



Appeal Decision

Site visit made on 27 June 2019

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2019

Appeal Ref: APP/G5180/W/19/3226532

9 Jail Lane, Biggin Hill, Westerham, London, TN16 3SA.

- 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 J P Whelan Homes against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/18/05679/FULL1, dated 20 December 2018, was refused by notice dated 15 March 2019.
 - The development proposed is described as demolition of No. 9 Jail Lane and redevelopment of land to provide 8 dwellings comprising two semi-detached and six terraced houses with associated vehicular access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The first main issue is the effect of the proposal on the character of the surrounding area. The second main issue is the effect of the proposal on the living conditions of the occupiers of Nos.7 & 15 Jail Lane, Nos.4, 6 & 8 Dowding Road and Nos.2, 4, 6 & 8 Koonowla Close with particular regard to privacy, visual impact, noise, disturbance and loss of daylight/sunlight.

Reasons

Character

3. The appeal site is situated in an accessible residential area within the defined settlement of Biggin Hill. The proposal would involve the renewal of an existing residential site and the appellant has confirmed that the site has a PTAL rating of 2. It is an area where, in principle, new residential development is acceptable, which is reflected in other infill and redevelopment schemes in the settlement.
4. The area in which the appeal site is located is characterised by a mixture of detached and semi-detached bungalows, chalets and two storey houses, semi-detached and terraced dwellings, occupying varied sized plots. Jail Lane is primarily characterised by a varied mix of detached and semi-detached bungalows, chalets and two storey dwellings. Some of the semi-detached dwellings have the appearance of terraces due to their width and a number of properties in the area include accommodation within their roof-spaces. Typically, the dwellings occupy mature landscaped and generous sized plots,

which contribute to the spacious, verdant and suburban character and appearance of the area.

5. The appeal site comprises a generous sized plot that is currently occupied by a detached bungalow and garden areas which serve both 7 and 9 Jail Lane. There are mature trees and hedges along two of the site boundaries and a number of trees within the garden area. On either side of the front section of the appeal site are family sized detached two storey houses with modest fully hipped roofs.
6. It is acknowledged that with a density equivalent to some 36.8 dwellings per hectare the appeal proposal would comply with Policy 3.4 of The London Plan. It is a modest sized site and the proposal would increase the supply of housing within the borough, as encouraged by policy 3.3 of the Local Plan and the National Planning Policy Framework 2019 (Framework). In addition, the internal and external space dimensions would comply with Policy 3.5 of The London Plan and The London Plan Housing Supplementary Planning Guidance.
7. At the same time, collectively and amongst other things Policies 3, 4 and 37 of the London Borough of Bromley Local Plan (Local Plan) and Policies 7.4 and 7.6 of The London Plan promote the sensitive renewal of existing accessible residential areas. They require new developments to have an acceptable impact on the character, appearance and context of an area. They seek the highest architectural quality and for new development to complement local architectural character, spatial standards, physical context and the qualities of the surrounding area. New buildings should have regard to the pattern and grain of existing spaces and streets, whilst optimising the potential of a site. Consistent with this the Framework promotes making effective use of land whilst ensuring that new development is visually attractive, sympathetic to local character and adds to the overall quality of the area.
8. The intensity of the proposed development would be materially greater than that of the surrounding area and a significant proportion of the site would be either built on or hard surfaced. In itself this would not necessarily weigh against the scheme. Higher density developments can be appropriately assimilated into their surroundings and are actively encouraged in the development plan and the Framework. However, in this instance, there would be limited opportunities for soft landscaping and the roofs of the proposed buildings would be uncharacteristically high, deep and bulky. They would appear both prominent and totally out of keeping with their surroundings, when viewed from the street scene and the rear garden environment.
9. The dwellings on plots seven and eight would respect the staggered building lines along this stretch of Jail Lane and would be sited further away from the boundary with No.15, than the existing bungalow on the Appeal site. Notwithstanding this, due to the mass, depth and height of its roof the building would appear out of context with the row of dwellings along this stretch of Jail Lane. Also, because of its forward siting and proximity to the dwelling at No.15, the relationship between the existing and proposed dwellings would appear unduly cramped and would materially detract from the character and appearance of the street scene.
10. This harm would clearly outweigh the benefits of providing 8 dwellings on this accessible residential site.

