



Appeal Decision

Site visit made on 8 July 2019

by C J Leigh BSc(Hons) MPhil MRTPI

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

Decision date: 18 July 2019

Appeal Ref: APP/G5180/W/19/3227006

The Cottage, r/o Fountain Court, Lawrie Park Road, Sydenham, London SE26 6EE

- 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 Framley Estates Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/18/02747/FULL1, dated 11 June 2018, was refused by notice dated 21 February 2019.
 - The development proposed is the demolition of existing garages and The Cottage and the erection of five 3-bedroom dwellings, associated parking and landscaping with amended visibility splays to the access to Lawrie Park Road.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing garages and The Cottage and the erection of five 3-bedroom dwellings, associated parking and landscaping with amended visibility splays to the access to Lawrie Park Road at The Cottage, r/o Fountain Court, Lawrie Park Road, Sydenham, London SE26 6EE in accordance with the terms of the application DC/18/02747/FULL1, dated 11 June 2018, subject to the conditions set out in the attached schedule.

Main issues

2. The main issues in this appeal are the effect of the proposed development on, firstly, the character and appearance of the area; and, secondly, on highway and pedestrian safety.

Reasons

Character and appearance

3. The appeal site is plainly a 'backland' site: it consists of a dwelling, garages and an area of land that are situated to the back of a clear building frontage of flats and other properties running either side of Lawrie Park Road, and is accessed via a driveway alongside Fountain Court. Policy 3 of the Bromley Local Plan 2019 allows for residential development in backland locations provided certain criteria are met.
 4. The proposed scheme would see five detached houses, three storeys in height, with the upper floor contained in a mansard-style roof. They would be set
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sufficient distance from each other and from properties on adjoining land to ensure a generally open and spacious feeling on the site. Thus, the scheme would not appear of an unsuitable density for the area. The height and vertical emphasis of the buildings would be suited to this area, where there are tall flats along Lawrie Park Road and the substantial villa at No. 79.

5. The layout of the five houses would see two groupings, which would assist in the open feeling of the scheme. This grouping also means views along the access road would remain largely clear of development, and hence there would be little effect upon the streetscene of Lawrie Park Road itself. Any glimpses of the new houses would represent a view that is similar to that seen with the backland housing in the area, including that adjoining to the north east at Nos. 75 & 75A. Landscaping is proposed which would see planted areas to the front and rear of the houses, with vehicular circulation areas not dominant to the scheme. The submitted drawings and accompanying documentation demonstrates that trees important to landscape character that adjoin the site would be retained.
6. The design of houses is clearly not attempting to mirror the surrounding area. They are of restrained modern architecture, with a creative approach to the fenestration that responds well to the height and roof design of the buildings. There is diversity in buildings along Lawrie Park Road, with flats and dwellings of differing architecture and scale; the proposal is a coherent approach to developing the site that would create its own identity, suited to the area.
7. The proposed development would therefore represent good design that responds to the context of the area in relation to scale, design, density, and provides a high standard of separation and landscaping, as required to be satisfied by Policy 3 of the Local Plan. On the first issue it is therefore concluded that the proposal would not be harmful to the character and appearance of the area, and so be consistent with Policies 3, 4 and 37 of the Local Plan, the general thrust of which are to seek a high standard of design in all development proposals.

Traffic and pedestrian safety

8. The Council, in refusing planning permission, considered that there would be conflict between pedestrians and vehicles as a result of refuse collection vehicles (RCV) being required to wait at the entrance to the appeal site. They further considered waiting RCVs would impact on congestion, and these matters would be harmful to highway safety.
9. The Council's Committee Report on the current scheme referenced a consultation response from their Waste Services Department, which considered it was acceptable for waste collection operatives to walk to new properties along the access road, subject to the RCV being able to stop in a safe position on the public highway so as not to cause any obstruction to other road users or pedestrians.
10. There are no parking restrictions along Lawrie Park Road. I consider it reasonable to assume that, if there is free space for parking in the vicinity of the appeal site drive, then a RCV driver would pull to the kerb and wait there whilst the remaining crew collect bins; that would happen at present, and it is axiomatic that would still happen if the proposed development occurs. I cannot

see how, or why, a RCV would obstruct the footway – either now or in the future – and so cause any harm to pedestrian safety.

