
Appeal Decision

Site visit made on 1 November 2016

by L Fleming BSc (Hons) MRTPI

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

Decision date: 28th November 2016

Appeal Ref: APP/G5180/W/16/3153085

53 Kechill Gardens, Hayes, Bromley, Kent BR2 7NB

- 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 Paul Nevard against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/01129/FULL1, dated 29 February 2016, was refused by notice dated 23 June 2016.
 - The development proposed is a two storey attached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a two storey attached dwelling at 53 Kechill Gardens, Hayes, Bromley, Kent BR2 7NB in accordance with the terms of the application, Ref DC/16/01129/FULL1, dated 29 February 2016, subject to the conditions set out in the Schedule to this decision.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

3. The appeal site is No 53 Kechill Gardens (No 53) a two storey semi-detached dwelling set in a relatively large plot. Kechill Gardens nearby is characterised by similar semi-detached dwellings and bungalows, all set a similar distance back from the road with relatively long rear gardens and with varying degrees of space between the buildings. Many of the properties in the area have been extended to the side, but overall the area has a relatively spacious and formal character and appearance.
4. In June 2015 an appeal¹ was dismissed for the construction of an attached dwelling and extension and alterations. This appeal decision took into account a number of previous appeal decisions and the Inspector stated that when compared to the extant planning permission to extend the existing dwelling, the subdivision of the plot could, in my judgement, be achieved without the resulting development appearing as an overdevelopment of the site. However, by reason of the visual appearance of the proposed dwelling from the street and what I consider to be its poor overall design in this context, I conclude in respect of the main issue that the development would, on balance, appear as

¹ Appeal Reference APP/G5180/W/15/3002686

- an overdevelopment of the site and would be harmful to the spacious character of the surrounding area.
5. The Council granted planning permission for an extension to No 53 in September 2016². Even though a condition is attached to this permission to ensure the extension is not used as a separate dwelling it would be identical in terms of its footprint and overall scale to the proposed attached dwelling. When viewed from Kechill Gardens, the only significant difference would be a ground floor window in place of a garage door. This permission remains extant and there is nothing before me to indicate that it would not be implemented should the appeal fail, thus I attach significant weight to this planning permission as a fall-back position.
 6. I note the concerns with regard to the proposed development setting a precedent for other similar forms of development in the area. However, each case must be considered on its merits, and in this case, even though the proposal would involve the creation of the separate dwelling and thus a terrace of three properties, there is no substantive evidence to suggest that this in principle would be harmful to either the character or the appearance of the area.
 7. The proposed dwelling would have a hipped roof which would follow the ridge line of the roof of No 53 and would have two ground floor windows and two first floor windows which would match the positioning and proportions of the windows of No 53. Moreover, it would have a lean to roof which would adjoin the lean to roof of No 53. The terrace of three properties would be very similar in appearance to other semi-detached properties which have substantial side extensions, thus it would not appear out place in the street scene.
 8. When viewed from the road the side elevation of the proposed dwelling would be some 4 metres from the shared boundary with No 51 Kechill Gardens (No 51), which is also set off the shared boundary. Therefore, the space between the proposed dwelling and neighbouring building would be comparable to the space between the other buildings on Kechill Gardens and sufficient to ensure the proposed development would not appear cramped or appear as an overdevelopment of the site and would not therefore harm the spacious character of the area.
 9. In reaching these conclusions I have considered the Bromley Supplementary Planning Guidance 1: Design Principles (2004) (SPG1) and Bromley Supplementary Planning Guidance 2: Residential Design Guide (2004) (SPG2). However, even though part of the appeal site in front of the proposed dwelling and No 53 would be used for parking, space would remain to the front of the appeal site for a front garden area. Furthermore, off-street parking in front of dwellings is a common characteristic of the area. Overall, I find the proposed development would not harm the character and appearance of the area and would therefore accord with the aims of SPG1 and SPG2.
 10. The proposal would therefore comply with the development plan and the design aims of the National Planning Policy Framework. It would specifically comply with development plan Policies BE1 and H7 of the London Borough of Bromley Unitary Development Plan (2006) and Policies 3.5, 7.4 and 7.6 of the London Plan: the Spatial Development Strategy for London Consolidated with

² Council Reference DC/15/03041/FULL6

Alterations Since 2011 (2016) which, taken together, aim to ensure good design and that new development preserves the character of an area.

