
Appeal Decision

Site visit made on 8 November 2016

by J Flack BA Solicitor

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

Decision date: 30 November 2016

Appeal Ref: APP/G5180/W/16/3155694
72 Hayes Lane, Beckenham, Kent BR3 6RW

- 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 R Rostant against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/01194/FULL1, dated 31 December 2015, was refused by notice dated 3 May 2016.
 - The development proposed is described as erection of detached bungalow; closure of existing vehicular access to garage and formation of new vehicular access; demolition of existing garage/store; provision of bin and cycle store and detached shed.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr R Rostant against the Council of the London Borough of Bromley. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area; and
 - the effect of the proposal on the living conditions of future occupiers of the proposed bungalow in relation to the provision of outdoor amenity space.

Reasons

Planning background

4. The present appeal proposal follows on from a recent previous proposal for the erection of a dwelling on the appeal site (the previous scheme). This was refused planning permission by the Council, a decision which was upheld on appeal¹. Bearing in mind the need for consistency in planning decisions, this appeal decision (the previous appeal decision) is of substantive materiality to my assessment. However, I have assessed the present appeal proposal on its

¹ APP/G5180/W/16/3147904, 11 July 2016

own merits and the evidence placed before me, noting the differences between the two schemes.

Character and appearance

5. Nos 72 and 70 Hayes Lane are a pair of semi-detached houses fronting the road. The L-shaped appeal site consists of part of the side garden of No 72 adjoining the boundary with No 76, a detached bungalow, together with a wider section to the rear which was once part of the rear garden of No 53 Hayes Way, a residential road which runs parallel with Hayes Lane.
6. The south-west side of Hayes Lane forms a boundary of the large Park Langley Area of Special Residential Character (the ASRC). The Park Langley Conservation Area abuts the ASRC to the west, and this contains the original Edwardian core of the Park Langley garden suburb. The residential streets of the ASRC were developed later, but Appendix 1 of the UDP² states that the ASRC nevertheless has the quality of a garden estate, comprised almost exclusively of large detached two storey family houses on generous plots.
7. The section of Hayes Lane within the ASRC is very long. The southern part, extending to Brabourne Rise, possesses some rows of houses fronting the road which occupy most of the width of their plots. The northern part, however, has a distinctively different appearance. Here the road frontage is characterised by the long rear gardens of dwellings in Hayes Way, which contain many mature trees along with high shrubs, and their boundaries with the road generally comprise close boarded fences and access gates. There are also a number of mature street trees and generous verges. The gardens contain various sheds, garages and other outbuildings of varying sizes. These appear to have a mostly utilitarian character, but this is typical of such structures rather than causing them to be prominent, and they are in any case generally rendered very inconspicuous by the high boundary fences and vegetation.
8. This section of Hayes Lane accordingly reads as very verdant, spacious and essentially undeveloped, and thus makes a significant and distinctive positive contribution to the garden estate character of the ASRC. I also saw that the qualities I have noted are also largely shared by the continuation of the Hayes Lane frontage into the conservation area, and they are also complemented by the absence of frontage development on the opposite side of the road between Kingswood Road and Den Close.
9. In this context, No 90 Hayes Lane, a bungalow on a narrow and small plot, which was granted planning permission on appeal in 1973, stands out as an exception. Nos 70, 72 and 76 also represent historic exceptions as dwellings fronting Hayes Lane. However, whilst their plots are quite shallow, their generous width is more apparent in the street scene, and this is important in reducing their conflict with the prevailing character of this side of Hayes Lane in the vicinity. I note also that whilst the front garden of No 72 is open, the road frontage of the side garden, part of which is within the appeal site, is marked by a close boarded fence and high informal hedging. There is a narrow access to a garage, adjacent to No 76, but otherwise this length of the

² London Borough of Bromley Unitary Development Plan, July 2006

road frontage has a wholly undeveloped and attractively quasi-rural character which complements the frontage below No 76.

