



Appeal Decision

Site visit made on 31 October 2022

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 6 December 2022

Appeal Ref: APP/G5180/W/22/3299838

2 Warren Avenue, Bromley BR1 4BS

- 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 Ian Dollamore of Urban Infill against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/21/05127/FULL1, dated 22 October 2021, was refused by notice dated 25 January 2022.
 - The development proposed is for 9 dwellings with associated parking, amenity space and cycle storage.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Ian Dollamore of Urban Infill against the Council of the London Borough of Bromley. This application is the subject of a separate decision.

Procedural Matter

3. There are discrepancies relating to the number and positioning of ground floor windows proposed when comparing the proposed east flank elevation drawing (drawing no 0533-PL-224 Rev C) and the proposed ground floor plan (drawing no 0533-PL-210 Rev B). I have considered the appeal on the basis of the elevation drawing which shows the windows being present and I consider that there is sufficient information to make an informed assessment.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the area having particular regard to the heritage significance of the existing dwelling;
 - Whether the proposal would provide suitable living conditions for future occupants of the development with particular regard to outlook, privacy, noise and disturbance and the provision of outdoor space;
 - The effect of the proposal on the living conditions of occupiers of 38 Bromley Avenue with regard to privacy and outlook.

Reasons

Character and appearance

5. The existing dwelling is a part two and part three storey detached dwelling situated within a generous plot, located in a prominent corner position. A turret element forms a focal point for the dwelling which addresses the road junction between Warren Avenue, Bromley Avenue and Farnaby Road. The area is residential in nature with a variety of detached and semi-detached dwellings present. There is no evidence to suggest that 2 Warren Avenue benefits from any formal heritage or built environment designation.
6. As well as the identification of non-designated heritage assets through the preparation of local lists, paragraph 040 of the Planning Practice Guidance (PPG) confirms that in some cases, local planning authorities may also identify non-designated heritage assets as part of the decision making process on planning applications. Following my site visit, it is clear that the building retains some historic merit. The significance of 2 Warren Avenue lies in its scale, architectural detailing, unique appearance in the street scene, its historical role in the development of the local area and due to its prominent position at the junction of the three roads. I therefore consider that 2 Warren Avenue is a non-designated heritage asset and that it currently contributes positively to the character and appearance of the area, providing a local landmark feature.
7. Whilst I accept that alterations have been carried out to the property in the past, I do not consider that they detract significantly from the original form and character of the building. It did not appear when viewing externally to be in a significant state of disrepair and I am not in receipt of any substantive evidence that provides any further detail as to what elements of the existing building require repair and what those works would entail. Paragraph 194 of the National Planning Policy Framework (the Framework) states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. No such assessment has been provided by the appellant.
8. Paragraph 203 of the Framework states that in weighing applications that directly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. The proposal would result in the complete loss of the existing dwelling meaning that the significance of the building along with the links to the historical development of the area would be lost and it would therefore be harmful in this regard. Whilst I note the appellant's assertion that there is no national or local planning policies that would prevent the demolition of the existing building, the loss of the building is a material consideration, given the requirement under paragraphs 194 and 203 of the Framework. In any case the demolition of the building forms part of the proposal before me.
9. The design of the proposed scheme does take cues from the existing dwelling on site and from the surrounding area and has a focal feature that orientates towards the corner in the same way that the turret element does currently. The retention of built form fronting on to Bromley Avenue, along with the retention of void space to the rear of the site along Warren Avenue largely reflects the pattern of built form that currently exists. The retention and renewal of the original boundary treatments would also help to integrate a new scheme onto the plot to some degree.

