



Appeal Decision

Site visit made on 10 July 2023

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th October 2023

Appeal Ref: APP/G5180/W/23/3315153

10 Copers Cope Road, Beckenham, BR3 1NB

- 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 Durmus Ergen against the decision of the London Borough of Bromley.
 - The application Ref. DC/22/03817/FULL1, dated the 29 September 2022, was refused by notice dated the 7 December 2022.
 - The application is for the erection of a 4 storey rear/side extension to create additional rooms for the existing hotel and erection of an external office area and minor changes to existing outbuilding for the use as ancillary accommodation to the hotel.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have also dealt with another appeal ref: APP/G5180/W/23/3315152 on this site. That appeal is the subject of a separate decision.
3. I have combined reasons for refusal 1 and 5 on the Council's decision notice under one main issue for ease of reference as the matters raised are similar.
4. The Council have not raised any objection to the proposed external office area within the rear garden. Based on the evidence before me and my observations on site, I have no reason to disagree with the Council's findings in this respect. I have proceeded, therefore, to determine the appeal on that basis.

Main Issues

5. The main issues are: (a) the effect of the intensification of the hotel use on the living conditions of neighbouring occupiers having regard to loss of privacy and noise and disturbance; (b) the effect of the proposed side/rear extension on the character and appearance of the host property and surrounding area; (c) whether the development meets the requirements for accessible serviced accommodation; and (d) the effect of the proposed side/rear extension on the living conditions of the neighbouring occupiers in Sinclair Court.

Reasons

Intensification of hotel use

6. Policy E10 of The London Plan (March 2021) (TLP) and policy 88 of the Bromley Local Plan (January 2019) (BLP) deal with visitor infrastructure and hotels

where the emphasis is on locating new hotel development within accessible town centre locations. Where development is promoted outside of an existing centre the policies require Applicants to demonstrate: the need for the hotel accommodation; that a sequential approach to site selection has been adopted; that the hotel accommodation will be well separated from residential properties; and that the proposal will not give rise to unacceptable levels of noise and disturbance to the occupiers of nearby residential properties. A similar sequential approach is set out in paragraph 87 of the National Planning Policy Framework (July 2021) (Framework), in that it requires the sequential test to be applied to planning applications for all main town centre uses outside existing town centres. Annex 2 to the Framework includes hotels within the definition of main town centre uses. These policies apply to applications for new hotels and for extensions to existing hotels.

7. Paragraph 3.2 of the Appellant's Statement of Case (SOC) confirms that the appeal proposal would include six new hotel rooms within the main building and five within the rear outbuilding, resulting in eleven new hotel rooms. This would increase the total number of rooms in the hotel to twenty eight. In my view, an increase of over 50% in the number of hotel rooms is significant.
8. The appeal site is not located within an existing town centre and forms part of a predominantly residential area. Even so, no evidence to support the need for the additional hotel rooms has been provided and there is no indication that a sequential approach has been adopted to demonstrate that the appeal site is the preferred location for new hotel accommodation. Similarly, there is no evidence before me of the additional level of comings and goings and other general activity that this significant increase in hotel rooms would give rise to. Whilst the Appellant contends that it is a family run business and that the current operation and clientele of the hotel have not given rise to any issues of noise and disturbance in the past, no substantial evidence has been submitted to support that statement. Even if that evidence showed that the current hotel use does operate successfully, that would not provide in itself justification for the increase in hotel rooms proposed nor would it be sufficient evidence to demonstrate that the additional rooms would operate in a similar manner or would not cause any harm to the living conditions of neighbouring occupiers.
9. Moreover, the proposal includes the provision of five new hotel rooms within the rear outbuilding. I note that this outbuilding has an extensive planning history with an Enforcement Notice partly upheld on appeal on 24 March 2022 (ref. APP/G5180/C/19/3239446). The latter required the cessation of the residential use of the outbuilding and for it to continue to be used for ancillary hotel facilities and as a gym and lounge area for residents, in accord with the conditions attached to the planning permission for that use also granted on appeal (ref. APP/G5180/W/17/3186361) on 1 June 2018 (2018 Appeal). The existing plans submitted with the current appeal indicate that the outbuilding is being used in line with the 2018 Appeal consent.
10. The conditions attached to the 2018 Appeal limit the use of the gym/lounge to no later than 21:00 hours (on any day) and the laundry area to no later than 16:00 hours (on any day), and also prevent any amplified sound being played that is audible outside the building and any use of or activity within the rear external lightwell. All of these conditions were imposed by the Inspector to mitigate the potential impact of noise and disturbance to neighbouring occupiers. I also note that the Inspector agreed to the removal of the large

