



Appeal Decision

Site visit made on 23 January 2024

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2024

Appeal Ref: APP/G5180/W/23/3324603

10 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 Messrs Jack and Robert Doyle against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/22/04338/FULL1, dated 2 November 2022, was refused by notice dated 27 March 2023.
 - The development proposed is demolition of existing property and erection of a 2/3 storey building to provide 6 apartments.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised on 19 December 2023 and is a material consideration in this planning appeal. The main parties have been given the opportunity to comment on changes to the Framework, and I have taken into account the responses in the determination of the appeal.
3. After its decision to refuse planning permission for the appeal scheme, the Council has advised that it has granted planning permission¹ for 6 no. flats at the appeal site. I have been provided with plans for that scheme and had regard to them in my determination, insofar as they relate to this appeal proposal.
4. I saw on my site inspection that works had commenced on appeal site and the property had already been demolished. I have determined the appeal on this basis.
5. The Council has advised that after its decision to refuse the appeal proposal, it formally adopted the Urban Design Guide Supplementary Planning Document in July 2023 (SPD), that replaced its Supplementary Planning Guidance 1: General Design Principles and Supplementary Planning Guidance 2: Residential Design Guidance, both adopted January 2004. A copy of the SPD has been provided with the appeal documentation, and the appellants have had the opportunity to comment on it, within their final comments. The appeal has been determined on this basis.

¹ Ref. 23/02844/FULL1

6. Reference is made within the documentation to the parking layout being altered to provide 4 no spaces, however the plans submitted with the appeal show 5 no parking spaces. I have determined the appeal based on the plans submitted.

Main Issues

7. Taking into account the reasons for refusal, the matters raised by the Council, and the Council's requested planning obligation, the main issues are:
- The effect of parking at the nearby bus stop;
 - The effect of the proposed development on the character and appearance of the area, with particular regard to its siting, scale and design;
 - Whether the proposal would provide satisfactory living conditions for future occupiers, with particular regard to the outlook, light, and private amenity space for flats 1 and 2; and,
 - The effect of the proposed development on the living conditions of the neighbouring occupiers in terms of outlook, privacy and noise and disturbance.

Reasons

8. The appeal site faces onto Bromley Common (A21), near to its junction with Hayes Lane and Masons Hill, it has a PTAL rating of 5. Immediately in front of the appeal site is a bus stop (Homesdale Road) located on a Transport for London (TfL) red route, there are 5 different bus services operating from the bus stop, at intervals of between 10-14 minutes during parts of the daytime and one operating every 30 minutes between 12:00 – 04:00 hours. I saw on my site inspection during the middle of the afternoon that the bus stop was busy and in continuous use.
9. TfL have requested a planning obligation for a £4,000 contribution to amend a Traffic Regulation Order to provide double red lines across the Homesdale Road bus stop. Currently approximately two thirds of it have double red lines with the remainder only has a single red line. TfL are concerned about potential night-time parking and deliveries in this area and its effect upon bus operations and road safety, particularly the safety of pedestrians and cyclists. I saw that parking restrictions on the single red line prevent stopping between 07:00 – 19:00 hours Mondays – Saturdays, with restricted parking outside some of these times.
10. Policy 37 of the Local Development Framework, Local Plan, London Borough of Bromley, dated January 2019 (BLP), states that where necessary contributions may be sought to improve accessibility around development. Furthermore, paragraph 116 of the Framework states proposals should create places that are safe, secure and attractive, which minimise the scope for conflicts between pedestrians, cyclists and vehicles.
11. The proposed development of 6 no. flats, would on the plans submitted with the appeal provide 5 no. on-site parking spaces. Even considering that some occupiers may use public transport in this well-connected area, the proposal could give rise to additional parking requirements beyond those capable of

being met on-site, for both occupiers and their visitors. This would add to the pressure of on-street parking in the locality, which is considerably restricted in this area. Furthermore, such on-street parking from the proposed development could occur within the designated bus cage, which could affect the safe operation of the Homesdale Road bus stop, particularly when there is more than one bus at the stop. Consequently, to comply with Policy 37 and paragraph 116 of the Framework, restrictions to prevent parking within the bus cage would be reasonable and necessary in this case.