10. However, whilst there would be an area of soft landscaping to the front, the proposed siting means that the elevation facing Bromley Avenue would sit forward of the front building line of the existing building. This relationship is at odds with the general pattern of the front building line which gradually steps back towards Warren Avenue along Bromley Avenue. The proposal would therefore result in a more oppressive feature in the streetscene which would detract from the existing spaciousness that the set back currently creates. The bulk and massing of the proposed development would also increase the width, depth and height of built form on the site, adding to its prominence. The width of the proposed development would be less than 4-6 Warren Avenue and 28-30 Bromley Avenue. Nonetheless, they are pairs of semi-detached dwellings and both examples do not sit in such a prominent position as the appeal site.
11. The proposed development would be prominent when viewed from Bromley Avenue, but even more so when viewed from Warren Avenue. The three storey element of the proposed building would be located in much closer proximity to the boundary with the neighbouring property 38 Bromley Avenue, meaning that the spaciousness between built form at first floor level and above would be lost. This void space currently adds to the character and appearance of the wider street scene, identifying that it is a detached dwelling which forms a focal point on a prominent spacious corner plot.
12. The proposed development responds to both Warren Avenue and Bromley Avenue in terms of the location of principal elevations. However, given the extent of the step down to the rear projection and the retention of void space towards the rear of the plot this is not in itself detrimental to the character and appearance of the area. The depth of the rear projection is in keeping with that of No 38 in terms of its length. Nevertheless, the overall bulk and massing of the proposal would appear at odds with the general character and appearance of the area. Both 4 and 6 Warren Avenue are flats within the immediate vicinity of the appeal site. Nonetheless, they retain the character and appearance of a large pair of semi-detached dwellings.
13. Two pedestrian and one vehicular entry point are proposed from Warren Avenue. The siting of these entry points are practical and largely reflect the situation opposite where a double garage is provided to the rear of the property accessed from Warren Avenue. Nevertheless, the scale of the proposal means that a large part of the external space would become a parking area which would erode the verdant appearance. The size of the parking area would be significant and contrary to the general layout pattern in the surrounding area. Whilst the proposed soft landscaping would help to some degree, the use of the outdoor space would be intensified due to the number and size of flats. This would alter the character of the site in how it is utilised and the appearance when viewed from the access points and above the boundary treatment along Warren Avenue.
14. In conclusion, the proposed development would result in significant harm to the character and appearance of the area including to the significance of the non-designated heritage asset. The proposal is contrary to policies 4, 8, 37 and 40 of the London Borough of Bromley Local Plan January 2019 (LBBLP) and policies D3 and HC1 of The London Plan March 2021 (TLP) which seek amongst other things to ensure proposals compliment the qualities of surrounding areas including the provision of side space, respond to the existing character of a

place and local distinctiveness, conserve and enhance the historic environment and respect non-designated heritage assets.

15. Whilst policy 1 of the LBBLP and policies D1, D6 and H2 of the TLP were also referred to in the Council's reasons for refusal for this main issue, these policies relate to housing supply, the assessment of an area in order to inform capacities in the preparation of development plans, housing quality and standards in relation to living conditions and the in principle support for the delivery of small sites, which are not directly relevant to this main issue.

Living conditions of future occupants

16. The floorspace provision for all of the proposed flats would be compliant with the space standards set out in the Technical housing standards – nationally described space standard March 2015. However, the proposed siting of the cycle store directly in front of the only window serving the bedroom in Flat 1 would restrict the outlook and would lead to noise and disturbance, along with the siting of the bedroom directly adjacent to the main entrance that would be used by all occupants of the flats. The positioning of fenestration for the main living accommodation in Flat 3 would directly face and be in close proximity to the communal access way to the bin store or the car parking area leading to unobstructed views into the flat. This would severely limit the privacy of any future occupiers.
17. The ground floor plan does not match the elevation drawing and therefore the single bedroom in Flat 3 does not have a window shown on the floor plan. If there was a window as shown on the elevation drawing, it would overlook the rear private outdoor space of Flat 2 meaning that there would not be any privacy for future users. The proximity of double bedrooms in Flats 2, 5 and 8 to the lift shaft as a noise and disturbance issue has been raised, however if the appeal were allowed a condition could be imposed to require soundproofing details to be provided.
18. Given that there would be external balcony space provided for each of the units above ground floor level along with access to the communal garden space, sufficient outdoor space would be provided for all type of units proposed. The communal garden space would be easily accessible from the flats given the limited separation and would provide a useable area of outdoor space in an area set back from the road and the built form of the proposed building. Whilst the communal garden space is located adjacent to the parking area, boundary treatments and soft landscaping could be used to provide separation and if the appeal were allowed a condition could be imposed in this regard. The appellant has stated that the ground floor layout issues could be resolved by simple amendments to the proposal, however no plans have been provided to demonstrate this, I therefore cannot be certain such issues can be overcome.
19. I conclude that the proposal would not provide appropriate living conditions for future occupiers with regard to outlook, privacy and noise and disturbance. It would be contrary to policies 4 and 37 of LBBLP and policies D3 and D6 of TLP which seek amongst other things to ensure that site layout, buildings and space around buildings are designed to a high quality, respect and deliver appropriate outlook, privacy and amenity for future occupants and provide appropriately designed internal and external spaces. Whilst policy D1 of the TLP was also referred to in the Council's reason for refusal, the content of this policy is not directly relevant to this main issue.

