



Appeal Decision

Site visit made on 4 July 2017

by Timothy C King BA(Hons) MRTPI

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

Decision date: 31/08/17

Appeal Ref: APP/G5180/W/17/3173268

Land adjacent 29 Chesterfield Close, Orpington BR5 3PG

- 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 Patrick Maher against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/05234/FULL1, dated 16 November 2016, was refused by notice dated 10 February 2017.
 - The development proposed is described as '*Construction of 3 x 2B & 3B, 2-3 storey new-build town houses on a vacant plot of land with associated parking and landscaping.*'
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two 3-bed dwellings and one 2-bed dwelling with associated parking and landscaping at land adjacent to 29 Chesterfield Close, Orpington BR5 3PG, in accordance with the terms of the application Ref DC/16/05234/FULL1, dated 16 November 2016, subject to the attached schedule of conditions.

Procedural Matters

2. I have slightly changed the proposal's description to better clarify the development involved.
3. Two drawings, submitted subsequent to the Council's decision, Nos 15028(SK) 100 and 15028(SK) 200 show comparisons between the current scheme and a previous proposal which was withdrawn. I have therefore treated these plans for illustrative purposes only.

Main Issue

4. The main issue is the proposal's effect on the character and appearance of the area.

Reasons

5. The site is an irregularly shaped piece of open land, which I understand was previously used as a car park. Now lain to waste, it represents an unsightly part of the street scene which has a negative impact on local character. The railway land behind is fenced off and screened by heavy verdure.
6. The land slopes significantly downwards from the east and this would appear to have dictated the proposal's rather unorthodox design. To accommodate the three adjoining dwellings proposed, given the drop in land levels, the terrace

would step down along the slope and the three dwellings would each have a distinct and individual elevational design. The dwelling on the lowest ground, at the western end of the terrace, would have a markedly wider frontage than the other two units, and each would have a different roof form with the ridge line dropping sharply mid-terrace. The roof hips at either end of the terrace would also differ in terms of height and extent, and the Council considers there would be awkward junctures. However, I consider that the terrace's contemporary appearance would represent an appropriate design solution to the site's constraints.

7. Despite the change in levels there would be a rough height alignment between the mid-terrace ridge line and that of No 29, and the proposed modest front dormer, being set well into the roof plane, would satisfactorily integrate into the building.
8. The surrounding locality is a mixture of semi-detached houses in Chesterfield Close and terraced units along Wotton Green, which accommodates a post war, tightly developed estate. This road which emerges opposite the appeal site and then swings westwards down the hill shows various building heights responding to the topography of the land. On the opposite side of the road to the appeal site, and set slightly further down the slope, the estate's highest block rises to four storeys. I consider that the appeal site's proximity to Wotton Green means that the proposed dwellings would also have a close physical relationship with this denser and taller development, and would perform a physical transitional role from an urban character to the suburban feel of Chesterfield Close.
9. Policy 3.4 of the London Plan (LP) indicates that development should optimise housing output for different types of location but should fall within the Plan's corresponding density range. Accordingly, with the site having a low Public Transport Accessibility Level (PTAL) rating of the Council's calculated density for the scheme of 69 dwellings per hectare is higher than that for the suburban limit which the Council has applied in this instance. However, the policy also mentions that local context and character should also be taken into account and, given the mixed suburban/urban character of the immediate locality, I consider that the LP's prescribed density range should be applied here with flexibility. This reflects the advice in the National Planning Policy Framework (the Framework) which comments that development schemes should respond to local character without preventing or discouraging innovation.
10. In this instance I consider that the proposal would exhibit an individual and clever design worked up in response to the site's difficulties. The development would neither appear unduly dominant nor cramped within its site and neither would it detract from the street scene. On the contrary, I consider it would have a positive effect on the locality.
11. The proposed mix of 4 and 5 habitable rooms per dwelling represents comfortable family sized dwellings with adequately sized rear gardens. A reduction to only two units, in order to reduce the density to sit within the preferred range, would represent a less than optimal housing site layout and a lost opportunity.
12. I note the representations that the site should best be developed as shop units to serve local residents. However, no such scheme is before me and I have determined the appeal on the basis of the current proposal's planning merits.

13. I conclude that the proposal would not be harmful to the character and appearance of the area and would be consistent with the general aims of LP Policy 3.4 and the design objectives of Policies BE1 and H7 of the Council's Unitary Development Plan.
14. For the above reasons, and having had regard to all matters raised, the appeal succeeds.

Conditions

15. The Council has suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance. As a result, I have amended some of them for clarity and to eliminate duplication.
16. Certain pre-commencement conditions are imposed to require submission and approval of aspects of the development that are not fully described in the application.
17. In addition to the standard 3 year time limitation condition for commencement, in the interests of certainty, I have imposed a condition requiring that the development be carried out in accordance with the submitted plans. Conditions to secure appropriate external finishing materials, slab levels, boundary enclosure and refuse disposal are necessary in the interests of amenity and the character and appearance of the area. A condition requiring suitable drainage is necessary to ensure a satisfactory form of development. Highway related conditions, including the stopping up of an existing access point, cycle storage and the provision of on-site parking are necessary to ensure highway safety and to encourage more sustainable forms of transport.
18. Apart from the site's availability as a car park its previous usage appears unclear and I have imposed a condition requiring investigation for possible site contamination. A condition to secure a Construction Management Plan including, amongst other things, the provision of proper wheel washing facilities during this stage, are necessary to ensure there are no significant adverse impacts upon the living conditions of local residents, nor upon the highway.
19. I have not imposed the suggested condition prohibiting the installation of windows in the building's east facing flank wall at first floor level as there is adequate distance between this wall and the flank of No 29. The requirement as to details of the performance and construction of the building's envelope is a matter to be addressed under current Building Regulations and its imposition here is not necessary. Finally, despite the Council's suggestion to impose a condition cancelling householder permitted development entitlement under Class E, Part 1, Schedule 2 of the General Permitted Development Order, I consider there is insufficient justification for such a restriction.

Timothy C King

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following plans: Drawings Nos 15028 (EX) 200, 15028 (PL) 100 Rev A, 15028 (PL) 101, 15028 (PL) 102, 15028 (PL) 103, 15028 (PL) 104, 15028 (EX) 200, 15028 (PL) 200 (Proposed Elevations AA/BB), 15028 (PL) 200 (Proposed Elevations CC/DD) and 15028 (PL) 300.
- 3) No development shall take place until samples of the external materials to be used for the construction of the buildings 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.
- 4) No development shall take place until a construction management plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall include details of how demolition and construction traffic, vehicular access to the site, parking and manoeuvring, materials storage, wheel washing, and facilities for operatives will be accommodated during the development. The development shall be carried out in accordance with the approved CMP.
- 5) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
- 6) No development shall commence until details of all finished slab levels in relation to ground level 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) No development shall commence until details of drainage systems for the sustainable disposal of surface water and the disposal of foul sewerage from the development 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.
- 8) No dwelling shall be occupied until space has been laid out within the site in accordance with Drawing No 15028 (PL) 101 for one car to be parked, and that area shall not thereafter be used for any purpose other than for the parking of vehicles.

- 9) No dwelling shall be occupied until full details of boundary enclosures have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with these details.
- 10) The arrangements for storage of refuse (which shall include provision for the storage and collection of recyclable materials) and the means of enclosure shown on the approved drawings shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.
- 11) No development shall take place until full details of cycle storage facilities have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with these details.
- 12) The existing access shall be stopped up at the back edge of the highway before any part of the development hereby permitted is first occupied.