



Appeal Decision

Site visit made on 11 July 2023

by David English BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 September 2023

Appeal Ref: APP/L5240/W/23/3316242

7 Bramley Avenue, Coulsdon, Croydon CR5 2DR

- 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 R Best of Bequest Property Group Ltd against the decision of the Council of the London Borough of Croydon.
 - The application Ref 22/04563/FUL, dated 31 October 2022, was refused by notice dated 19 January 2023.
 - The development proposed is the demolition of existing detached dwelling house, garage and outbuildings and replacement with a block of nine new apartments over 2 floors plus roof and lower level. Associated landscape and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Subsequent to the Council's decision notice being issued, and in seeking to address the Council's concerns regarding the reasonable likelihood of there being bats present on the site, the appellant commissioned and submitted a Bat Emergence Survey Report (3 June 2023) (the Survey Report). I confirmed to the main parties that I would accept this additional information. The Council has been given the opportunity to comment on its findings. I am satisfied that my consideration of the outcome of the Survey Report, which follows an established methodology, would not prejudice the interests of any party.

Main Issues

3. The main issues are the effect of the proposal on:
 - the character and appearance of the area;
 - the living conditions of the occupiers of 5 Bramley Avenue in respect of their outlook and privacy; and
 - protected species and habitats in respect of bats.

Reasons

Character and Appearance

4. Bramley Avenue is in a quiet, traditional, leafy suburban residential area and is characterised by two-storey detached dwellings, mostly set towards the front of substantial wide and deep plots along generally regular building lines on either side of the road. The dwellings are constructed in a variety of external materials. However, notwithstanding steeply sloping local topography, there is a discernible consistency in the scale and mass of the dwellings, and in their

separation from one another. These facets contribute positively towards the pleasant spacious character of the area. Trees, shrubs and hedges within gardens, along with several mature street trees provide a well-established verdant setting to the dwellings and contribute to the quality and character of the area.

5. The appeal proposal would replace the existing detached dwelling on the site with a four-storey building which would contain 9 flats. The frontage of the proposed building would be of a similar width to that existing dwelling, retaining separation distances to its flank boundaries. However, notwithstanding the use of a catslide roof above that part closest to 5 Bramley Avenue, a dwelling situated at a noticeably lower ground level than the proposal, the main part of the building would be significantly higher and extend much deeper into its rear garden than the existing dwelling.
6. The proposed main roof would be formed using a truncated hip and pitched roof which would be topped by an excessively large flat-roofed portion to that roof. This would not reflect the prevailing size or shape of existing nearby roofs. This roof form and the increase in height above that of the existing dwelling would result in a building that would be uncharacteristic of, and out of keeping with, the scale and form of other nearby dwellings, particularly on Bramley Avenue.
7. I am not persuaded that the proposal would be an overdevelopment of the plot when comparing the ratio of proposed built form to the overall plot area. However, it comprises a building that would be substantially deeper at its upper floors than the dwellings characteristic of the area and would be of a significant bulk. Due to this, and its extensive footprint within the site it would not reflect the grain and pattern of development in this area. Even allowing for the effects of the gradual increase in height associated with the catslide roof slope, overall, the roof would add significantly to the mass and bulk of the proposal.
8. As a result of the difference in ground levels, and due to its proposed depth and height, the scale and mass of the proposal would be particularly noticeable in its entirety when seen from the rear garden of 5 Bramley Avenue. Views of the proposed building from dwellings and their gardens on Julien Road, particularly Nos 10, 12 and 14, and from 9 Bramley Avenue would be obscured by vegetation for much of the year. Nevertheless, there would be glimpsed views available from those dwellings and their gardens, especially during the autumn and winter months.
9. The change that would arise through the introduction of the proposal in respect of the neighbours' appreciation and experience of the setting and surroundings of their properties comprises an important component in assessing the effect of the development on the character and appearance of the area. Although the views from neighbouring dwellings and their gardens would be private, and accordingly I attach limited weight to this matter, the effects of the height, scale, mass and bulk of the proposal when experienced from neighbouring properties would nevertheless be harmful to the character and appearance of the area.
10. The height, depth, scale and mass of the proposal would be evident in views from the highway, particularly through the gap between the proposed building and the rear garden boundary of No 9. The proposed building would be

positioned further from that boundary than a single storey projection that forms part of the existing dwelling. This positioning, along with the removal of trees and shrubs from the front garden to facilitate development, as is proposed, would have the effect of increasing the visibility of the side elevation of the proposal from public vantage points.

11. When seen from this location, and to a lesser extent from the gap between the site and No 5, the substantial depth, height, scale and mass of the proposal would be revealed. This would result in the proposal appearing incongruous and visually harmful in its context in that it would jar markedly with the more modest scale and form of nearby dwellings. The merits of the proposal in terms of its design ethos, which largely echoes the Arts & Crafts movement, would not overcome this harm.
12. Policy D3 of The London Plan (March 2021) (the London Plan) supports incremental densification where appropriate, and Policy DM10 of the Croydon Local Plan 2018 (the Local Plan) seeks to encourage development at a minimum height of 3 storeys. However, this support in the Local Plan is subject to qualification that proposals should respect the development pattern, layout and siting, and the scale, height, massing and density of the surrounding area. The proposal would meet the height expectations but fail to accord with the qualifications set out in Policy DM10 of the Local Plan.
13. The examples provided by the appellant demonstrating two developments approved by the Council¹ are some distance from the appeal site, and they have their own contexts. From the information made available to me I find these examples are not directly comparable to the context of the appeal site on Bramley Avenue. Notwithstanding the Council's previous decisions elsewhere in its administrative area, I have, in any event, determined the appeal on its own merits. Those examples do not weigh significantly in favour of the proposal before me.
14. For these reasons, the proposed development would be unacceptably harmful to the character and appearance of the area. It would therefore be contrary to Policy D3 of the London Plan and Policies SP4 and DM10.1 of the Local Plan which, in summary, require high quality development which respects and enhances local character, contributes positively to townscape and responds to local context and distinctiveness.

