
Appeal Decision

Site visit made on 17 April 2024

by N Kempton BAHons PGDip MA IHBC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 DECEMBER 2024

Appeal Ref: APP/G5180/W/23/3330792

118 London Road, Bromley, Kent BR1 3RL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mortimer Holdings Limited against the decision of the Council of the London Borough of Bromley.
 - The application Ref is DC/23/00495/FULL1.
 - The development proposed is change of use former assisted living facilities to residential use with associated extension, minor physical alterations, private amenity space, and car and cycle parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

The refusal reasons referred to in the introduction to the Council's statement differ from those stated on the decision notice. The remainder of the statement addresses the reasons on the decision notice. I am satisfied that the decision notice relates to this appeal, and I have considered the appeal on this basis.

Main Issues

2. The main issues relevant to this appeal are the effect of the proposed development on whether:
 - lack of demand for the existing specialist accommodation has been demonstrated;
 - the proposed development would provide an adequate standard of living accommodation for future occupiers with particular regard to access and provision of private amenity space.

Reasons

3. The appeal site is a two-storey detached building, which formerly operated as an assisted living care home, now vacant. Set back from London Road, the building's foreground is an area of hardstanding used for car parking and bin storage. To the rear of the building is a narrow area of hardstanding. The appeal site is situated in a primarily residential area with a number of local commercial, amenity and community uses in the vicinity given the proximity of the site to the town centre.

Demand

4. Bromley Local Plan (LP 2019) identifies that Bromley has a “significant number of elderly people living in their own homes” and that “this is predicted to rise by 37% by 2030”. It also states that “Bromley has the highest number of elderly residents and a significant pre-retirement age group” (LP Policy 11 supporting text). The London Plan (2021) states that Bromley has the fourth highest potential demand in London Boroughs in terms of annual benchmarks for specialist older persons housing 2017-2029 (London Plan, Chapter 4 Housing, Table 4.3).
5. The marketing evidence has been summarised and lacks detailed information, notwithstanding its format and presentation. This hinders analysis of the nature and scope of the inquiries received and evaluation of the merits of the marketing effort. It limits and undermines any conclusions that may be drawn with regards to the marketing exercise and its appeal to potential purchasers and operators.
6. I am satisfied that there is an evidenced demand in Bromley for specialist older persons housing, as set out above. The lack of substantive evidence before me however fails to demonstrate that there is no longer demand for the existing assisted living care accommodation and no demand for the site from alternative providers in conflict with LP Policy 11, which relates to specialist and older people’s accommodation. This policy resists the loss of sites currently providing specialist accommodation unless it can be demonstrated that there is no demand for the existing accommodation and no demand for sites from alternative providers.
7. Concerns regarding GDPR are noted, however, commercially sensitive information could have been redacted. Whilst it is accepted that the price point was not disclosed at the initial stage, and cannot therefore have prohibited interest in the site, the summarised evidence does not constitute sufficiently robust information that can be interrogated to assess market demand. In reaching this conclusion, I have taken into account the appellant’s view of the marketing strategy.
8. It is accepted that the LP does not set out prescribed methods of marketing. Furthermore, it is accepted that the marketing process was carried out over a time period exceeding 6 months. Notwithstanding this, the evidence fails to comply with LP Policy 11, as set out above.
9. The proposed development would also be contrary to the following policies of the London Plan which concern the delivery, retention, and refurbishment of supported and specialised housing, which meets an identified need: Policy H12 Supported and specialised accommodation and Policy H13 Specialist older persons housing.
10. For these reasons, I attribute significant weight to the harm arising from the failure to demonstrate lack of demand for the existing specialist accommodation.

Access and external amenity space

11. The access to flats 3 and 6 is at the rear of the building. The proposed layout does not constitute legible design. Rather the rear entrance would be accessed via a narrow path along the side of the building, tight up to the property

boundary. As such, the entrance would be poorly identifiable and lacks a sense of arrival.