10. The qualities of the immediate area which I have noted above would be very severely diminished by the appeal proposal. The previous scheme had accommodation in the roof space, and the previous appeal decision found that it would be perceived as a two storey building. The present proposal would clearly not be so perceived, although the footprint of the dwelling would be very similar and the reduction in height is modest. On balance I consider that the revisions are on balance sufficient to avoid the proposed dwelling dominating the bungalow at No 76 to an unacceptable extent. However, the presence in the street scene of a new dwelling would not be materially less obvious, nor would the reduction in height serve to reveal the trees to the rear of the site appreciably more than the previous scheme.
11. Moreover, the appeal proposal would, like the previous scheme, substantially reduce the width of the plot of No 72 and the wide undeveloped gap between Nos 72 and 76. A further equivalence is that whilst the proposed dwelling would follow the building line of Nos 72 and 76, the constraints of the site are such that the dwelling would occupy a very substantial part of the depth of the site. The front garden would be dominated by parking and turning facilities, and there would also be only very small gaps between the flanks of the dwelling and the boundaries of the narrower part of the site facing the road, particularly on the boundary with No 76. In public views, the proposed dwelling would therefore have an obviously cramped appearance within a discordantly narrow site. This would be unacceptably incongruous in the context of the present dwellings to either side and the generous plots of dwellings in the vicinity within the ASRC.
12. My attention has been drawn to various planning decisions relating to proposals for residential development fronting Hayes Lane within the ASRC. I note that the Council has quite recently granted planning permissions for a house to the rear of 1 and 3 Top Park³. However, this is situated at the southern end of the Hayes Lane ASRC frontage where residential development is far more intensive, including a large block of flats on the opposite of the road, and whilst its plot is modest there are other smaller plots nearby at the corner of Hayes Lane and Barnfield Wood Road.
13. In any case, of more materiality to my decision are a number of appeal decisions⁴ which considered and rejected proposals for residential development on sites fronting Hayes Lane in the vicinity of the appeal site. The decisions and some related papers are before me, as are papers relating to the Council's refusal of permission for an annex at 107 Hayes Way⁵. These various proposals differed in scale and design. However, the clear and consistent thrust of the decisions, together with the previous appeal decision in relation to the appeal site, is that the provision of additional dwellings along this stretch of Hayes Lane would be unacceptably detrimental to the character and appearance of the area. The revisions to the previous scheme fall far short of persuading me that I should take a different view in relation to the appeal proposal.

³ 14/04907/FULL1 and 15/05618/FULL1

⁴ T/APP/G1580/A/86/050683/P4, 24 November 1986: APP/G5180/A/04/1148375, 17 January 2005; APP/G5180/A/08/2087027, 23 March 2009

⁵ DC/14/02033/FULL6, 21 July 2014

14. I therefore conclude that the appeal proposal would be unacceptably harmful to the character and appearance of the area. The proposal would be contrary to the Policies BE1, H7, H9(ii) of the UDP, which require a high quality of design which complements the adjacent area, and contrary to Policy H10 which seeks to protect the HSRC from inappropriate development which would harm its character.
15. Whilst the policies are of some age, paragraph 211 of the National Planning Policy Framework is clear that development plan policies should not be considered out of date simply because they predate the Framework. These policy requirements accord with the approach of the Framework to design, which at paragraph 58 states that planning decisions should aim to ensure, amongst other things, that developments add to the overall quality of the area, respond to local character and reflect the identity of local surroundings. The appeal proposal would fail to do so.

Living conditions

16. The proposed bungalow would have two bedrooms rather than the three bedrooms of the dwelling proposed by the previous scheme. The areas and locations of private amenity space would essentially be the same, comprising areas to the rear and side of the dwelling. The Inspector in the previous appeal decision found that the amount of amenity space proposed would be adequate, and clearly this would also be the case in relation to the smaller dwelling now proposed.
17. However, as the previous Inspector observed, the provision of amenity space is a matter of quality as well as quantity. The area to the rear of the proposed dwelling would be very small and cramped. The area to the side would be larger, but it would be adjoined by three very large oak trees, one on the rear boundary of the site and two on the former boundary of No 72 and No 53 Hayes Way. A copy of the Council's Tree Preservation Order 2007 No 2224⁶ is before me, and I note that only the latter two trees are protected by it.
18. However, the crown spread of the protected trees extends across most of the side amenity space, and would on its own cause this to be an unacceptably gloomy and oppressive space in which no significant planting would be at all likely to flourish. These effects would not be significantly mitigated by the works proposed to the trees, as they are minor in the context of these large trees, and any more extensive works to the protected trees would be likely to harm their obviously significant contribution to the visual amenity of the area.
19. I therefore conclude that the appeal proposal would be unacceptably harmful to the living conditions of future occupiers of the proposed bungalow by reason of the poor quality of the private amenity space provided. The proposal would be contrary to the Policies BE1 and H7 of the UDP, which require proposals to respect the amenity of future occupants and provide adequate amenity space. The proposal would also be contrary to the similar requirement of the Framework's core planning principles (paragraph 17) that planning should always seek to ensure a good standard amenity for all future occupants of buildings.

⁶ 20 June 2007

Conclusions

20. The Framework seeks to boost significantly the supply of housing and requires a five year supply of deliverable housing sites (paragraphs 47 and 49). The appellant expresses criticisms as to the assumptions and other matters underlying the Council's statement that it possesses a five year supply, but these criticisms are not such as to convince me that the statement is inaccurate. In any case, the proposal would make an extremely minor contribution to housing supply, and no other substantive benefits are apparent. Given also my conclusions on the main issues and the policy conflicts I have identified, I conclude that the adverse impacts of the appeal proposal would significantly and demonstrably outweigh the benefits.
21. I have considered all other matters arising from the evidence before me, including the lack of objections from local residents, but nothing arises which disturbs the conclusions I have reached above. The appeal is therefore dismissed.

J Flack

INSPECTOR