Other Matters

11. I have considered the concerns with regard to the availability of on-street parking in the area and the impact of the proposed development on the free flow of traffic on Kechill Gardens. However, the Highways Authority have raised no concerns in this regard and the proposal would provide two off-street car parking spaces for No 53 and two off-street car parking spaces for the proposed dwelling which in my view is sufficient to ensure highway safety and the free flow of traffic in the area would not be compromised.
12. I have also considered the impact of the proposed development on the living conditions of the occupants of No 51. However, this matter is not disputed between the main parties and the main outlook from the kitchen of No 51 is down the length of its rear garden. Whilst I acknowledge that there will be times when the kitchen door is open and people will be passing by it to access the proposed dwelling, sufficient space would remain between the side of elevation of the proposed dwelling and No 51 for there to be no significant impact on the living conditions of the occupants of No 51 with regard to privacy. In terms of noise and fumes associated with parking, the arrangement proposed is no different to that experienced in many residential areas such that I find no significant harm in this regard. Nevertheless I have imposed a condition which requires appropriate boundary treatments to be agreed with the Council.
13. I acknowledge the comments with regard to the general decay in appearance of the appeal site over time and the concerns over future landscaping. I also note the comments with regard to the quality of the plans and legal restrictions preventing the subdivision of No 53. However, the Council validated the original planning application and the full details of any legal restrictions are not before me, nevertheless I have determined the appeal on its planning merits and have imposed a planning condition which requires details of landscaping to be agreed with the Council.
14. I have also taken into account the advice contained within the Framework which states that inappropriate development of gardens should be resisted. I have also considered the petition signed by local residents and have noted the comments with regard to the Council's ability to demonstrate a five year housing land supply. However, for the reasons given above I have not found the proposed development to be harmful and it is therefore appropriate. Furthermore, even if the Council can demonstrate a five year supply of deliverable housing land, this is not a reason to withhold planning permission for additional housing in area.

Conditions

15. The conditions imposed are those which have been suggested by the Council but with some variation in the interests of clarity and precision having regard to the advice on imposing conditions in the Framework and the Planning Practice Guidance.
16. In addition to the standard timescale condition, I have imposed a condition specifying the relevant drawings as this provides certainty. I have also

imposed conditions which require materials, boundary treatments and a scheme of landscaping to be agreed in the interests of safeguarding the character and appearance of the area.

17. I also agree that a condition ensuring windows are not installed in the southern elevation is necessary to safeguard the privacy of nearby residents. Furthermore, conditions are also necessary to ensure appropriate parking provision and appropriate surface water management and site drainage.
18. Due to the relatively small scale of the development, I have not felt it necessary to require construction vehicle wash down facilities. As materials are to be agreed a separate condition specifying that no loose materials are to be used for the parking areas is not considered necessary.
19. Furthermore, there is no substantive evidence before me, which suggests that exceptional circumstances exist to justify the removal of permitted development rights; hence I have not imposed a condition to this effect.

Conclusion

20. For the reasons given above, having had regard to all other matters raised, I conclude that the appeal should be allowed.

L Fleming

INSPECTOR

SCHEDULE OF CONDITIONS

- 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 following approved plans: Drawing No Q.203.
- 3) Details of a scheme of landscaping, which shall include the materials of paved areas and other hard surfaces, shall be submitted to and approved in writing by the Local Planning Authority before the commencement of the development hereby permitted. The approved scheme shall be implemented in the first planting season following the first occupation of the buildings or the substantial completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species to those originally planted.
- 4) Before any part of the development hereby permitted is first occupied boundary enclosures of a height and type to be approved in writing by the Local Planning Authority shall be erected in such positions along the boundaries of the site as shall be approved and shall be permanently retained thereafter.
- 5) Details of the materials to be used for the external surfaces of the building shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced. The works shall be carried out in accordance with the approved details.
- 6) No windows or doors additional to those shown on the permitted drawing(s) shall at any time be inserted in the southern elevations of the dwelling hereby permitted, without the prior approval in writing of the Local Planning Authority.
- 7) Before commencement of the use of the land or building hereby permitted parking spaces and/or garages and turning space shall be completed in accordance with the approved details and thereafter shall be kept available for such use and no permitted development whether permitted by the Town and Country Planning (General Permitted Development Order 2015 (or any Order amending, revoking and re-enacting this Order) or not shall be carried out on the land or garages indicated or in such a position as to preclude vehicular access to the said land or garages.
- 8) Surface water from private land shall not discharge on to the highway. Details of the drainage system for surface water drainage to prevent the discharge of surface water from private land on to the highway shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of works. Before any part of the development hereby permitted is first occupied, the drainage system shall be completed in accordance with the approved details and shall be retained permanently thereafter. A clearly labelled drainage plan should be submitted showing pipe networks and any attenuation soakaways where infiltration forms part of the storm water system such as soakaways, soakage test results and test locations should also be submitted in

accordance with BRE digest 365 and calculations should demonstrate how the system operates during the 1 in 30 year critical duration storm event plus climate change.