12. Although the appellant has queried the need for the obligation, it has been said that a similar obligation was secured for the recently approved application² to this effect. It has been stated if this appeal were to be allowed, that obligation already completed would apply to this appeal scheme, however, I do not have a copy of that obligation before me to provide certainty in this respect. Nor do I have an obligation before me, specific to this appeal proposal to secure the parking restriction changes.
13. The Council has said this matter should be dealt with by a planning obligation, although, they have also commented that it could be secured by condition, but they have not provided a suggested condition. The appellant is of the view that a condition could be used for this purpose, and have suggested wording of a prior to occupation condition. However, the suggested condition is not specific as to how the necessary changes would be made (which is likely to require an obligation or agreement to facilitate). Furthermore, and noting that works have already commenced for the demolition of the property, the prior to occupation restriction would not prevent deliveries parking in the bus cage at certain times of the day, during the construction phase. As such, the condition suggested by the appellant would not adequately address parking within the bus cage.
14. Given that a financial contribution is specifically required to make the amendment to a Traffic Regulation Order, which would not be directly undertaken by the appellant, together with the changes to the parking restrictions at kerbside, this would need to be secured by an obligation. Planning Practice Guidance (PPG) is clear that conditions should not be used that require planning obligations, apart from in exceptional cases³, such as when the delivery of a scheme is at a serious risk, which would tend to relate to complex proposals. It has not been shown that this is an exceptional case and on the evidence before me, I also do not regard these particular circumstances to be exceptional.
15. I therefore conclude that the proposal would likely create on-street parking at Homesdale Road bus stop, which would be prejudicial to the safe operation of the bus stop and highway safety. In the absence of a planning obligation to mitigate this harm, I find the proposal to conflict with Policy 37 of the BLP, and paragraph 116 of the Framework, that amongst other things collectively seek to ensure contributions are sought to improve accessibility around development sites, ensure developments are safe, secure, and minimise the scope for conflicts between pedestrians, cyclists and vehicles. Paragraph 115 of the Framework is also clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

² Ref. 23/02844/FULL1

³ PPG Paragraph: 010 Reference ID: 21a-010-20190723

Character and appearance

16. No. 10 Bromley Common, prior to its demolition, was a detached two storey dwelling that sat alongside mainly other two storey properties, that are set back from the pavement edge in a similar building line. The plot sizes are mostly generous, with many having space to their sides and long rear gardens. Bromley Common is a wide road and contains some landscaping along the frontages of properties in the immediate area.
17. The extant approval⁴ granted planning permission for 6 no. flats on the appeal site and the approved plans have many similarities to the appeal scheme. This includes, its appearance from the front side, including its siting, height and scale is the same. The main changes relate to increased parking spaces to the front of the building, an additional front roof light, and ground and first floor projections to its rear resulting in changes to the rear and side elevations. My assessment is limited to those aspects that have not been granted planning permission.
18. It is noted that earlier approvals permitted large ground floor extensions to the previous building at No. 10 in 2020⁵ and 2021⁶ respectively. No. 8 also has a much longer rear extension, said to be a pool house. The proposal would extend some distance at ground floor level to its rear side, although it would not be excessively long, and its flat roof design would ensure it was not overly noticeable from neighbouring properties. Its rear first floor projection is modest in terms of the scale of the building and ensures a subordinate relationship to it. Views of these rear projections would not be readily visible from public vantage points, or visually dominant to neighbouring occupiers, particularly given their distance from side boundaries, and their graduated roof heights.
19. There would be limited space in front of the proposed parking areas for planting, and there would be increased areas of hardstanding compared to the submitted photographs of the property prior to its demolition. However, in this part of Bromley Common there is a variety of front boundary treatments, including brick walls and fences, and many of the front areas of properties nearby also feature considerable hardstanding areas. To this extent I am content that suitable boundary treatment could be undertaken, and that landscaping could be introduced to soften the impact of the proposals and ensure they integrate into the streetscene.
20. In all other respects, the scale, design and siting of the proposed building would relate well to the character and appearance of the surrounding area, and ensure space is retained between buildings.
21. The opposite side of the road is part of Bromley Common Conservation Area (the CA) and includes locally listed buildings opposite the site. The properties on the opposite side of the road are mainly set back behind landscaped frontages. The proposed development would relate well to the scale and height of properties to either of its sides and broadly respect the building line and style of properties along that side of Bromley Common. In view of this, and the distances between the CA and the appeal site, the proposal would not be

⁴ Ref. 23/02844/FULL1

⁵ Ref. DC/20/01600/HHPA

⁶ Ref. DC/21/02550/FULL1

harmful to the setting of the CA or views into or out of it. For the same reasons, there would be no harm to the setting of the nearest locally listed buildings.