11. The potential issue therefore appears to be when there is no space for a RCV to pull over to the kerb, and so need to 'double park'. The appellants have demonstrated that the effective carriageway width of Lawrie Park Road – taking into account there potentially being parked cars on both sides – is 5.87m. In accordance with the guidance of Manual for Streets, this distance would allow commercial vehicles or buses to pass along Lawrie Park Road if an RCV was double-parked.
12. I accept that vehicles approaching from behind a double-parked RCV would have to pull onto the opposite carriageway to pass. However, this is a maneuver that evidently will occur at present: it is clear that, due to there being no parking restrictions along Lawrie Park Road, an RCV will currently experience occasions of double-parking as it slowly progresses along the road to undertake its refuse collection duties.
13. The salient point is therefore whether the additional 'dwell time' of a double-parked RCV, due to collecting from the proposed houses, would be harmful to highway safety or congestion. On the basis of the evidence presented to me I find it difficult to establish there would be any material harm. I am informed a RCV will visit once a week. The stopping of a slow-moving RCV is an observed and anticipated event by motorists, which will already be happening due to existing properties. As noted, double-parking will not necessarily occur; it is only if there is no space for the RCV to pull into the kerb. I have not been informed of any incidents arising from this current situation. The existence of the RCV double-parked is just as likely regardless of the outcome of this appeal, and the possible additional waiting for the waste collection operatives to access the appeal site would be so marginal over the collection period and – taking the wider view – over the whole week that in my judgement there can be no material change to highway safety or congestion along the road.
14. On the second main issue it is therefore concluded that the proposed development would not be harmful to highway and pedestrian safety, and so comply with the requirements of Policies 31, 32 and 33 of the Local Plan which, amongst other matters, ensure matters of road safety and access are considered in all development proposals.

Other considerations

15. The siting and orientation of the proposed houses would ensure that sufficient distance is retained to adjoining dwellings and their gardens, so avoiding any overbearing effect, loss of light or overlooking. The position of the access drive and relationship to adjoining properties mean that the greater use of that drive would not lead to unreasonable levels of disturbance to existing residents.
16. The works to the drive show a controlled driveway, hence ensuring safe and adequate access for vehicles, including emergency services. The visibility at the junction of Lawrie Park Road would be sufficient to ensure no harm to pedestrians or users of the highway. Similarly, works along the length of the access road would ensure no conflict with pedestrians accessing the new dwellings or in Fountain Court. The absence of any objection from the Highways Authority on these matters reinforces my findings.

Conclusions and conditions

17. I note the appeal site has been the subject of a number of previous planning applications and appeals. The development now proposed would represent the more efficient use of land for housing, which is encouraged by the National Planning Policy Framework. This can be achieved without conflict with the development plan, and the appeal is allowed.
18. The Council have suggested a number of conditions in the event of the appeal being allowed. I have attached conditions requiring the use of materials as set out in the application, the submission of a hard and soft landscaping scheme, and the submission of site levels to ensure a satisfactory appearance to the development. I have attached conditions relating to the obscure glazing of certain windows, and preventing the insertion of windows in flank elevations, to protect the privacy of adjoining residents. The condition relating to the protection of trees has been attached, to ensure the long-term retention of trees.
19. I have attached the suggested conditions relating to vehicular access, parking and provision of cycle storage in the interests of highway safety. Due to the backland location of the site adjoining residential properties, I agree that a condition requiring the submission of a construction management plan is necessary in order to protect the living conditions of residents during the construction phase, and the appellants have not objected to this matter.
20. I have attached conditions relating to drainage as their requirements are consistent with the development plan and comments from the Council's Drainage Engineer, as cited in the Committee Report. The Local Plan seeks to enhance biodiversity and so I have attached the condition requiring further details on this matter as these details are not clear in the current documentation and it is reasonable to request precise details on this matter.
21. I concur with the appellants that matters relating to accessible dwellings and the provision of appropriate measure to address fire safety are covered by adherence to current Building Regulations, and so have not duplicated this matter through planning conditions.
22. Finally, a condition has been attached setting out the approved drawings in the interests of precision and certainty.