windows within the ground floor rear elevation of the outbuilding facing 29 Park Road (No.29) (to the north of the appeal site), as these overlooked the upper floor windows of that property. The current appeal proposal shows these windows being reinstated, resulting again in the overlooking of No.29.

11. The conversion of this outbuilding to provide five new hotel rooms would, in my view, significantly increase the level of noise and disturbance within this part of the appeal site, particularly beyond the current restriction on its use by hotel guests of 21:00 hours. There would also be the potential for these new rooms to generate amplified sound that would be audible outside the building, at any time of the day or night. Again, no noise assessment has been submitted to support the increased use of the outbuilding, particularly late at night when adjoining residents could reasonably expect, with lower background noise levels, that the level of noise and disturbance generated by the hotel would also be lower. The fact that the Council's Environmental Health Officer did not object does not affect my findings.
12. I find, therefore, that the intensification of the use of the hotel would give rise to significant harm to the living conditions of neighbouring occupiers contrary to policies D3 (design led approach) and E10 of TLP and policies 37 (general design of development) and 88 of the BLP.

Character and appearance

13. The host property comprises a four storey end of terrace property in hotel use, with the surrounding area comprising a mixture of houses and flats. To the east and part of the same terrace as the appeal site is Regents Court and then Osprey Court, both of which are four storeys, divided into flats and date from a similar period to the host property. To the west is a detached four storey block of flats that appears to date from the 1970's, known as Sinclair Court.
14. Based on my observations on site, I concur with the Council that there is a certain symmetry to the properties within the small terrace that the appeal site forms part of, with the host property and Osprey Court acting as end buildings either side of Regents Court. This is reflected in the fact that both of the former buildings are set back from the road and include similar roof turret features. This symmetry is also, to a lesser extent, reflected at the rear and whilst Osprey Court has been extended, the latter is set back from the street and has a limited rear projection. A central four storey extension to the rear of Regents Court also has a limited rear projection (depth). Overall, large elements of the original form, design and massing, on the rear and front elevations to the terrace, remain.
15. Within the above context, the proposed width, depth and height on the new extension would, in my view, be excessive. The proposal would introduce a substantial scale, mass and quantum of building on the basement, ground, first and second floors, topped with a large hipped roof. As a consequence, the proposed extension would be highly visible from surrounding properties, in particular from Sinclair Court. The result would be an extension that is neither subservient nor proportional to the host property, and a discordant feature that would be out of keeping with the host and out of character with the rhythm and pattern of built development in the area.
16. Whilst I accept that policy 8 of the BLP refers to a minimum gap of 1 metre being retained between new extensions over two storeys and side boundaries

with adjoining properties, which would be met in this case, the policy also refers to the need to provide a more generous side space where higher standards of separation already exist. The gap and space that separates the host property from Sinclair Court falls, in my view, into the latter category and assists in creating a high level of visual amenity and openness for existing occupiers and the wider area. In this respect, the proposed extension would reduce the space around the host and result in a cramped appearance and inappropriate building relationship with adjoining buildings. The retention of the space about the host is also important in ensuring that the character of this residential area is protected and maintained, and also assists in ensuring that the hotel, on the upper levels, remains well separated from the neighbouring block of flats. For these reasons, the proposal would be contrary to policy 8.

17. Accordingly, I find that the proposed extension would cause significant harm to the character and appearance of the host property and surrounding area contrary to policies D3 of TLP and policies 8 and 37 of the BLP. These seek, amongst other requirements, to ensure that the form and layout of new development responds to local distinctiveness, that it respects existing development patterns, spatial standards and character, and that its design complements the scale, proportion and layout of adjacent buildings.