22. To conclude, the proposal would respect the character and appearance of the area in terms of its siting, scale and design and comply with Policy D3 of The London Plan, The Spatial Development Strategy for Greater London, dated March 2021 (LP) and Policies 4 and 37 of the BLP, that collectively require high quality development that responds to the existing character of a place and complements surrounding areas, in terms of scale, form and layout.
23. Furthermore, the proposal would comply with paragraph 135 of the Framework that requires development to add to the overall quality of an area, be visually attractive and be sympathetic to local character. The proposal would also be consistent with Policy DG1 of the SPD insofar as it requires development that responds positively to local context, and reinforces local character, particularly in relation to building forms and patterns as well as its key aim of providing good quality design. In addition, I find the proposed development consistent with Policies I1 and I2 of the National Design Guide, dated January 2021, which expects well-designed development that responds to the existing built form, including the scale and character of its immediate surroundings.

Living conditions - future occupiers

24. Proposed flat 1 and 2 would be located at ground floor level at either side of the building, each would have private amenity space to their respective sides of the property. No conflict with the individual sizes of these areas have been identified with those specified within Policy D6 of the LP, and I see no reason to disagree.
25. Flat 1 would have its private amenity space beyond its rear elevation and parallel with both the ground floor projection belonging to flat 3 and a communal access. Its private amenity space would be fenced off separately from the communal access, the details of which could be the subject of a condition. Although flat 3 would only have a high-level window in its elevation facing flat 1's private amenity space, this would not cause privacy issues for flat's 1 private amenity space. Whilst the proposed private amenity space is not large, it would provide functional and private space.
26. Flat 2's private amenity space is along part of the side boundary to No. 12 and its rear side, again this would provide private space and the boundary details for this could be conditioned. The area would be adequate and would include functional space.
27. As the rear projection at ground level would have a flat roof and the much more limited projection at first floor level, it would ensure both outdoor spaces for flats 2 and 3 have a satisfactory outlook and light. In addition, the occupiers of the flats would also have access to the large communal garden to the rear of the building.
28. The living/dining/kitchen rooms on both flats 1 and 2 have a large side window and a further window on their rear elevations. Even taking into account the rear projections, and the proximity of these side windows to the boundaries, the windows would in combination provide adequate light and outlook for the living/dining/kitchen rooms serving both flats 1 and 2.

29. To conclude, the proposed development would provide satisfactory living conditions for future occupiers and comply with Policies D3 and D6 of the LP and Policies 4 and 37 of the BLP, that amongst other things, seek to ensure development delivers appropriate outlook, amenity, daylighting, and private amenity space. In addition, the proposal would also comply with paragraph 135 of the Framework that requires new development to provide a high standard of amenity for existing and future users.

Living conditions - existing occupiers

30. No. 8 is a detached property with space between it and the boundary to the appeal site. No. 12 is a semi-detached property, which has a greater separation between its side boundary and the appeal site, with its detached garage located in-between.
31. The proposed building would be set away from each boundary ensuring adequate separation between the two properties, and there would be no windows at first or second floor on the side elevations of the proposed building. The separation distances between the properties to either side, along with suitable boundary treatment, which could be conditioned, would ensure that the use of the private amenity areas to the sides of the proposed building would not be harmful to the occupiers of the adjoining properties or be harmful to the outlook from within their rear gardens.
32. Although the proposal at first floor would project further out than No's 8 and 12 at first floor level, it would not be by a significant amount, nor would this projection be dominant or result in harmful visual effects given it would be sited away from their respective common boundaries with the appeal site.
33. The proposed rear ground floor element would project further than the first-floor part, but it would not be visually dominant due to its low height and roof design. In view of this and its distance from the boundaries to the adjoining properties the proposal would not be harmful to the outlook for neighbouring occupiers.
34. The Council has referred to privacy issues associated with the proposed balconies at first and second floor level, which include privacy screens. Considering the approved balconies on the extant permission⁷ also at both first and second floor level on the rear side, the location and size of those proposed balconies in this case are unlikely to have any greater potential for overlooking the rear gardens of the adjoining occupiers, than those already approved.
35. The proposal would be a more intensive use of the appeal site than as one dwelling, however, the noise and disturbance experienced by neighbouring occupiers would not be materially different to the extant approval⁸ for 6 no flats.
36. To conclude, the proposal would have an acceptable effect upon the living conditions of existing occupiers and comply with Policies D3 and D6 of the LP and Policies 4 and 37 of the BLP, that amongst other things, seek to ensure development delivers appropriate outlook, privacy, amenity, daylighting, and private amenity space. In addition, the proposal would also comply with

