pathways across the remaining area of communal garden.

5. This southern side of Bromley Common is characterised by relatively large and detached buildings, with a consistency in their pattern, design and scale of development. They have deep rear gardens largely free of buildings, contributing significantly to a verdant character. Reasonable separations between the properties generally allow views through from Bromley Common to the open space beyond, with the gardens providing a spacious backdrop to the built development where it adjoins the Green Belt. While the proposed development would be largely hidden from the front street scene, it would not maintain this established character due to its backland garden setting. Furthermore, despite the proposed landscaping the new dwellings would be seen from within the adjoining land to the rear, plus from the rear of the Bromley Common properties.
6. I accept that the proposal is modest and not prominent in comparison with the massing of Baran House. However, the dwellings would introduce a new line of development behind the general rear building line of the street, and thus would undermine the established grain and pattern of development. Due to their backland location they would be incongruous, and so would not fit comfortably with the predominant character or layout of the built form. I make this finding notwithstanding the other appeal decisions elsewhere in Bromley which have been brought to my attention.
7. Furthermore, while the proposals emphasise greening and soft landscaping, which would to some extent soften the appearance of the site, this would not sufficiently mitigate its impact. The lowered ground floor levels and single storey design, the choice of exterior materials, and the flat green roof would similarly not sufficiently blend and harmonise the site to overcome the harm caused as described above.
8. The scheme's proposed massing is not directly comparable to other outbuildings or rear extensions in nearby gardens, because of its effect on character and appearance as outlined above, and also because these are ancillary structures and not separate dwellings. Furthermore, allowing this appeal is likely to create a local precedent for similar piecemeal infilling in the large rear gardens. That the appeal site is much wider than many of the other dwelling plots along Bromley Common does not remove this possibility, as other plots could be merged to allow for a similar scheme.
9. The need to maintain character and layout is highlighted by policy 3 of the Bromley Local Plan (2019), which specifically relates to backland and garden development. It outlines that such new residential development will only be considered acceptable if its scale, design, and density would not cause an unacceptable impact on the character, appearance, and context of an area, whereas I have found that it would. The proposal would also conflict with policies 4, 37 and 53 of the Bromley Local Plan, and Policies D3 and D4 of the London Plan (2021). This suite of policies require proposals to display a high standard of design whilst enhancing the quality of local places, with schemes also needing to respect local character and physical context, recognising as well as complementing the qualities of the surrounding areas and the scale, proportion, and form of adjacent buildings and areas. Policy 53 also requires

land abutting the Green Belt to have no detrimental effect on its visual amenity or character.

10. In conclusion therefore, the proposed development would result in harm to the character and appearance of the area. This would be contrary to Policies 3, 4, 37, and 53 of the Bromley Local Plan, and Policies D3 and D4 of the London Plan. It would also be contrary to guidance in the National Planning Policy Framework (the Framework) (2021) for proposals to achieve high quality design, and to maintain an area's prevailing character and setting, including residential gardens. The Council also cites policy 1 of the Local Plan in its reason for refusal. However, I find that the proposal would not directly conflict with policy 1, because the appeal site is a windfall site and thus would fall under its specifications as to how the housing target will be achieved.

