



Appeal Decision

Site visit made on 17 April 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 MAY 2024

Appeal Ref: APP/G5180/W/23/3332428

55 Wickham Road, Beckenham, Bromley BR3 6QJ

- 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 Alistair Court against the decision of the London Borough of Bromley.
 - The application Ref is DC/23/02910/FULL1.
 - The development proposed is proposed erection of a single detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area; and
 - the effect of the proposal on the living conditions of occupiers of neighbouring properties, with particular regard to outlook for the occupiers of 55 Wickham Road and 1 Russell Close.

Reasons

Character and appearance

3. The appeal site is located at the end of the rear garden of 55 Wickham Road (no. 55), a grand, three-storey Victorian house which has been sub-divided into flats. Properties on this side of Wickham Road are a mix of large houses which have been sub-divided, and purpose-built blocks of flats set back from the highway behind parking areas. Properties generally have generous rear gardens which provide a green buffer to the residential development creating a spacious suburban character and appearance.
4. No. 55's rear garden is verdant and marked by mature trees. Due to its low boundary fence it is highly visible from viewpoints along Russell Close which runs to the side and rear of the appeal site. The appeal site therefore contributes positively to the character and appearance of the area. Properties fronting the part of Russell Close to the rear of the site are bungalows which are low in height but located within sizeable and wide plots. They also contribute to the area's spacious character.
5. The appellant indicates that the appeal site is not part of no. 55's garden and occupiers of no. 55 are not entitled to use the appeal site. During my site visit I observed that there was no fence or hedge to separate the appeal site from no.

55 and the site clearly functions as part of the rear garden of the property. I have not been made aware of any relevant planning history or lawful use certificates. Furthermore, the application form describes the existing use of the site as a residential garden. As the appeal site is open and free from development it contributes to the character of the area in the same way as the gardens at neighbouring properties do.

6. In contrast to both no. 55 and the bungalows fronting Russell Close, the proposal would have a small plot. The plot's shallow layout and small rear garden would not reflect the generous spatial quality of plots within the local area. The introduction of a new dwelling, with a footprint of this size, and built close to the garden's boundaries, would erode the verdant and open nature of the appeal site. Similarly, due to the proportion of the site which would be covered by the building's footprint, the layout of the new dwelling would create a cramped form of development which is indicative of overdevelopment.
7. The evidence indicates that a Tree Preservation Order (Ref 2845) has been made relating to a Mulberry tree within no. 55's garden. Despite annotations on the submitted drawings, the Arboricultural Implications Assessment Report submitted by the appellant indicates that the tree would be retained, albeit its crown and height would be reduced. Notwithstanding this, the proposal would introduce a significant new building footprint and permeable parking and paved areas which would cover a substantial area of the plot and would be out of keeping with the prevailing character of the area. In coming to this view I have taken into consideration that a scheme of landscaping, secured by a planning condition, could provide additional landscaping within the appeal site, including within the proposal's amenity space.
8. The appellant indicates that the proposal's design has been informed by the form and detailing of no. 55, and I note that the height of the building, at two storeys in height with an additional storey of accommodation within the roof space, would be lower than no. 55. However, it would have a steeply sloping roofscape and gables almost up to the ridge height which would add to the height and bulk of the building. As a result, the proposal's-built form would appear prominently discordant within the street scene. The proposal would therefore fail to achieve a sensitive transition between no. 55 and the lower buildings within Russell Close.
9. The rear gardens and rear elevations of the two storey dwellings on Tudor Road are visible from the appeal site. Whilst these properties are positioned closer together and in smaller plots, they face a cul-de-sac which is physically disconnected from the appeal site. As only their rear elevations are visible from the appeal site, the properties do not make a significant contribution to the character of the appeal site and Russell Close. Notwithstanding this, for the reasons outlined above, the form of garden development, would appear awkward and uncharacteristic to the area.
10. It has been put to me that the appeal proposal would make an efficient use of the site. However, the development plan is explicit that garden development will only be permitted if it responds positively to the character of the area. I have found that this would not be the case.
11. For the above reasons, I conclude that the proposed development would harm the character and appearance of the area. I therefore find that it would conflict with Policies 3, 4, 8 and 37 of the Bromley Local Plan (2019) (BLP) and Policies

D3, D6 and H2 of the London Plan (2021) (LP). Amongst other aspects, these policies seek to secure development of a high standard of design which positively contributes to the existing character, appearance and context of the area.

