



Appeal Decision

Site visit made on 22 August 2023

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2023

Appeal Ref: APP/G5180/W/23/3314698

110 Windsor Drive, Bromley, Orpington BR6 6HF

- 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 Dr Liu against the decision of the Council of the London Borough of Bromley.
- The application Ref DC/22/03604/FULL1, dated 12 September 2022, was refused by notice dated 8 December 2022.
- The development proposed is the demolition of the existing building and replacement with a single storey, two bedroom dwelling.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on the:
 - living conditions of the occupants of No 108 Windsor Road (No 108), No 112 Windsor Road (No 112) and No 23 Daleside Close (No 23) with particular reference to outlook; and
 - character and appearance of the area.

Reasons

3. The appeal site comprises a detached single storey outbuilding and surrounding garden located to the rear of No 110 Windsor Drive. The rear garden can be separately accessed from Daleside Close. The existing outbuilding is designed with a flat roof and spans the full width of the plot. The proposal would replace the existing structure with a pitched roof single storey dwelling of similar siting.

Living conditions

4. The proposed dwelling would be marginally inset from the joint boundary with neighbouring properties No 108 and No 112. However, due to the height of the proposed pitched roof above the fence line, including gable detail, the dwelling would appear as a significant and conspicuous structure when viewed from the rear gardens of these properties. In addition, the use of bricks to replace the less substantial nature of the outbuilding's construction would serve to accentuate the structure's prominence. Although the dwelling would not result in a loss of daylight or sunlight because of the orientation of the rear gardens, the proposal would nonetheless dominate the rear garden spaces and would be detrimental to the living conditions of the occupiers of No 108 and No 112 when using their garden.

5. Due to the orientation of No 23 its rear windows would face away from the proposed development. No 23 has a single storey outbuilding sited next to the joint boundary with the site. This intervening structure provides separation to No 23's garden space. The proposal's roof would slope away from the boundary with No 23 and its eaves would be at the same height as the current outbuilding. For these reasons, the proposal would not result in a loss of outlook when viewed from the rear garden of, or rear facing windows in, No 23.
6. Overall, while I am satisfied that the development would not detract from the living conditions of the occupants of No 23, I conclude that the proposed development would be harmful to the living conditions of the occupants of the adjoining properties at No 108 and No 112 with particular reference to outlook. Accordingly, the proposed development would conflict with Policies 4 and 37 of the London Borough of Bromley Local Plan (2019) (LP). These policies seek, amongst other matters, to achieve developments that respect the amenity of occupiers of neighbouring buildings. Further, the proposal would be contrary to the National Planning Policy Framework (the Framework), which seeks to create places with a high standard of amenity for existing users.

Character and appearance

7. Windsor Drive has a relatively uniform character consisting of semi-detached properties set on a similar building line. Most properties have good sized rear gardens which back onto to properties facing adjacent roads or open spaces. Nevertheless, the appeal property and some of its neighbours have access to their rear gardens from Daleside Close with some more recent built development taken from that road. As a result, there is some variation in plot sizes and shapes. The appeal property has a large outbuilding within the rear garden and the access from Daleside Close is established. Despite being set back from the prevailing building line, the existing outbuilding has a presence in the street scene.
8. Even though the site would be divided into two smaller plots, given the variety in terms of plot layout, the proposal would not appear at odds with its surroundings. I accept that the separation distance between No 110 and the proposed dwelling would be less than in others in the vicinity, but the depth of the plot would not be perceived from public vantage points. The proposed dwelling would only be marginally set in from the site's side boundaries, however there is no uniformity in terms of gaps to the side boundaries in the nearby dwellings. Further, there is little landscaping to the front of the plots to the Daleside Close frontage so that even with limited space for landscaping the proposal would not appear out of place.
9. Both parties draw my attention to the appeal decision which allowed Nos 21 and 23 Daleside Close. Although this decision is of a significant age, I agree with the assessment in terms of the character of the area and I am satisfied that the proposed development would sit comfortably in the existing context.
10. Therefore, I conclude that the proposal would not be detrimental to the character and appearance of the area. Accordingly, the proposal would comply with Policies 3, 4 and 37 of the LP. These policies seek, amongst other matters, to secure good quality design and layout. Further, the proposal would align with the Framework, which seeks to ensure that developments are sympathetic to local character.

Other Matters

11. I note reference to the Certificate of Lawful Development and the appellant's view that the outbuilding can be used as ancillary residential accommodation. However, the proposal is for a new building of a different design to be used as a separate dwelling. As a consequence, the potential for the building to be used as ancillary accommodation does not negate the proposal's harm to the living conditions of the adjoining neighbours.

Planning Balance

12. The Council cannot demonstrate a 5 year housing land supply of deliverable housing sites (5YHLS) and the undersupply is acknowledged as 'significant' by the Council. Consequently, due to the provisions of footnote 8, paragraph 11d) ii. of the Framework should be applied.
13. The Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. The proposal would not be harmful to the character and appearance of the area. However, the proposal would be harmful to the living conditions of the occupants of the adjoining properties No 108 and No 112. The Framework seeks to ensure that development creates spaces with a high standard of amenity for existing and future users and I give significant weight to the conflict between the proposal and Policies 4 and 37 of the LP in this respect.
14. Set against the identified harm the proposal would make efficient use of land within the existing urban area and meet the Framework's objectives of boosting the supply of housing. However, the benefits associated with a single dwelling would be small and the support of one extra household would make to the local economy would also be limited. I note the appellant's reference to an appeal elsewhere in the borough where in the absence of a 5YHLS the Inspector highlighted the importance of the cumulative effect of minor contributions to the housing stock. The circumstances of that appeal related to different matters. However, given the apparent persistence of the housing supply shortage I give the provision of an additional house in these circumstances moderate weight.
15. Nevertheless, overall, I conclude that the adverse impacts on the living conditions of the nearest neighbours would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

16. I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations of sufficient weight, including the provisions of the Framework, to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

P Terceiro

INSPECTOR