⁷ Ref. 23/02844/FULL1

⁸ Ref. 23/02844/FULL1

paragraph 135 of the Framework that requires new development to provide a high standard of amenity for existing and future users.

Other Matters

37. Although both main parties have referred to development at No's 2 and 18 Bromley Common, as I have found the effects of the proposals in terms of living conditions and character and appearance to be acceptable, it has not been necessary for to consider those examples in my decision.
38. The appellant has stated that; the appeal site is not in either a conservation area, or the curtilage of a listed building, and has no other restrictive designations; that there are no objections to the on-site parking and access arrangements; that it meets minimum size requirements; that its window details, external materials, and roofscape would complement the character and appearance of the area; it would create a safe, secure and accessible development; and that it would respect the required distances to side boundaries. However, these matters are neutral factors that neither weigh in favour or against the proposal.
39. It is noted that there has been local support for the provision of new flats. In addition, the appellant has also stated; that the proposal would assist with Government's objective of significantly boosting housing supply and contribute to Bromley's overall housing supply position; it would provide housing on a well-connected, small sized housing site, and be built out relatively quickly; that it would make an effective use of the site; and that it would include previously developed land. These points are noted, but they have limited benefits above the extant permission for 6 no. flats on the appeal site, other than providing different sized flats, including a 3-bedroom flat.

Planning Balance and Conclusion

40. The Council has stated an earlier appeal decision⁹ found it has 3.38 years of housing supply as of August 2023, and that its 2022 Housing Delivery Test (published December 2023) found its housing delivery was below 85%. With the addition of a 20% buffer the Council has stated that their latest housing supply position is 2.96 years supply. As such the Council does not have a 5-year supply of housing. I attach considerable weight to the lack of housing supply. In such circumstances, as there would be no identified conflict with policies referred to in footnote 7 of paragraph 11 of the Framework, paragraph 11 d) ii applies, which states permission should be granted unless the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
41. The proposal would provide 6 no. flats, a net gain of 5 residential units, in a well-connected area, which includes previously developed land in a sustainable location. Furthermore, the proposal would be a small housing site that could be delivered quickly and add to the supply of housing in Bromley and help Government's objective of significantly boosting housing supply. There would also be benefits associated with the construction of the development and likely benefits from the occupation of the flats. However, in view of the extant permission,¹⁰ the proposal would not deliver any greater number of flats, albeit

⁹ Ref. APP/G5180/W/23/3315293

¹⁰ Ref. 23/02844/FULL1

different sized flats. The benefits associated with the scheme could mostly be realised through the extant permission. Consequently, the collective benefits of the scheme assessed against the extant scheme are limited.

42. Against these benefits is the harm that would be caused from on-street parking associated with the development within part of the bus cage on this red route. This would likely have safety implications for the operation of the bus stop, pedestrian, cycle and highway safety, and hinder sustainable travel. Paragraph 115 of the Framework is clear that development should be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. In addition, paragraph 116 of the Framework, requires development to be safe, secure, and minimise the scope for conflicts between pedestrians, cyclists and vehicles. In this case, I give this identified harm considerable weight.
43. Accordingly, when assessed against the policies in the Framework taken as a whole, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.
44. For the reasons outlined above, the proposed development conflicts with the development plan taken as a whole. There are no other considerations, including the Framework which indicate a decision other than in accordance with the development plan. I therefore dismiss the appeal.

A Hunter

INSPECTOR