Living conditions of occupiers of 38 Bromley Avenue

20. The proposal would result in three storey built form in relatively close proximity to the side boundary with 38 Bromley Avenue, however separation from the boundary would be retained. Whilst the proposed development would be forward of the existing dwelling currently on the appeal site, it would not be situated forward of the front building line of No 38. The two storey element of No 38 is set off from the boundary, with a single storey element attached to the side elevation built up to the boundary. The eaves height of the proposed building would be lower than the ridge height of No 38 and the roof would slope away from No 38.
21. A dormer window in the side elevation of No 38 would have outlooks towards the proposed building, however given that the dormer window is set in to the roofslope and would partly align with the eaves height of the proposed building and the roof would slope away, whilst there would be an effect, the outlook from this window would remain acceptable. The first floor window and the window between ground floor and first floor situated in the side elevation of No 38 also face towards the existing side elevation of No 2 over the ridge line of the single storey garage. Whilst the proposed built form would be brought closer, there would not be a significantly different outlook from these windows which would result in a detrimental effect that would warrant refusal of planning permission.
22. The proposed two storey rear projection would sit back from the side boundary with No 38 and is lower in height than the proposed main block of development. The depth is limited so that it would be largely in line with the rear projection of No 38. The appellant confirms it has been designed to meet the 45 degree rule of thumb that seeks amongst other things to protect outlooks. Whilst the proposed building would feature in outlooks from the rear windows and rear garden area of No 38, it would not be overly prominent as these views would be at an angle, the roof would slope away and the windows serving No 38 provide a wider outlook across the garden area, away from the proposed building. Therefore, it would not result in an unacceptable effect on outlooks or create an overwhelming sense of enclosure in relation to the occupiers of No 38.
23. Several windows at ground floor level and above are shown as facing No 38. If the appeal were to be allowed, given the use of the rooms at first floor level, these windows could be conditioned to be fitted with obscure glazing and a condition could be imposed to require details of boundary treatments in relation to the ground floor, to prevent overlooking.
24. In conclusion, the proposal would not have an unacceptable effect on the outlooks and privacy of the occupiers of No 38. The proposal would therefore comply with policies 4, 8 and 37 of LBBLP and D3 and D6 of the TLP which seek to ensure buildings and space around buildings are designed to a high quality, the retention of space around buildings and that developments respect the amenity of occupiers of neighbouring buildings and those of future occupants. Whilst policies D1 and H2 of the TLP were also referred to in the Council's reason for refusal in relation to the effect on the living conditions of No 38, given their content, they are not relevant to this main issue.

Other Matters

25. This appeal proposal is different to the previous submission and the appeal has been considered on the basis of the submitted drawings and information in relation to the revised application.
26. Reference has been made by the appellant to another scheme within the local area at 79 Bromley Road. It appears from the information provided that this scheme was different in terms of the existing use of the site, the benefits of the proposal and that the building was not considered to be a non-designated heritage asset by the Council. Therefore, it is materially different to this appeal proposal. In any case that site is detached from the appeal site, such that it has no discernible influence on the merits of the proposal subject to this appeal.
27. The Council have stated that the proposed scheme does not provide sufficient cycle spaces and that a required disabled parking space is not shown on the drawings either. However, as these were not identified in the reasons for refusal and I have found harm in respect of the main issues leading me to dismiss the appeal, I shall not consider these other matters further.

Planning Balance

28. The proposal would conflict with policies 4, 8, 37 and 40 of the LBBLP and policies D3, D6 and HC1 of TLP resulting in harm to the character and appearance of the area and unacceptable living conditions for future occupants. These policies align with the requirements of paragraph 130 of the Framework which amongst other things seek to ensure developments are sympathetic to local character and history and promote a high standard of amenity for existing and future users. I give this conflict significant weight.
29. The scheme would result in the net delivery of eight new units of residential accommodation within the Borough, providing a minor contribution towards the housing supply. There would be economic benefits associated with the construction phase of the development and longer term social and economic benefits as a result of the provision of new housing. Notwithstanding this, given the scale of the scheme, I give these matters limited weight.
30. Given the alignment of the relevant development plan policies with the requirements of paragraph 130 of the Framework the proposal would conflict with the development plan as a whole.
31. The Council has acknowledged that it cannot demonstrate a 5 year housing land supply, with 3.99 years identified in their statement. The application of policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed, as outlined in paragraph 11 d) i of the Framework. Paragraph 11 d) ii of the Framework is therefore applicable in this case.
32. The proposal would provide additional housing along with the social and economic benefits that this would bring. This would align with paragraph 60 of the Framework with regard to the contribution to the housing supply. However, given the scale of the scheme and the minor contribution it would make, this would attract limited weight.

33. Given the long lasting effects of the proposal, I give significant weight to the harm that would occur to the character and appearance of the area including the significance of the non-designated heritage asset and the living conditions of future occupants, which would be contrary to paragraph 130 and 203 of the Framework which seeks amongst other things to ensure developments are sympathetic to local character and history and promote a high standard of amenity for existing and future users.
34. In considering the above factors, the adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits when assessing against the policies in the Framework as a whole.
35. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise. The proposal conflicts with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm.

Conclusion

36. The proposal is contrary to the development plan as a whole, the approach in the Framework and all other relevant material considerations and the appeal is therefore dismissed.

G Dring

INSPECTOR