12. Equally, the proposal would not comply with paragraph 135 of the National Planning Policy Framework (2023) which requires that development is visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

Neighbouring occupiers

13. The proposal would extend significantly above the 1.8 metre close boarded fence which the submitted drawings indicate would be installed on the boundary of no. 55's garden. As the side of the house would be positioned close to the shared boundary with no. 55, its width and height have the potential to impact the outlook for neighbouring occupiers from the communal garden. Communal gardens are likely to be used as frequently as private gardens, and occupiers of properties with communal gardens can be equally impacted by proposed developments. At the time of my site visit the garden appeared to be well used and well maintained.
14. The roof of the house would be pitched, and the second floor of accommodation would be contained within the pitched roof. However, views from the area of the garden closest to the boundary would look directly onto the house's side elevation with minimal separation distance. Consequently, the house would have a looming presence over the neighbouring garden. The combined depth, height and proximity of the house to the neighbouring garden means that the proposed development would be a dominant and oppressive feature for neighbouring occupiers.
15. The appellant has submitted a drawing which indicates the impact of the new dwelling based on a 25-degree angle taken from the ground floor of no. 55. I have taken note of this and also note that the appellants submitted a daylight and sunlight study. The Council has not raised concerns related to the effect of the proposal on the sun on the ground within No. 55's garden. However, these factors do not change my view that the proposed development, as a result of its position, height and width would be overbearing and thus harmful to outlook from no. 55's garden.
16. The proposal's side elevation would have a greater separation from the shared boundary with the neighbouring bungalow, 1 Russell Close (no. 1). It would also be separated by no. 1's existing garage and would be angled away from the bungalow's nearest front facing windows. These windows do not face the appeal site, but instead are directed forwards towards the side elevations and gardens of properties on Tudor Road.
17. The combined separation distance and orientation of the proposal from no. 1's closest windows would reduce the impact of the proposal. Overall, I consider that these factors would ensure that the proposal would not be overly oppressive to the extent that it would cause unacceptable harm to the level of outlook for occupiers of no.1.
18. Whilst I have found that the proposal would not have a harmful effect on the occupiers of no. 1, it would have a harmful effect on the living conditions of the occupiers of 55 Wickham Road, with particular reference to outlook from the

communal garden. I therefore find that it would conflict with Policies 3, 8 and 37 of the BLP and Policy D3 of the LP. Amongst other aspects, the policies seek to protect the living conditions of occupiers of neighbouring properties.

19. The Council also alleges a conflict with Policy 6 of the BLP and Policy D6 and H2 of the LP with regards to this matter. However, my attention has not been drawn to any words in the policies that are relevant to this issue. They have therefore not been determinative in my decision.

Other Matters

20. It has been put to me that the proposal would retain a sizeable private amenity space for no. 55 and would not have a harmful effect on neighbouring occupiers' privacy. Furthermore, the occupation of one residential unit would not give rise to harmful noise disturbance. However, the absence of harm in these respects is a neutral consideration that weighs neither for nor against the proposal.
21. A number of concerns from third parties have been raised in relation to the development. These include its effect on trees, local traffic, ecology and biodiversity and privacy of neighbouring occupiers. However, given my conclusions on the main issues and that the appeal is dismissed, there is no need for me to address these in further detail.

Planning Balance and Conclusion

22. The Council is unable to demonstrate a five-year supply of deliverable housing sites and advises that the supply is 3.38 years. The appellant does not dispute this position.
23. Furthermore, the submitted evidence confirms that the Council's Housing Delivery Test 2022 (HDT) results (published in December 2023) indicate that housing delivery against the Council's housing requirement has fallen below 85% over the HDT period. This requires the addition of a 20% buffer to the Council's housing requirement in accordance with Footnote 8 of the Framework. Applying this buffer now gives a supply of 2.96 years, which is a significant undersupply.
24. As a consequence of the housing supply and delivery positions, paragraph 11 d) of the Framework applies. This states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework taken as a whole.
25. The provision of a house would assist in boosting the supply of homes as supported in paragraph 60 of the Framework. As a small site, it could be developed quickly and support for such sites, particularly windfall sites within existing settlements, is provided by paragraph 70. The fact that the site is within walking distance of a range of shops and public transport facilities is also a benefit supported by paragraph 110. The Framework also encourages the optimal use of underutilised land. Combined, I give these factors significant weight.
26. However, the Framework also sets out, in paragraph 131, that the creation of high quality and beautiful places is fundamental to what the planning process should achieve. The failure of the proposals to represent a high quality form of

development carries substantial negative weight. In addition, paragraph 135 identifies that development should provide a high standard of amenity for existing users. This also weighs heavily against the proposals.

27. It is not disputed between the main parties that there would not be a harmful impact on the light received by neighbouring properties. Likewise, internal, and external space standards would be met, and sufficient car parking would be provided. The acceptability of the proposals in these regards however do not carry positive weight as they would be expected of any development.
28. The appellant has directed me to policies H1 and H2 of the LP, which encourage development on windfall sites to increase housing supply and encourages the development of small sites, respectively. These are consistent with the Framework and weigh in favour of the proposals. But in the same way that I consider the conflict with the parts of the Framework relating to quality of design and amenity significantly outweighs the accordance with those seeking to provide housing; the conflict with the parts of the LP which aim to ensure development respects local distinctiveness outweighs the support from H1 and H2.
29. Drawing all of the above together, the policy conflicts and associated harms weigh very heavily against the proposals, and overall, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.
30. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR