
Appeal Decision

Site visit made on 20 September 2016

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 October 2016

Appeal Ref: APP/G5180/W/16/3152688

11 Fairfield Road, Petts Wood, Orpington BR5 1JR

- 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 Shaw against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/00529/FULL1, dated 1 February 2016, was refused by notice dated 21 April 2016.
 - The development proposed is the demolition of existing building and construction of a 5 bedroom detached dwelling with rear dormer and accommodation in the loft space.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing building and construction of a 5 bedroom detached dwelling with rear dormer and accommodation in the loft space at 11 Fairfield Road, Petts Wood, Orpington BR5 1JR in accordance with the terms of the application, Ref DC/16/00529/FULL1, dated 1 February 2016, subject to the conditions set out in the Schedule to this decision.

Preliminary Matters

2. The description of development provided on the application form refers to the construction of a 4 bedroom detached dwelling. However, the Council's decision letter and subsequent documents provided by the appellant indicate that the proposal would have 5 bedrooms. Drawing Number 2540-15-PL101 Revision P3 also illustrates the proposed development to have 5 bedrooms. Therefore, I have amended the description of development to reflect this.
 3. The site was the subject of a previous planning permission (LPA Ref 15/04369/FULL1) for a replacement dwelling. I note the differences between the two schemes are an increase in overall height by 0.5m, change in roof profile from hipped to gable end at the rear, introduction of habitable space within the roof space and inclusion of a dormer window and rear gable window. I have taken these into account in my consideration of the appeal.
 4. Building works were underway at the appeal site at the time of my visit. It is not clear whether they related to the house which has been granted planning permission or the new scheme. I shall therefore consider the appeal as a standalone development which has not already commenced.
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Main Issues

5. The main issues raised in respect of the appeal are the effect of the proposal on: -
- (a) The character and appearance of the area; and,
 - (b) The living conditions of adjoining occupiers with regard to outlook and privacy.

Reasons

The character and appearance of the area

6. The street scene comprises bungalows and two-storey detached and semi-detached properties of differing architectural styles. The front building line of properties in the street also varies. Although other large properties in the street are set back in their plots, the proposal would be in line with the adjoining property, No.9 Fairview Road. Whilst, the new proposal would increase the height of the development this would not be a significant change when compared to that of the replacement dwelling that has planning permission. There are also other large dwellings interspersed within this street. Despite appearing different and larger than those dwellings either side, this relationship would be similar to others in the locality. Moreover, whilst the proposal would increase the ridge height and have a different appearance to that of the original dwelling, it would not, in my opinion, appear at odds with the varying heights and designs of the properties in the area and therefore would not be out of keeping in this streetscape.
7. Overall on this issue, I consider that the proposed development would not harm the character and appearance of the area. The proposal complies with Policies BE1 and H7 of the London Borough of Bromley Unitary Development Plan (UDP) which seek all development proposals to complement the scale, form, layout and materials of adjacent buildings and areas and not detract from the existing street scene, amongst other matters.

The living conditions of adjoining occupiers

8. I observed on site that the adjoining dwelling, No.11A, has a conservatory to the rear which incorporates side windows that look toward the appeal site. Adjoining dwelling on the other side, No.9, has, to the rear, a glazed first floor room off-set from the common boundary and other side windows that face the appeal site.
9. The occupiers of these properties have raised concerns in respect of the impact upon their living conditions. However, planning permission is in place for a replacement dwelling of the same footprint and projection to the rear to that proposed here. This relationship has already been found to be acceptable to the Council.
10. The increased height of the proposal and roof design, incorporating a dormer roof addition and window in the gable to the rear, would create a development that would be more apparent to the occupiers of the adjoining dwellings. Notwithstanding this, the proposal would be set in from the boundaries either side and there would be space between the proposed development and the adjacent dwellings.

11. In addition, the outlook from the rear of the appeal property, including views from the habitable roof space and dormer roof extension, would be directed toward the long rear garden. Whilst some oblique observation of the gardens of adjoining properties would be possible, this would be of a nature that is commonplace in the area where mutual overlooking already takes place to a certain extent.
12. Although some overshadowing of both neighbouring properties would occur during the course of the day, in my judgement the effect would be quite limited and would not be significantly more than the overshadowing cast by that of the replacement dwelling that has planning permission.
13. Overall on this issue, I consider that the proposed development would not harm the living conditions of adjoining occupiers. The proposal complies with Policies BE1 and H7 of the UDP which seek all development proposals to respect the amenities of occupiers of neighbouring buildings and to ensure their environments are not harmed by inadequate privacy or by overshadowing, amongst other matters.

Other Matters

14. The occupiers of No.9 indicate that the proposal would not maintain a minimum space of 1m between the side boundary contrary to Policy H9 of the UDP and that a potential infringement onto their land may occur. The footprints of the approved and the proposed dwelling are the same. Any infringement that would take place as a result of the extant planning permission is a private matter and would not influence the planning considerations of the case.
15. My attention has also been drawn to a possible breach of planning conditions. This is a matter for the local planning authority to investigate as they are able to exercise the relevant enforcement action if there has been a breach and it is considered expedient to do so.

Conditions

16. I have had regard to the planning conditions that have been requested by the Council. In addition to the standard time limit condition it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans in the interests of certainty. Those relating to materials and hard and soft landscaping are appropriate in the interests of safeguarding the character and appearance of the area. I agree that a condition relating to the obscure glazing of side windows is necessary to protect the living conditions of adjoining occupiers. For similar reasons conditions relating to construction works and deliveries and surface water drainage are necessary. I consider a condition relating to slab levels to be reasonable to ensure the development is carried out at an appropriate land level. I also agree that a condition relating to retention of parking spaces is necessary to prevent inconvenience to road users and to ensure highway safety. However, a condition restricting curtilage development has not been exceptionally justified as there is no evidence that would suggest that overdevelopment or harm to the living conditions of adjoining occupiers would occur.
17. Conditions 3, 4, 6 and 8 require details to be submitted and agreed by the local planning authority prior to the commencement of development. These

conditions are fundamental to the acceptability of the proposal and therefore are necessary to be agreed before development takes place.

Conclusions

18. For the reasons given above, and having regard to all other matters raised, including those of the adjoining occupiers, I conclude that the appeal should be allowed.

Nicola Davies

INSPECTOR

SCHEDULE

CONDITONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed 2540-15-PL02 Revision 2 and 2540-15-PL101 Revision P3.
- 3) No development shall take place until details of all external materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall commence until a scheme of both hard and soft landscaping have been submitted to and approved in writing by the local planning authority. All hard and soft landscaping shall be carried out in accordance with the approved details. The landscaping scheme shall be implemented in the first planting season following the first occupation of the building or the substantial completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from planting die, are removed or become seriously damaged or diseased shall be replaced in the next planning season with others of similar size and species to those originally planted.
- 5) Prior to the occupation of the development herein permitted the windows in the first floor east and west side elevations shall be obscure glazed to a minimum of Pilkington privacy Level 3 and shall be non-opening, unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and the windows shall thereafter be retained as such.
- 6) No development shall take place until details of the slab levels of the building and the existing site levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) Construction works and deliveries to and from the site shall take place only between 07:30 to 17:00 on Mondays to Fridays and 07:30 to 13:00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 8) No development shall commence until a scheme of surface water drainage has been submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall be carried out in accordance with the approved details before any part of the development hereby permitted is first occupied and the surface water drainage scheme shall thereafter be retained as such.
- 9) Prior to the occupation of the development hereby permitted the parking spaces shall be completed in accordance with the approved plans and thereafter shall be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-

enacting that Order with or without modification) or not, shall be carried out on the land or parking spaces indicated or in such a position as to preclude vehicular access to the land or parking spaces.