



Appeal Decision

Site visit made on 25 April 2023

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2023

Appeal Ref: APP/G5180/W/22/3310746

Highlands, 9 Oldfield Road, Bickley, Bromley BR1 2LE

- 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 and Mrs Penfold against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/22/02686/FULL1, dated 30 June 2022, was refused by notice dated 22 September 2022.
 - The development proposed is extension to accessway and erection of single dwelling with off street parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A different proposal on another part of the garden of Highlands, 9 Oldfield Road, Bickley, Bromley BR1 2LE is the subject of a separate appeal decision¹.

Main Issues

3. The main issues in this appeal are the effect of the proposal on:
 - i. The character and appearance of the existing building and surrounding area.
 - ii. The living conditions of nearby residents, with particular reference to noise and disturbance, outlook and privacy.

Reasons

Character and appearance

4. The appeal site is within the grounds of Highlands, a large residential building of traditional appearance. Highlands was originally a single dwelling house set within much larger grounds and is considerably larger than its neighbours. Subsequently, the building was subdivided into flats and parts of the grounds were developed as separate residential plots. The grounds that remain comprise an area on either side of the main building, and a large front garden. The large front garden provides a deep set back from Oldfield Road and a distinctive, verdant setting for the house. This contributes to the existing building's imposing presence in the street and when viewed from nearby dwellings. The overall appearance provides insight into the history and

¹ Ref: APP/G5180/W/22/3310744

evolution of the area, even though the original layout of Highlands and its grounds has been altered over time. These unique attributes make a positive contribution to the character and appearance of the surrounding area, even if the building and area do not have the status of heritage assets.

5. The area surrounding the appeal site is suburban and residential. With the exception of Highlands, it predominantly comprises large, detached houses situated relatively close to each other behind uniform building lines facing wide streets. There are also several groups of houses set around cul-de-sacs located behind the street-facing houses. Existing dwellings are generally of varied traditional appearance, including pitched tiled roofs and brick, tiled and/or rendered façades.
6. The new house would be situated close to one wing of Highlands, in a location previously occupied by outbuildings and less important than the front garden to the setting of the existing building. It would be broadly aligned with Highlands' front building line, with the line of houses to the rear and with Darrawella. Despite an extensive footprint and notwithstanding the proximity to Highlands, this siting and the modest height and bulk of the proposed dwelling would generally complement the existing building and fit into the pattern of dwellings in the surrounding area. The plot size for the new dwelling would not be significantly smaller than that of most other houses nearby, other than Highlands itself which would retain a larger plot.
7. The design of the house would be modern but complementary materials and simple lines would create an effective contrast with the traditional style of Highlands and other nearby houses. On balance, I consider the design, scale and siting of the new dwelling would not harm the character and appearance of the existing building or the surrounding area.
8. However, the accessway leading to the new house would sever Highlands from its front garden and, along with the parking/turning area for the new house, would create a significant area of hard surface close to the front of the existing building. This would diminish the unbroken appearance of the large front garden, which is integral to the character of Highlands because other homes nearby do not have such a verdant set-back. This harm is notwithstanding the level of active use of the front garden at present or the opinions of current occupants. Although the existing planting at the road-side edge of the site would remain, this is partly deciduous so would be less effective as a screen for part of the year.
9. The appellant's heritage and townscape analysis does not fully recognise the contribution of Highlands' front garden to the setting of the building and local distinctiveness of the area, so does not lead me to a different conclusion. Consequently, however low the level of traffic using it, I consider the siting of the accessway and extent of hard surfaces would harm the character and appearance of the existing building and the surrounding area.
10. For the above reasons, I conclude the siting of the accessway and extent of hard surfaces would harm the character and appearance of the existing building and surrounding area. This is contrary to Policy D3 of the London Plan (LP) and Policies 4 and 37 of the London Borough of Bromley Local Development Framework Local Plan (BLP). These policies require a design-led approach that enhances local context, responds to valued features and characteristics unique to the locality, and respects local character. It is also

contrary to the National Planning Policy Framework (the Framework), which seeks high quality design; and supports development that makes efficient use of land, taking into account the desirability of maintaining an area's prevailing character and setting, including residential gardens.

