



Appeal Decision

Site visit made on 25 March 2025

by **N Unwin BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19th May 2025

Appeal Ref: APP/G5180/W/24/3354203

1A Kentway Court, Hayes Lane, Hayes, Bromley BR2 9EA

- 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 Mr Gengis Kemal against the decision of the Council of the London Borough of Bromley.
 - The application Ref is DC/24/01318/FULL1.
 - The development proposed is described as: Construction of additional storey above existing building to provide 3 new flats (3 x 2 bedroom).
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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
 - living conditions of the occupiers of 4 Bromley Common with particular regard to outlook.

Reasons

Character and appearance

3. The appeal site forms a flatted development set over three floors on a prominent corner plot. The surrounding area is mixed in character containing some large commercial and residential developments. The imposing developments of Gainsborough Court, 1-3 Holmesdale Road and Berkeley Court mark a hard visual transition from high-density, large-scale development to low density residential. This side of Bromley Common and Hayes Lane possess a low-level, residential character. Whilst there are instances of flatted developments such as the one approved at 10 Bromley Common, these are limited to two to three storeys with a compact footprint, maintaining a low-density residential character.
4. The appeal site is located on the corner of Bromley Common and Hayes Lane, adjacent to a row of low-level residential properties extending along this side of both roads. The appeal property, whilst formed of flats, has a modest footprint, and is similar in height to the dwellings along this side of Bromley Common. It's design, including the utilisation of gables and dormers minimises its height and gives it a relatively compact appearance, allowing it to reflect the form and design of the dwellings adjoining the appeal site. As such, while the appeal site is located within a transitional area, the existing building represents a continuation of the low-level

residential nature of development on this side of Bromley Common and Hayes Lane. The appeal property is therefore viewed within this context, rather than the larger, high-density buildings on the opposite side of the roads.

5. Whilst the additional storey would represent a continuation of the existing roof form, fenestration and overall length and width of the building, the increase in height would result in a more vertical emphasis, contrasting more with the existing low-level form of the neighbouring properties. As such, the original detailing to facilitate a more traditional low level residential character would appear awkward and out of context on the larger-scale building. Further, the upward extension would result in a notable projection above the height of the neighbouring dwellings interrupting the existing consistency in building height. The proposal would disrupt the low-level residential character along this side of Bromley Common and Hayes Lane, to a harmful degree.
6. For these reasons, therefore, I conclude that the proposed development would be harmful to the character and appearance of the area. As such the proposal would conflict with the relevant provisions of Policy D3 of The Spatial Development Strategy for Greater London (2021) (London Plan) and Policies 4 and 37 of the London Borough of Bromley Local Plan (2019) (Local Plan). When read together these policies require new development to enhance local context and respect local character.

Living conditions

7. The appeal site adjoins the boundary with 4 Bromley Common (No 4). No 4 forms a large two-storey dwelling with a narrow gap between it and the appeal building. The narrower rear section of the appeal building projects beyond the rear elevation of No 4, adjacent to part of its rear garden. Nonetheless, the modest height combined with the setback nature of the rear projection prevents the appeal property from appearing overbearing when viewed from the rear garden, maintaining a good standard of outlook for the occupiers of No 4.
8. Whereas this existing relationship was concluded to be acceptable when the appeal building was approved, the additional storey now proposed would result in a notable increase in height. Whilst views of the proposal from the rear windows of No 4 would be limited, the additional storey would notably increase its visibility from the rear garden area. Given the close relationship of the two buildings, the proposal would appear overbearing and dominant particularly when viewed from the area of garden closest to the rear elevation of No 4. This section of garden, by virtue of its proximity to the dwelling, will likely be heavily utilised, therefore exacerbating the harmfully overbearing effect of the proposal on the living conditions of these occupiers. Whilst there is vegetation along this section of the shared boundary, given the considerable height and close relationship of the appeal building, its effectiveness as screening would be limited.
9. Whilst the council has found no harm in relation to the effect of the proposal on noise, levels of daylight and sunlight, or privacy these are neutral factors and do not outweigh the harmful effect on outlook as described above.
10. For these reasons, I conclude that the proposal would harm the living conditions of occupiers of No 4 with particular regard to outlook. As such, in this regard, it would be contrary to the relevant provisions of Policy D3 of the London Plan and Policy 37 of the Local Plan. When read together these policies require new development

to respect the living conditions of the occupiers of neighbouring buildings, including by delivering appropriate outlook.

11. The second reason for refusal also refers to Policy 4 of the Local Plan and Policy D6 of the London Plan which relate to housing design and layout, and housing quality and standards respectively. However, these policies have limited relevance to the effect of development on living conditions for neighbouring occupiers.

Planning Balance

12. The Council acknowledges that there is a significant shortfall in housing land supply, which is below three years according to evidence quoted in the officer report and the Council's statement of case. In these circumstances paragraph 11d) of the Framework is relevant. There is nothing before me to suggest that there are any policies in the Framework that protect areas or assets of particular importance that provide a strong reason for refusing the development under paragraph 11d)(i).
13. Therefore, the balance in paragraph 11d(ii) applies such that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to specified key policies.
14. While the proposal may comply with other aspects of the development plan, the conflict with the relevant policies identified above is sufficient to bring it into conflict with the development plan as a whole. As indicated in paragraph 232 of the Framework, the weight which should be attributed to that conflict draws on the degree of consistency between the relevant policies and the Framework.
15. Paragraph 135 of the Framework states that planning decisions should ensure that developments add to the overall quality of the area, are visually attractive as a result of good architecture and layout, and are sympathetic to local character and history. Furthermore, although paragraph 129 of the Framework supports development that makes effective use of land, part d also requires that the desirability of maintaining an area's prevailing character and setting are taken into account. Finally, paragraph 135f of the Framework requires planning decisions to ensure development creates places with a high standard of amenity for existing and future users. Given the above identified harm to the character and appearance of the area and to the living conditions of neighbouring occupiers, these matters combined amount to a substantial level of harm, weighing against the scheme.
16. The Framework seeks to boost the housing supply, and highlights the important contribution small and medium sized sites can make, whilst giving substantial weight to the value of using suitable brownfield land. Further, the policies highlighted within footnote 9 of the Framework support development that makes efficient use of land and is located within sustainable locations that offer a genuine choice of transport modes. The proposal is located close to a range of services and facilities and would provide three smaller units above an existing building, offering modest economic benefits through the construction process and from future residents. Nevertheless, given the relatively small scale of the proposal, I can only afford moderate weight to these combined benefits.
17. The Council have not objected to the principle of the proposal, standard of accommodation, highway safety, sustainability, trees and landscaping, biodiversity

net gain, drainage, air quality, and fire safety. Nevertheless, these are neutral factors and do not weigh for or against the appeal proposal.

18. Accordingly, I find that the adverse impacts arising from the development would significantly and demonstrably outweigh the moderate weight attributed to the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to those highlighted in footnote 9. The proposed development does not benefit from the presumption in favour of sustainable development as defined in paragraph 11 of the Framework.

Conclusion

19. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. For the reasons given above, the proposed development would conflict with the development plan when read as a whole. There are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

N Unwin

INSPECTOR