Living conditions

11. With relation to any impact on the adjacent properties to either side, noise and disturbance from the occupation of 2 new dwellings would only be slightly greater than that of the current garden use by all the occupiers of the 9 flats. This would also be mitigated by the separation distances between the properties, that they would only have direct pedestrian and cycle access, plus that a high timber acoustic fence and reinforcement of the hedgerows is proposed for the shared boundaries. I am therefore satisfied on the basis of the evidence before me that no undue harm would be caused to the living conditions of these 2 adjoining properties.
12. I take a similar reasoning to any noise impact for the occupiers of Baran House, and find that it would not be significantly greater than at present. Furthermore, the new dwellings would only be accessed on foot or by bike, so while access would be intensified and more regular along the side of Baran House than at present, this would generate only very limited additional noise.
13. However, the proposal would encompass the majority of the original communal garden, which would significantly harm the living conditions of the existing residents. The Baran House scheme permitted 4 of the 9 flats with no private amenity space. This makes the available communal space even more valuable for their occupants, and it is reasonable to expect that that the size and usability of the garden was therefore a factor weighing in favour of the permission.
14. Baran House residents would still have access to a south facing communal garden, but it would not be of a good quality or quantity for so many flats to share. The new access paths to the new dwellings would also cut across the space, minimising the total useable area further. These paths would also be regularly used, which would cause disturbance and impact on privacy and perceived privacy to any residents making use of the lawn or patio area. The size decrease would force all the users to be in much closer proximity, and also to be much closer to the flats with the implication of actual or perceived overlooking. Together this would have a further impact on users' privacy and enjoyment, including their use of balconies and private garden areas.
15. While there is a large public park nearby, I saw at the site visit that this is still a few minutes away on foot. Parks also have a different function to that of garden space directly adjacent to a property, for instance in terms of the ability to invite guests, eat outside, or have a safe space for child play. Therefore, it

does not mitigate the loss of the garden space that would result from the appeal proposal.

16. In conclusion therefore, the proposed development would result in harm to the living conditions of neighbouring occupiers. This would be contrary to Policies 3 and 37 of the Bromley Local Plan, policy D3 of the London Plan, and the Framework paragraph 130 which requires schemes to create places that have a high standard of amenity for existing and future users. Specifically, policy 3 of the Local Plan only considers garden land development acceptable if there would be no unacceptable loss of amenity space or impact on the residential amenity of existing occupiers through loss of privacy or disturbance. Policy 37 requires development to respect the amenity of occupiers of neighbouring buildings, ensuring they are not harmed by disturbance and privacy. Policy D3 of the London Plan requires proposals to deliver appropriate privacy and amenity and achieve environments that are comfortable and inviting for people to use.

Other Matters

17. The new dwellings would make a modest contribution to housing supply and provide small-scale economic and social benefits as a result of construction.
18. I note that the new planting and the provision of wildflower turf green roof systems are likely to provide a biodiversity benefit, although at the expense of the loss of the existing garden space, and I expect that this could also be achieved through the addition of biodiversity measures within the existing garden. This is therefore only a minor benefit.
19. The set of dwellings directly opposite from the appeal site comprises the Bromley Common Conservation Area, and includes some listed buildings. The Council has raised no concerns relating to the proposal's impact on these heritage assets and as I am dismissing the appeal for other reasons I do not need to address this matter directly.

Planning Balance

20. The Council is unable to demonstrate a 5 year supply of deliverable housing sites. As such, relevant policies for the supply of housing are not considered up-to-date and the Framework paragraph 11d falls to be considered. Paragraph 11d indicates that planning permission should therefore 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.
21. The proposal would result in 2 new dwellings in an accessible and established urban area. The Framework seeks to significantly boost the supply of homes, and so additional housing in this broad location is a clear benefit of the proposal. In identifying this benefit I acknowledge that such small-scale opportunities and maximising housing delivery on windfall sites could collectively add up to prevent the need to build on larger sites elsewhere.
22. However, the benefits associated with the construction and occupation of 2 additional dwellings would be limited, and so I give them only moderate weight. The other benefits identified above I give minor weight. Alongside this, the Framework is clear that good design is a key aspect of sustainable development, and I have found that significant harm to the character and

appearance of the area would arise, alongside harm to the living conditions of neighbouring occupiers. I give this harm significant weight. As the garden is used in association with 9 dwellings I do not find that the land is under-utilised regarding paragraph 118 of the Framework, nor is it previously developed land.

23. Taking the policies of the Framework as a whole, I therefore find that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits in this case. Accordingly, the proposal does not benefit from the presumption in favour of sustainable development as a material consideration outlined at paragraph 11 of the Framework.

Conclusion

24. In conclusion therefore, the scheme conflicts with the development plan as a whole. With no other material considerations indicating otherwise, for the reasons given above I conclude that the appeal is dismissed.

L Hughes

INSPECTOR