Living conditions

11. The new accessway would generate vehicular movements where previously there were none. While there would be no through-traffic and speeds would be low, these movements would be in very close proximity to the existing building. Consequently, there would be disturbance to occupiers inside the existing flats, particularly those at the front of the building. This would also harm the quiet enjoyment of the existing sunken patio area outside the front lower ground floor rooms and of the remaining communal front garden. There is little evidence new planting along the edge of the accessway would mitigate this impact. Whilst I note the current front garden is used infrequently by the occupants of Highlands, their total area of communal amenity space would be reduced, so usage of this space would increase. I have considered the effects of the proposal on all potential occupiers of that building, notwithstanding the views of those currently in residence.
12. There would be further negative effects for the occupants of Darrawella. The rear of that house and its short rear garden would be very close to the accessway and parking/turning area for the new house. At present there are no car movements at all in that location, which is a tranquil area of garden. There is little evidence a planted 'buffer strip' would be sufficient to mitigate the noise and disturbance, so I cannot be confident a condition securing this would address the harm.
13. I acknowledge an increase in noise and disturbance is an inevitable consequence of building at higher densities within existing residential areas and that Oldfield Road experiences a level of background noise typical of many urban areas. I also note several cul-de-sac layouts have been introduced behind existing gardens in the area, in previously 'car-free' locations. However, many of the rear gardens in these examples are significantly larger than that belonging to Darrawella, so they are not directly comparable. I have reached my decision based on the particular circumstances of the appeal site.
14. In terms of the effect of more vehicle movements on the access road into Highlands from Oldfield Road, given it is an existing access the increase from one new dwelling would not be significant.
15. In relation to outlook, I accept the new dwelling would effectively enclose the relatively small area of retained garden to the rear of Highlands. However, the part of the new building closest to Highlands would be single storey with a flat roof, so would not be very dominant and would still allow views of the sky and surrounding townscape. I note the new dwelling would be clearly visible from the rear gardens and some habitable room windows of neighbouring dwellings, especially in winter months. Nonetheless, it would not be unusually close to those properties given they have rear gardens, and its modest height and bulk would not result in an over-bearing presence. New planting of an appropriate type and height along the boundary with Darrawella would soften the appearance of the new house in time. On balance, I consider the change in outlook for neighbouring residents would be acceptable.

16. Turning to privacy, the first-floor window of proposed bedroom 4 would mainly look out over the flat roof of the new house but would have an oblique view over part of the retained garden to the rear of the Highlands. However, the window would be set back from the rear of building line of Highlands, which would help to mitigate scope for overlooking. The first-floor window of proposed bedroom 1 would look out onto the front elevation of Highlands but would be a considerable distance away. In any case, the patio area associated with the ground floor flat at the front of Highlands would be shielded because of its sunken position. There is little evidence the new house would result in over-looking of Darrawella given proposed first floor windows belong to non-habitable rooms only. Therefore, I consider the effect on the privacy of neighbouring residents would be acceptable.
17. For the above reasons, I conclude the proposal would not harm the living conditions of nearby residents, with particular reference to outlook and privacy. However, I conclude it would harm the living conditions of nearby residents, with particular reference to noise and disturbance. This is contrary to Policy D3 of the LP and Policies 4 and 37 of BLP. These policies require development to help prevent or mitigate the impacts of noise, and to achieve healthy environments that are comfortable for people to use. It is also contrary to the Framework, which requires development to create a high standard of amenity for existing users.
18. I note the Council referred in error to Policy D6 instead of Policy D3 of the LP in its second reason for refusal.

Other Matters

19. The proposal would allow enough external space overall for the occupants of Highlands, given the remaining areas to the front and rear of the building. The Council is satisfied the living conditions of future occupants of the new house would be acceptable. It is also satisfied with the effect of the proposal on existing trees and, in principle, on matters relating to highway safety and energy. I see no reason to disagree with their conclusions on these points. However, compliance with the development plan in these respects is a neutral factor.
20. I have considered the arguments made in relation to Policies GG2, D1 and H2 of the LP. These policies require development to make the best use of land by applying a design-led approach to optimise the development capacity of small sites. Whilst I find no harm in relation to the siting and design of the proposed dwelling, the harm I find from the accessway means the proposal would not effectively optimise the development capacity of the site.
21. The proposal would make a modest contribution of one self-build dwelling to the supply of housing, which would help to meet London's housing needs. The delivery of one house would also contribute to local economic growth during the construction process and through future occupiers' use of local services and facilities. This accords with the Framework where it seeks to increase the supply of housing and support economic growth. These benefits of the proposed development are considered in the overall planning balance below.

Planning Balance

22. For the reasons set out above the proposal would conflict with Policies GG2, D1, D3 and H2 of the LP and Policies 4 and 37 of the BLP. The proposal may comply with other policies of the development plan. Nevertheless, I conclude this conflict means the proposal conflicts with the development plan as a whole.
23. The Council accepts its current five-year housing land supply stands at 3.99 years, which means it cannot demonstrate a five-year supply of deliverable housing sites as set out in footnote 8 of the Framework. This means, according to the Framework, the policies most important for determining the appeal are out of date. In these circumstances, Paragraph 11(d) of the Framework states that 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 whole.
24. The harms resulting from the conflict with the development plan as a whole also result in conflicts with the Framework for the reasons given above. I attribute limited weight to the contribution to housing supply and limited weight to the economic growth identified as benefits of the proposed development in other matters. However, I consider the adverse impacts of the proposal arising from the harm to character and appearance and living conditions would significantly and demonstrably outweigh these benefits, when assessed against the policies in the Framework taken as a whole.

Conclusion

25. Therefore, the proposal conflicts with the development plan as a whole. There are no other material considerations, including the Framework, to outweigh that conflict. For these reasons, I conclude the appeal should be dismissed.

C Carpenter

INSPECTOR