11. Reference has been made to various recent developments in the area, including the development adjacent to 1 Norheads Lane. The character of the area in which this development is located is different to that of the appeal site. There are a number of three storey buildings in the immediate area and the land rises to the southeast. In addition, the abundance of mature trees compartmentalises street views. The three storey development at Lunar Close relates visually to the mixed commercial and residential character and appearance of this part of Main Road. It benefits from a spacious and mature landscaped setting to the front and to the rear it respects the appearance of the dwellings in Magnolia Drive. The modern development at the end of Dowding Road is similarly readily assimilated into the street scene.
12. Whilst these developments highlight the acceptability of infilling and redevelopment in Biggin Hill, they do not set a precedent for proposals that would fail to respect and blend in with the character and appearance of their surroundings.
13. For these reasons I conclude on the first main issue that the proposal would unacceptably harm the character and appearance of the surrounding area. It would therefore conflict with Policies 3, 4 and 37 of the Local Plan and Policies 7.4 and 7.6 of The London Plan. It would also conflict with paragraph 127 of the Framework which, amongst other things, states that development should be sympathetic to local character and add to the overall quality of the area.

Living conditions

14. The proposed access drive would be separated from the dwelling at No.7 by the driveway, parking area and the retained generous sized rear garden to that dwelling. The proposed dwellings on plots one, two and three would be sited a minimum of 12 metres from the rear garden boundary to No.7 and over 27 metres from the dwelling at No.7. The outlook from the front upper floor bedrooms of the proposed dwellings on plots one to three would be directly towards the rear garden and dwelling at No.7. Due to the distance between the proposed dwellings and the dwelling at No.7 there would not be a material level of inter-looking between them. Whilst there would be some overlooking of the rear garden at No.7 the relationship between the proposed dwellings and the garden at No.7 would be unexceptional. In addition, a hedge and trees could be planted along the rear boundary at No.7, which would provide additional screening and soften the appearance of the proposed development. As No.7 is in the same ownership as part of the Appeal site this is a matter that could be secured through the imposition of a negatively worded condition.
15. For these reasons the proposal would not have a materially adverse impact on the living conditions of the occupiers of No.7 due to loss of privacy, visual impact, noise or disturbance.
16. The submitted tree protection plan shows the retention of the existing tall hedges that run along the side boundary with No.15. However, the submitted site layout plan does not include the retention of these hedges. The proposed dwelling on plot 6 would project close to the boundary with No.15 and the outlook from its front facing bedroom windows would be diagonally into the rear garden and towards the rear patio area, rear bedroom and large living room windows at No.15. This living room is located within the single storey wing situated immediately adjacent to the side boundary of the appeal site. The distance between the proposed dwelling on plot 6 and the living room

- window at No.15 would be approximately 20 metres. Notwithstanding this, due to the size of the living room windows, together with the proximity of the main patio area and the southern part of the garden area at No.15, the proposed dwellings would be visually overbearing and would result in a material loss of privacy for the occupiers of No.15.
17. The proposed access to the parking spaces that would serve plot six would be located close to the rear patio area at No.15. As a consequence, the manoeuvring into and out of these spaces and associated opening and closing of car doors would result in some noise and disturbance for the occupiers of No.15. This would add to the overbearing impact the proposed dwellings would have on the outlook from No.15.
 18. I am less concerned about the impact of the proposed dwelling on plot 8 in relation to outlook from and potential loss of daylight/sunlight to the first floor side window at No.15. This is the sole window that serves an existing bedroom. Although the proposed dwelling on plot 8 would be materially taller than the existing dwelling on the appeal site, the proposed dwelling would be sited further forward on the appeal site and further from the boundary with No.15 than the existing dwelling. In addition, due to the juxtaposition of the existing bedroom window and the proposed rear bedroom windows in the dwelling on plot 6, the proposal would not result in a material loss of privacy.
 19. Notwithstanding this, for the reasons stated above the proposal would result in an unacceptable loss of privacy and have an overbearing visual impact on the living conditions of the occupiers of No.15.
 20. In relation to Nos.4 and 6 Dowding Road (Nos.4 & 6), the only windows above ground floor level in the flank wall of the dwelling on plot one would serve a landing window. It could reasonably be obscure glazed and fixed shut, which is something that could be secured through the imposition of a condition. Any views from the front and rear bedroom windows in the dwelling on plot one would be peripheral and towards the rear of the existing gardens at No.4 & 6. As a result, the proposed dwelling on plot one would not result in an unacceptable loss of privacy for the occupiers of Nos.4 & 6.
 21. However, the side wall of the proposed dwelling on plot one would be sited several metres from the rear boundaries of Nos.4 & 6. Due to the combined height, depth and mass of the proposed dwelling on plot one together with its proximity to the rear gardens and rear facing habitable rooms of the dwellings at Nos.4 & 6, the proposed dwelling would be highly prominent and visually overbearing in the outlook from the dwellings and rear gardens at Nos.4 & 6. This would unacceptably detract from the living conditions of the occupiers of those properties. The noise and disturbance generated by the manoeuvring of vehicles into and out of the parking space and garage immediately alongside the rear boundary with No.4 would add to its overbearing impact. Conversely, any associated loss of daylight or sunlight within the rear gardens at Nos.4 & 6 would be restricted to a short period during the mornings. Both of the existing dwellings would continue to receive good levels of daylight and sunlight throughout the day.
 22. The dwelling at No.8 Dowding Road (No.8) benefits from a spacious corner setting and gardens on three sides. Due to the juxtaposition and distance between the proposed dwelling on plot one and the existing dwelling and garden at No.8, the proposal would not result in an unacceptable loss of