Living Conditions at 5 Bramley Avenue

15. I recognise changes have been made to the proposal in comparison to that previously dismissed at appeal (Appeal Ref. APP/L5240/W/21/3269194). However, the proposal before me comprises a substantial building extending to considerable height and depth. It would occupy an extensive footprint, much of which would be situated beyond the rear wall of 5 Bramley Avenue. The adverse impacts of this depth would be exacerbated by the change in levels between the two properties with the appeal scheme appearing excessive in height, scale and mass. The proposal would therefore create an overbearing and oppressive sense of enclosure in views from the rear garden of that neighbouring dwelling.

¹ Council Refs 19/01109/FUL (1 South Drive), and 19/02110/FUL (40 Woodcote Grove Road)

16. The depth of the rear garden reflects the form and character of development throughout the surrounding area. Whilst there is no right to a view, the occupants of the neighbouring property are not enclosed by the existing dwelling. The effect of the proposal would have an adverse impact by creating a sense of enclosure to the adjacent property, and this would lead to unacceptable harm to the outlook of the occupiers of No 5.
17. The appellant indicates at Fig. 7 of their Appeal Statement that the ground floor of the proposal would be below permitted development allowances. However, there is no suggestion from the appellant that this would be a realistic fallback position. In any event, the proposal comprises other substantially larger elements which, when taken together as they must be, would cause the harm I have identified in respect of the living conditions of the occupiers of No 5.
18. I note the concerns raised by neighbours regarding privacy arising from overlooking. However, the Council consider that overlooking from windows in the side elevations of the proposed building could be addressed through planning conditions requiring obscure glazing if the appeal were allowed, and I am of the same opinion. It would also have been necessary to secure permanently solid screening to the side of the proposed balcony to Flat 3 on the upper ground floor level in the interests of privacy.
19. For these reasons, whilst the proposal would not harm the privacy of the occupiers of 5 Bramley Avenue, it would be unacceptably harmful to the living conditions of those occupiers in respect of their outlook. It would therefore be contrary to Policy D3 of The London Plan and Policy DM10 of the Local Plan which require, amongst other things, that proposals comprise the most appropriate form of development that responds to a site's context, and that the amenity of occupiers of adjoining buildings is protected.

Protected species and habitats

20. The Survey Report found that no bats were observed emerging from the residential building, a single bat was observed commuting, but no other activity was observed or recorded. The Survey Report concludes by recommending that ecological enhancement should be provided by adding an appropriately designed roosting feature to any newly built structure. No further recommendation is made regarding further surveys or licencing in the Survey Report.
21. Having regard to the outcome of the Survey Report, I am satisfied that the concerns expressed in the Council's sixth reason for refusal have been appropriately addressed and that adequate information is now available for me to consider the effect of the proposal on protected species, specifically bats, and their habitats. With the mitigation proposed through the ecological enhancement recommendation made in the Survey Report, harm to protected bats and their habitats would not be likely to arise as a result of the proposed development.
22. For these reasons, the proposal would not result in harm to protected species and habitats in respect of bats. It would therefore accord with Policy G6 of the London Plan which requires development proposals to manage impacts on biodiversity and aim to secure net biodiversity gain.

23. The Council's reason for refusal refers to Policy DM28 of the Local Plan. That policy concerns trees, and I have not been directed to any wording in that policy which is relevant to the consideration of this main issue.

Other Matters

24. The Council's fourth reason for refusal relates to a loss of on-street car parking bays. On the basis that a plan has been submitted demonstrating the retention of parking bays, the Council has confirmed it no longer disputes this matter. Accordingly, I have not considered this matter further.
25. A unilateral undertaking under section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted by the appellant to address matters identified in the Council's fifth reason for refusal. The Council has confirmed that this matter is now agreed, and I need not consider this further.
26. The proposal would make effective use of the site, providing a net gain of 8 dwellings which would contribute towards the supply of housing locally. This is an important benefit to which I attribute substantial weight. However, the provision of 8 additional dwellings would be a relatively modest contribution to the supply of housing. This benefit would not outweigh the significant harm that would arise from the proposal to the character and appearance of the area and the living conditions of the occupiers of 5 Bramley Avenue.
27. Representations made by local residents and others raise various concerns about the proposed development in addition to the matters set out in the Council's reasons for refusal. However, given that I have dismissed the appeal for the reasons set out above I do not consider it necessary for me to examine those concerns any further.

Conclusion

28. For the reasons given above, having had regard to the development plan as a whole and all other relevant material considerations, the appeal is dismissed.

David English

INSPECTOR