
Appeal Decision

Site visit made on 13 December 2016

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 05 January 2017

Appeal Ref: APP/G5180/W/16/3160226

2 Oak Cottages, Leeson's Hill, Orpington, Kent BR5 2LH

- 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 J Brown against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/02565/FULL1, dated 19 May 2016, was refused by notice dated 17 August 2016.
 - The development proposed is a two bedroom family dwelling on land adjacent to Oak Cottages. Alteration to porch 2 Oak Cottage.
-

Decision

1. The appeal is allowed and planning permission is granted for a two bedroom family dwelling on land adjacent to Oak Cottages and alteration to porch 2 Oak Cottages at 2 Oak Cottages, Leeson's Hill, Orpington, Kent BR5 2LH in accordance with the terms of the application, Ref DC/16/02565/FULL1, dated 19 May 2016, subject to the conditions set out in the attached Annex.

Main Issues

2. The Council raised no objection to the proposed alterations to the porch at 2 Oak Cottages. Based on the evidence before me, I consider that the proposed alteration would be a complementary addition to the existing dwelling. Against this, I therefore find that the main issues of the appeal are the effect of the proposal on:
 - (i) the character and appearance of the surrounding area;
 - (ii) the living conditions of future occupiers, with particular regard to the provision of outdoor amenity space; and
 - (iii) highway safety, with particular regard to the demand for on-street parking.

Reasons

Character and appearance

3. The appeal site is located adjacent to 2 Oak Cottages, which forms part of a pair of semi-detached dwellings on Leeson's Hill. The character of the wider surrounding locality consists of a mix of predominately 2-storey residential dwellings and commercial/industrial units. However, the residential dwellings are located mainly on the southern side of Leeson's Hill and, from my observations on site, are sited in an elevated position from the appeal site and
-

are well screened from the appeal site by mature vegetation. I therefore find that the immediate character of the area of both the existing cottages and the proposal is industrial/commercial in nature.

4. The proposed scheme would involve the sub-division of the existing garden area of No 2 and the demolition of the existing garage. I accept that the existing cottages have a uniform building line and that the proposed dwelling would be set back behind the car parking spaces to the south west of No 2, both of which are to be retained.
5. Policies BE1 and H7 of the London Borough of Bromley Unitary Development Plan 2006 (the UDP), amongst other things, seek to ensure that development should not detract from the street scene and should be designed to a high quality. In addition, the Adopted Supplementary Planning Guidance No. 2 – Residential Design Guidance also states that spacious garden plots can contribute to the leafy character of their locality and that the loss of a substantial part of a side garden is likely to be harmful to the setting of the building.
6. The proposed use of sympathetic materials coupled with the modest scale would be sufficient to ensure that there is clear visual separation between the appeal dwelling and the adjacent property at No 2. Furthermore, due to the proposed set back position, the existing pair of semi-detached dwellings would remain the dominant visual elements within the street scene.
7. I accept that the loss of a significant amount of a side garden may be to the detriment of the character and appearance of some localities. From the evidence before me, it is apparent that the proposal involves the loss of a relatively substantial section of the existing side garden of No 2. However, given that the immediate character consists of industrial and commercial units, I do not find that the loss of the garden land would result in a development which fails to positively respond to local character. Moreover, given the overriding large scale industrial character of the area, I do not consider it necessary that the appeal site remains undeveloped in order to provide relief to the locality.
8. Accordingly, I therefore do not find that adverse impact on the character and appearance of the surrounding area would occur as a result of the proposal. It would not conflict, therefore, with the protection of local character objectives of Policies BE1 and H7 of the UDP and Policy 3.5 of the London Plan 2016 (TLP).

Living conditions

9. Policies BE1 and H7 of the UDP when taken together, amongst other things, seek to ensure that development respects both the amenity of the occupiers of neighbouring buildings and those of future occupants and provides adequate amenity space. In addition, Policy 3.5 of the TLP also states that housing development must not only take account of minimum space standards internally but also be of a high quality externally.
10. Currently, the existing dwelling at No 2 benefits from a relatively substantial garden to both the side and front of the property. Whilst I accept that the garden area will be significantly reduced in scale, I consider that sufficient outdoor amenity space would be provided for future occupiers of the dwelling

for basic activities such as sitting outside, drying clothes or children's informal play.

11. The Council has also raised concern in relation to the reduction of outdoor amenity space on the existing occupants of No 2. I accept that given the location of the outdoor amenity space at the front of the dwelling overlooking from passers-by of the neighbouring dwelling is likely. As such, this section of the amenity space would not provide the usual level of privacy normally associated with residential development such as more secluded back gardens.
12. Notwithstanding this possible lack of privacy, whilst reduced in scale, the subdivision of the plot would result in an adequate level of outdoor amenity space remaining at the side of the existing dwelling. Given the location of this space and the proposed 2 metre high close boarded fencing, I find that a satisfactory level of space and privacy would be afforded.
13. Accordingly, I find no conflict with the protection of amenity objectives of Policies BE1 and H7 of the UDP and Policy 3.5 of the TLP.

Highway safety

14. The appeal site is located on Leasons Hill, which is both a classified and distributor road. The site is located approximately 90 metres from the light-controlled junction with Sevenoaks Way. From the evidence submitted by the Council, I note that Sevenoaks Way is one of the busiest roads within the Borough, with a large proportion of the users being heavy goods vehicles and other heavy traffic.
15. The appellant has addressed the previous highway safety reason for refusal¹ through the removal of the two additional off-street parking spaces that were proposed and have made changes to the width of the proposed vehicular access. Accordingly, the existing vehicle hard standing in front of the existing garage is to be retained and will provide 2 car parking spaces which are proposed to be shared between the proposed dwelling and the existing dwelling at No 2.
16. I accept that the demand for parking in the locality is high and that double yellow lines would prevent any parking on-street directly outside the proposed dwelling. However, at the time of my site visit I observed that on-street parking spaces were available on the highway close to the industrial and commercial units on Leasons Hill, which is only a short walk from the site. In addition, spaces were also available on Chipperfield Road, which is an approximately 5 minute walk from the site. I appreciate that this was only a snapshot in time, however I have no reason to doubt that this is not a valid representation of the availability of parking within the locality.
17. Policy T3 and the associated Appendix II of the UDP detail the provision of off-street car parking spaces in relation to new development. As the proposal is for a two bedroom dwelling, there would be a shortfall of 1-2 spaces. However, due to the findings of a parking stress survey submitted by the appellant, the minimal scale of the development and the availability of public transport provision in proximity to the site, I consider the level of proposed parking provision would be acceptable in this instance.

¹ Council reference 15/03210

18. The Council has also raised concern regarding the flow and safety of traffic as a result of the proposal. From my observations, I accept that Leeson's Hill is a relatively busy road. In addition, I observed a number of gradients and pinch points along the road. However, I have no evidence before me to indicate that the minimal scale of the proposal would result in a level of additional traffic movements which would impact on the safety of road users. Furthermore, no objection has been raised by the Council's Highway department in regard of the proposal.
19. Taking the above matters into consideration, despite the technical breach of Policy T3 and Appendix II of the UDP, I find that the proposal would not have an adverse impact on the safety of road users or the efficient operation of the highway network in the vicinity of the site. It would therefore not conflict with Policies T3 and T18 of the UDP, which seek, amongst other things, to ensure that new development provides for safe urban streets.

Conditions

20. I have considered the conditions suggested by the Council against the tests in the National Planning Policy Framework and advice provided within Planning Practice Guidance (PPG). I find the majority to be reasonable and necessary in the circumstances of this case, although I have amended the wording of some conditions in the interests of clarity and precision.
21. In addition to the standard commencement condition, a condition is necessary requiring that the development is carried out in accordance with the approved plans in order to provide certainty. Conditions relating to boundary enclosures, landscaping and external materials are considered necessary in the interests of protecting the character and appearance of the locality and the living conditions of the occupiers of neighbouring properties.
22. Conditions in relation to sight lines, access and car parking are necessary in order to ensure the proposal has adequate off-street car parking and to ensure safe access to the highway, in the interests of highway safety. A condition relating to surface water drainage is necessary to ensure the adequate provision of drainage. In addition, a condition requiring the production of a Construction Management Plan is necessary in the interests of controlling construction traffic and for residential amenity.
23. Conditions 3, 4 and 9 are specified as pre-commencement conditions which are justified as they cover fundamental aspects of the scheme which require consideration and control before the commencement of development.
24. The Council have also suggested two conditions requiring the removal of Permitted Development Rights with regard to the prohibition of additional buildings, structures or alterations permitted by Class, A, B,C or E of Part 1 of Schedule 2 of the 2015 Order.
25. PPG states that conditions restricting permitted development rights 'will rarely pass the test of necessity and should only be used in exceptional circumstances'. A clear justification for the removal of permitted development rights has not been demonstrated and therefore I consider that such conditions are not necessary.

Conclusion

26. I therefore conclude that, subject to appropriate conditions, the appeal should be allowed.

Helen Cassini

INSPECTOR

ANNEXE - 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: site plan, block plan, ddh/15/403/01 – existing ground floor/garden/first floor plan, ddh/15/403/02 – proposed ground floor/garden plan and ddh/15/403/SK03 – proposed front/side/rear elevations.
3. No development shall commence until details of a surface water drainage system (including storage facilities where necessary) have been submitted to and approved in writing by the local planning authority. No building hereby permitted shall be occupied until the surface water system for the site has been completed in accordance with the approved details. The system shall be permanently retained thereafter.
4. No development shall take place until a landscape scheme has been submitted to and approved in writing by the local planning authority. Any trees or plants within a period of 5 years from the substantial completion of the development that die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size or species to those originally planted. All landscape works shall be permanently retained in accordance with the approved details.
5. No part of the development hereby permitted shall be occupied until details and locations of the boundary enclosures have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and shall be permanently retained thereafter.
6. The external materials for the development hereby approved shall be carried out in accordance with the approved details as set out in the planning application form and approved drawings ddh/15/403/02 – proposed ground floor/garden plan and ddh/15/403/SK03 – proposed front/side/rear elevations. The development shall thereafter be retained in the approved form.
7. No part of the development hereby permitted shall be occupied until the car parking and turning areas have been provided in accordance with the approved plan ddh/15/403/SK03 – proposed front/side/rear elevations. The parking and turning areas shall be retained and kept available for their intended purposes thereafter.
8. No part of the development hereby permitted shall be occupied until a sight line of 43 metres by 2.4 metres by 43 metres has been provided in both directions at the access to the car parking hereby approved. With the exception of existing trees identified by the local planning authority, no obstruction to visibility shall exceed 1 metre in advance of the sight line, which shall be permanently retained thereafter.
9. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period.