Accessible serviced accommodation

18. Policies D5 and E10 of TLP require new developments to adopt an inclusive design approach that enables new accommodation, such as new hotel rooms, to meet the diverse needs of Londoners and visitors and provide a choice of available accommodation. This includes achieving the highest standards of accessible accommodation, with no barriers, for wheelchair users, older people and those with other ambulant mobility impairments. As such, the policies also emphasise the need for early discussions with Council's so that the appropriate standards and requirements are identified and can then be properly integrated into the design of the development at the outset.
19. The Council contend that insufficient information was submitted to demonstrate that the development provided sufficient choice for people who require an accessible hotel room, which is a finding that I concur with. In response, the Appellant's SOC suggests that two of the new ground floor hotel rooms in the main property and three new hotel rooms in the outbuilding could be adapted to meet these requirements, and that this may require the provision of a lift up the steps to the hotel's main entrance and foldable or removable ramps up the steps to the outbuilding. However, no revised plans have been submitted to demonstrate where these accessible rooms would be accommodated and how or to show any details of the potential lift and ramps. The ramps give the impression of a temporary fix and afterthought, as does the lift, given the narrowness and set back of the main hotel entrance and the impact such a structure could potentially have on the traditional and attractive external appearance of the host property.
20. I am not convinced, therefore, that the Appellant's potential solutions would achieve the highest standards of accessible accommodation and inclusive design required. These are also not matters that could be controlled by condition as they may involve material external alterations or changes to the proposed layout. For all the above reasons, I find that it has not been demonstrated that the proposal provides sufficient choice for people who

require an accessible hotel room and that the proposal is thus contrary to policies D5 (inclusive design) and E10 (visitor infrastructure) of TLP.

Living conditions - neighbours

21. The proposed upper floors of the new extension would extend close to and along part of the side boundary with Sinclair Court. As such, it would be highly visible from the side windows and communal amenity area to Sinclair Court. As the evidence before me confirms and as I observed on site, there are a number of windows within the side elevation of Sinclair Court that serve both kitchens and bathrooms. From, in particular, the kitchen windows and to a lesser extent the communal amenity area, the combined height, depth, massing and scale of the proposed extension would appear excessive and would be visually dominant, resulting in an overbearing impact on the neighbouring occupiers living conditions. Moreover, the height, depth, rearward projection and close proximity of the proposed extension would impact on the light and outlook to the side windows to Sinclair Court, harming the living conditions and amenities that the occupiers currently enjoy.
22. Turning to the new hotel rooms within the upper floors of the proposed extension, these would include windows in the side elevation, which would provide the only light and aspect from those rooms. These windows would afford direct views into the side windows of Sinclair Court, where no such views exist at present, resulting in an unacceptable loss of privacy to the occupiers of those flats. The Appellant's SOC responds to these concerns by suggesting that any impact could be mitigated by the new windows being obscure glazed and fixed shut below a height of 1.7 metres from the floor. I accept that the latter would provide some mitigation and whilst it would also limit the light and outlook from those new hotel rooms, my attention has not been drawn to any standard or guidelines for new hotel rooms that these changes to the window design would conflict with. Even so, I am not convinced that such measures would fully take away the perception of being overlooked.
23. Accordingly, I find that the proposed extension would result in significant harm to the living conditions of neighbouring occupiers contrary to policy D3 of TLP, policies 8 and 37 of the BLP and paragraph 130 f) of the Framework. These seek to ensure, amongst other requirements, that new development does not cause unacceptable harm to the living conditions of existing occupiers.

Conclusions

24. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires all proposals for development to be determined in accordance with the development plan unless material considerations indicate otherwise. As I have found above, the appeal proposal would conflict with various policies of TLP and BLP, as well as the corresponding policies of the Framework and there are no material considerations that justify making a decision other than in accordance with the development plan.
25. For the reasons given above and having taken all other matters raised into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR