The Planning Inspectorate

Appeal Decision

Site visit made on 4 January 2017

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 18 January 2017

Appeal Ref: APP/G5180/W/16/3160916
Silver Leaves, Southill Road, Chislehurst BR7 5EE

- 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 Neal Penfold against the decision of the Council of the London Borough of Bromley.
- The application Ref DC/16/03312/FULL1, dated 8 July 2016, was refused by notice dated 20 September 2016.
- The development proposed is demolition of existing bungalow and erection of a two storey building with roofspace accommodation and undercroft parking to provide 4 flats.

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing bungalow and erection of a two storey building with roofspace accommodation and undercroft parking to provide 4 flats at Silver Leaves, Southill Road, Chislehurst BR7 5EE in accordance with the terms of the application ref DC/16/03312/FULL1 dated 8 July 2016, subject to the conditions set out in the schedule to this decision letter.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the surrounding area.

Reasons

3. The appeal site is located in a predominantly residential area which is characterised by detached properties set within spacious plots. Within this context, Silver Leaves occupies a more unusual position in that the dwelling is located towards the top of land which rises steeply to the north of Southill Road. The remainder of the dwellings are located closer to the road, following an informal but fairly consistent building line.

4. The existing dwelling at Silver Leaves would be demolished and replaced with a new block of four flats which would be sited on lower land closer to the frontage of the site. The principle of flatted development on this site is accepted by the Council, and I agree with that position.

5. The new building would be set back behind the front elevation lines of the neighbouring properties at Timbers and The Hurns, but would be in keeping with the established building line. Its front elevation would be similar to the position of that of Hillcroft in relation to Southill Road.

6. I observed on my visit that, whilst the plots are spacious to the front and rear of the properties, the separation distances between the buildings are quite constricted. The new block would leave a gap of approximately 2m to the boundary on either side. This would be commensurate with the established layout of buildings in the area.

7. The new building would appear as two storeys with a habitable roofspace. A basement would be provided, but this would be concealed from view. I note that the front elevation of the previous scheme[1] stood at three stories in height, and the revised scheme represents a significant diminution of the visible height of the building

8. I note the Council's concern that the proposed roof terrace would denote the presence of living space within the roofspace. However, there is a considerable mix of designs in the immediate area, which lacks a uniform aesthetic approach. Whilst I did not observe any other similar roof terraces in the vicinity, I saw that Timbers has a sizeable terrace at first floor level, and The Hurns has balconied French doors at second floor level. Within this context, I do not consider that this further variation in design approach would be unduly harmful or out of place.

9. I note the inspector's concern in respect of the bulk of the previously proposed building[2]. In that scheme, the east elevation in particular was substantial, running the full depth of the structure, and relieved only by a small indent in the centre. The revised scheme steps the rear section in, leaving the perceptible length of eastern elevation much shorter. This dimension would be in keeping with the neighbouring properties, and the rear section of the new building would be effectively hidden from view on this side by the substantial west elevation of The Hurns. In terms of height, the development would be marginally higher than Timbers, but lower than The Hurns, and so would be largely in keeping with the established scale in the vicinity.

10. The Council argues that the development would be overtly prominent and out of character, but I disagree. Only the front section of the structure would be readily visible from Southill Road. In terms of the overall dimensions of the front section, its setback from the road, and the gaps at the sides, it would be in keeping with the established pattern of development. The plot is notably narrower at the roadside, and the building would widen gradually to the north, but in my judgement this would be a logical response to the existing shape of the plot. I consider that The Hurns, with its three storey frontage and contrasting materials, would continue to be the more overtly dominant property on this side of Southill. Particularly with a sensitive planting scheme, it is my view that the new development would not be harmfully obtrusive in the streetscene.

11. I conclude that the proposal would have an acceptable effect on the character and appearance of the surrounding area. It would therefore comply with Policy BE1 of the London Borough of Bromley Unitary Development Plan (UDP, July 2006) which, amongst other things, seeks to ensure that development should complement the scale, form, layout and materials of adjacent buildings and areas. It would similarly comply with UPD Policy H7, insofar as it requires that the site layout, buildings and space about buildings are designed to a high

[1] DC/15/04737/FULL1
[2] APP/G5180/W/16/3144092

quality and recognise as well as complement the qualities of the surrounding areas. It would also accord with UDP Policy H9, insofar as it requires that for a proposal of two or more storeys in height, a minimum 1 metre space from the side boundary of the site should be retained for the full height and length of the flank wall of the building.

12. In addition to the policies cited in the reasons for refusal, the Council's statement of case refers to Policy 3.5 of the London Plan (LP, March 2015), which seeks to ensure that housing developments should be of the highest quality. It also refers to LP Policy 7.4, which requires that development should have regard to the form, function, and structure of an area, place or street and the scale, mass and orientation of surrounding buildings. I find that the proposal complies with these policies.

13. I have also been referred to the Council's Supplementary Planning Guidance documents entitled 'No. 1 General Design Principles' (SPG1, January 2004) and 'No. 2 Residential Design Guidance (SPG2, January 2004). SPG1 states that new development should have a character and quality of its own whilst at the same time respecting the character of its locality, and SPG2 states that the starting point for all new development should be a respect for the character and appearance of the site, its immediate neighbours and the wider street scene. For the reasons given, I find no conflict with the guidance given in the SPGs.

Other matters

14. I have had regard to the concerns raised by neighbours, including the potential impact of excavations on neighbouring properties. However, any damage caused to property during construction would be a private matter between the parties involved.

15. Concerns have also been raised regarding the design, use, safety and drainage of the proposed underground car parking area, the use of obscure glazing to a number of kitchen windows, and the adequacy of the proposed refuse and recycling area. However, I note that the Council has not raised these matters in their reason for refusal, and there is no detailed evidence before me relating to the problems that have been alluded to. I have imposed a condition to secure details of the method of opening the new windows. With regard to kitchen ventilation and heating arrangements, the absence of detailed information at this stage would not warrant the refusal of planning permission.

16. At the time of the determination of the planning application, the Council was unable to demonstrate a five year housing land supply. Subsequently, the Council produced a new annual housing supply report which was adopted in November 2016. This report shows that the Council is apply to demonstrate a five year housing land supply. In that context, the contribution of an additional three residences to the housing supply remains a modest benefit which weighs in favour of the appeal scheme.

17. I have had regard to the previous applications for development on the appeal site, and the respective appeal decisions in the relevant cases, but these have not led me to a different conclusion.

Conditions

18. The Council has suggested a number of planning conditions which I have considered against the relevant advice in the PPG. As a result, I have amended and combined some of them for clarity and brevity.

19. For certainty, it is necessary that the development is carried out in accordance with the approved plans. Conditions relating to materials, windows, refuse storage, landscaping, site levels and ensuring compliance with the Arboricultural Survey Report Tree Protection Plan are appropriate in the interests of character and appearance. A condition relating to means of enclosure is necessary in the interests of character and appearance, and the amenity of neighbours. Conditions relating to the provision of car parking and access levels are necessary to ensure highway and pedestrian safety. Conditions requiring details of cycle storage are necessary to ensure a sustainable form of development. A condition relating to surface water is appropriate in the interests of proper site drainage. A condition requiring the submission of a construction method statement is required in the interests of highway safety and the living conditions of residents during construction.

20. I have not imposed the proposed condition restricting the formation of new windows or doors within the first floor flank elevations of the development. Clear justification is required for such a restriction, and the PPG advises that it should only be used in exceptional circumstances. There is no evidence before me in this case to justify such a condition. I have not imposed the condition relating to measures to minimise the risk of crime as it has not been shown to be necessary, and so would not meet the relevant test.

21. It is essential that the requirements of Conditions 3, 5, 6, 7, 11 and 13 are agreed prior to the development commencing to ensure that the development is acceptable in respect of the matters they address.

Conclusion

22. For the reasons above, and taking all other matters into consideration, I conclude that the appeal should be allowed.

Elaine Gray

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than three years from the date of this decision.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: SHR.001/PL30; SHR.001/PL31; SHR.001/PL32; SHR.001/PL33; SHR.001/PL34; SHR.001/PL35; SHR.001/PL36.

3. No development shall be commenced until a scheme of hard and soft landscape works has been submitted to and approved in writing by the local planning authority. The landscaping works shall be carried out in accordance

with the approved details before the end of the first planting and seeding season following occupation of any part of the building or completion of the development, whichever is sooner. Any tree or plant detailed in the approved landscaping scheme which is removed, dies, or becomes severely damaged or diseased within five years of the completion of development shall be replaced with a tree or plant of a comparable size and species in the next planting season.

4. The development hereby permitted shall not be occupied until 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. No wall, fence or hedge on the front boundary or on the first 2.5 metres of the flank boundaries shall exceed 1m in height. The enclosures shall be permanently retained thereafter.

5. No development shall be commenced until details of the materials to be used in the construction of the external surfaces of the building hereby permitted 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.

6. No development shall be commenced until details of the windows (including rooflights and dormers where appropriate) including their materials, method of opening and drawings showing sections through mullions, transoms and glazing bars and sills, arches, lintels and reveals (including dimension of any recess) shall be submitted to and approved in writing by the local planning authority. The windows shall be installed in accordance with the approved details.

7. No development shall be commenced until a scheme of surface water drainage has been submitted to the local planning authority and approved in writing. The scheme shall avoid the disposal of surface water onto the highway. The proposed new building shall not be occupied until the surface water drainage scheme has been fully implemented as thus approved and shall permanently be retained thereafter.

8. The development hereby permitted shall not be occupied until the basement parking area shall be completed in accordance with the approved details and thereafter shall be kept available for such use. No permitted development whether permitted by the Town and Country Planning (General Permitted Development Order 1995 (or any Order amending, revoking and re-enacting this Order) or not shall be carried out on the land indicated or in such a position as to preclude vehicular access to the said land.

9. Prior to the occupation of the development, refuse and recycling facilities shall be provided on site in accordance with details submitted to and approved in writing by the local planning authority, and the approved facilities shall be retained thereafter.

10. Prior to the occupation of the development, cycle storage facilities shall be provided on site in accordance with details submitted to and approved in writing by the local planning authority, and the approved facilities shall be retained thereafter.

11. No development shall be commenced until details of the proposed slab levels of the development 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.

12. The floor of the basement parking area shall be constructed at such level that the gradient of the access drive does not exceed 1 in 10 at any point, as calculated from the levels of the back edge of the footway to the front of the parking area.

13. No development shall be commenced until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The statement shall include, but shall not be limited to:

    - Measures for the safe access of construction traffic to the site;
    - Measures for the minimisation of traffic conflict;
    - Details of the route to be followed by construction traffic for arriving at and leaving the site;
    - Details of the hours of operation;
    - Details for the provision vehicle cleansing facilities and the prompt removal of mud from the highway;
    - A survey of the condition of the road, and measures for the reinstatement of the road following any damage caused to it during the construction phase of the development.

    The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

14. The development shall be implemented in accordance with the submitted Arboricultural Survey Report Tree Protection Plan and method statement under the supervision of a retained arboricultural specialist.