- privacy for the occupiers of No.8. Likewise, it would not result in an unacceptable loss of daylight or sunlight or have an overbearing visual impact for the occupiers of No.8.
23. The rear garden and dwelling at 8 Koonowla Road have a similar physical relationship to the dwelling on plot six as the dwelling on plot one and No.8 Dowding Road. For the same reasons the proposal would not unacceptably harm the living conditions of the occupiers of 8 Koonowla Road due to loss of privacy, visual impact, or loss of daylight/sunlight.
24. The dwellings at Nos 2, 4 & 6 Koonowla Road (Nos.2, 4 & 6) face directly towards the proposed dwellings on plots one to six, whose rear gardens would be approximately 10 metres deep. The rear gardens of Nos.2, 4 & 6 are an average of approximately 15 metres deep. The submitted tree protection plan shows the mature boundary hedge between the existing and proposed gardens as being retained, although the matures trees close to the boundary would be removed. Conversely, the submitted site plan shows that the trees and hedge would all be removed and would be replaced with new trees.
25. The removal of the existing trees and hedge would result in open views between the existing and proposed properties above ground floor level. This would result in some inter-looking between upper floor windows and gardens, although it would be limited to some extent by the use of small rooflights in the rear roof slope of the proposed dwellings. In addition, with appropriate boundary tree planting this could be reduced further. As a consequence, the proposal need not result in an unacceptable loss of privacy for the occupiers of Nos. 2, 4 & 6.
26. The existing boundary hedge and trees currently result in some loss of sunlight and daylight within the rear gardens of the Nos.2, 4 & 6. Having regard to the distance of the proposed dwellings from these rear gardens, the proposal would be unlikely to materially add to the levels of overshadowing and loss of sunlight.
27. Without effective boundary screening the proposed terraced houses would be unduly prominent in the outlook from Nos, 2, 4 & 6. With effective planting the visual impact of the proposed terraced houses would be minimised, although their roofs would appear uncharacteristic of the area, due to their depth and mass. Although this would detract from the existing open and verdant outlook from Nos.2, 4 & 6, it would not have an unacceptable impact on the living conditions of the occupiers of those dwellings.
28. Finally, although the Council has referred to Policy 6 of the Local Plan, this Policy relates to residential extensions and so is not directly relevant to the proposal.
29. I conclude on the second main issue that the proposal would unacceptably harm the living conditions of the occupiers of No.15 due to its visually overbearing impact and loss of privacy and the occupiers of Nos. 4 & 6 Dowding Road due to its visually overbearing impact. The proposal would therefore conflict with Policies 3 and 37 of the Local Plan which require new development to respect and not to have an unacceptable impact on the living conditions of local residents.

Other matters

31. The Council has confirmed that, subject to the imposition of various conditions, the highway statement submitted by the appellant with their grounds of appeal fully addresses the Council's highway concerns set out in their decision notice. I agree that, subject to the imposition of various conditions suggested by the Council, the proposal would make adequate and suitable provision for on-site parking, sightlines, visibility, safe access and egress to the site and servicing of refuse vehicles.
32. Accordingly, the proposal would comply with Policies 30 & 32 of the Local Plan and section 9 of the Framework, which deal with highway infrastructure and safety.
33. Finally, the concerns raised relating to traffic generation and impact on ecology are noted but add little to my conclusions on the main issues.

Conclusion

34. The conclusions on the main issues amount to compelling reasons for dismissing this appeal, which the imposition of conditions would not satisfactorily address.

Elizabeth Lawrence

INSPECTOR