12. The appellant's suggestion to address the poorly identifiable rear entrance using landscaping, lighting, signage and the installation of gates, secured by condition, is noted. These measures would help improve the legibility of the access and provide defensible boundaries in the interests of security. However, such measures would do little with regards to the sense of arrival. Occupiers and visitors accessing flats 3 and 6 would still have to go round to the back of the property, via a narrow path down the side of the building, which would be more akin to a secondary or service access rather than the principal entrance to these flats. As such, the access to flats 3 and 6 would fail to demonstrate a layout of high-quality design contrary to LP Policy 4, which requires that the site layout, buildings and space around buildings are designed to a high quality.
13. It is not the quantum of external amenity space but the quality, useability and practicality of that space that is at issue in this appeal. Specifically, the entrance pathway serving flats 3 and 6 would conflict with the use of amenity space allocated to these flats, such that the quality and useability of this space would be unacceptable and would result in poor quality accommodation for future occupiers.
14. The conflict between the access route and the amenity space could be addressed, in part, with the imposition of a condition requiring landscaping to delineate boundaries reflecting ownership and in the interests of safety and security. Notwithstanding this, the narrow and constrained space to the rear of the building would be compromised by further subdivision. The introduction of additional boundary fencing would enclose this confined space to the detriment of its quality. The geometry of the space, being long and narrow, would preclude its useability and practicality. The amenity space associated with flats 3 and 6 would still be shared, rather than private, space. This would be contrary to LP Policy 4, which requires the provision of sufficient external private amenity space that is accessible and practical. Furthermore, the supporting text for LP Policy 4 states that ground floor flats should have access to private gardens.
15. As such, the proposed development would fail to provide satisfactory living conditions for future occupiers of the flats, with particular regard to access and private external amenity space. The proposal would therefore be contrary to LP Policy 4 as set out above. The proposed development would also be contrary to LP Policy 37, which states that all development proposals will be expected to be of a high standard of design and layout. This policy sets out criteria relating to the general design of development including, the requirement to respect the amenity of future occupants with regards to privacy.
16. The lack of provision of quality, useable external amenity space for flats 3 and 6 would also conflict with Policy D6 of the London Plan (2021). Policy D6 relates to housing quality and standards. Criterion D of this policy states that the design of development should maximise the useability of outside amenity space.

17. For these reasons, I attribute significant weight to the harm arising from the poorly identifiable access and the lack of quality private external amenity space.

Other Matters

18. The proposed development would make a modest contribution of 6 additional flats to the Borough's housing supply, which is an important consideration in the context of the Government's objective to boost significantly the supply of homes and would be a benefit to which I attribute moderate weight.
19. The current 5-year housing land supply position and housing delivery test result (2022) for the London Borough of Bromley is a material consideration in the determination of this appeal. The Council has confirmed a current housing land supply of 2.96 years and accepts that this constitutes a very significant shortfall, which has led to 'Action Plan' status being applied. As such, the presumption in favour of sustainable development is triggered. I attribute moderate weight to this matter.
20. It is acknowledged that the Framework gives support to the development of brownfield land, which attracts substantial weight, and it recognises that small sites can make an important contribution to meet the housing requirement. Furthermore, the appeal site is in a sustainable location and would support sustainable transport. Re-using the existing building would support the circular economy and utilise embodied carbon, and use of sustainable technologies would reduce CO2 emissions. Cumulatively, these benefits attract moderate weight and weigh in favour of the proposal.

Planning balance

21. The proposal would be contrary to the development plan as a whole by reasons of failing to demonstrate that there is no longer demand for the existing assisted living care accommodation and no demand for the site from alternative providers, despite the significant demand evidenced in Bromley for specialist older persons housing. The proposed development would also fail to provide satisfactory living conditions for future occupiers of the flats, with particular regard to access and private external amenity space. Therefore, the proposal should be refused unless other material considerations indicate otherwise. This counts significantly against allowing the appeal.
22. Notwithstanding the presumption in favour of sustainable development, or the associated benefits identified, I have found that the harms arising from the proposed development significantly and demonstrably outweigh its benefits, when assessed against the policies in the Framework, taken as a whole. The associated benefits would be limited by reason of the scale of the development proposed. As a result, in the particular circumstances of this case, I have concluded that the presumption in favour of sustainable development does not apply.

Conclusion

23. The proposed development would be contrary to the development plan and there are no other material considerations, including the provisions of the Framework, that outweigh this finding.
24. The appeal is dismissed.

N Kempton

INSPECTOR