C J Leigh

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Prior to commencement of the development hereby approved (excluding any ground clearance or demolition) details of the proposed slab levels of the buildings and the existing site levels shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed strictly in accordance with the approved levels.
- 3) The materials to be used for the external surfaces of the building shall be as set out in the planning application forms, documents and drawings hereby approved.
- 4) No windows or doors (other than those shown on the plans hereby approved) shall at any time be inserted in the upper floor side flank elevations or roof slopes of the dwellings hereby permitted
- 5) Before the development hereby permitted is first occupied the proposed upper floor side flank windows serving the bathrooms shall be obscure glazed to a minimum of Pilkington privacy Level 3 and shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and the windows shall subsequently be permanently retained as such.
- 6) Prior to commencement of the development hereby approved (excluding any ground clearance or demolition), tree protection measures in accordance with the submitted Tree Protection Plan (J50.29/02) shall be installed. Once installed, photographic evidence of the fencing and ground protection shall be submitted to the Local Planning Authority for approval. Such measures shall not be moved or removed, but shall be retained in situ until completion of the development and all materials and machinery have been removed from the site, unless otherwise agreed in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and recommendations within the Arboricultural Impact Assessment (J50.29, dated 21 July 2017) or any variation as may subsequently be agreed in writing by the Local Planning Authority.
- 7) Hard and Soft Landscaping
 - (i) Prior to commencement of above ground works, details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:
 1. A scaled plan showing all existing vegetation to be retained and trees and plants to be planted which shall include use of a minimum of 30% native plant species of home grown stock (where possible) and no invasive species;
 2. Proposed hardstanding and boundary treatment;
 3. A schedule detailing sizes and numbers of all proposed trees/plants;
 4. Sufficient specification to endure successful establishment and survival of new planting.
 - (ii) There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority.

- (iii) Any new tree(s) that die(s), are/is removed or become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Unless further specific permission has been given by the Local Planning Authority, replacement planting shall be in accordance with the approved details
- 8) Before the development hereby permitted is first occupied details of the layout of the access road and turning area including its junction with Lawrie Park Road and dimensions of visibility splays shall be submitted to and approved in writing by the Local Planning Authority and these access arrangements shall be constructed in accordance with the approved details and thereafter be retained. There shall be no obstruction to visibility in excess of 0.6m in height within the approved splays.
- 9) Before the development hereby permitted is first occupied parking spaces and/or garages and turning space shall be completed in accordance with the details as approved, and thereafter shall be kept available at all times for the parking and/or turning of motor vehicles by the occupants of the dwellings and their visitors and for no other purpose.
- 10) Prior to construction of any above ground works details of arrangements for bicycle parking for the dwellings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. All cycle parking spaces as approved shall be provided and made available for use prior to first occupation of the development and retained thereafter.
- 11) Prior to construction of any above ground works details of arrangements for storage of refuse and recyclable materials (including means of enclosure for the area concerned where necessary) shall be submitted to and approved in writing by the Local Planning Authority. All refuse storage areas as approved shall be provided and made available for use prior to first occupation of the development and retained thereafter.
- 12) No development shall commence on site (including demolition) until such time as a Construction and Environmental Management Plan has been submitted to and approved in writing by the local planning authority. As a minimum the plan shall cover:-
 - (a) Dust mitigation and management measures.
 - (b) The location and operation of plant and wheel washing facilities.
 - (c) Measure to reduce demolition and construction noise.
 - (d) Details of construction traffic movements including cumulative impacts which shall demonstrate the following:-
 - (i) Rationalise travel and traffic routes to and from the site as well as within the site.
 - (ii) Provide full details of the number and time of construction vehicle trips to the site with the intention and aim of reducing the impact of construction related activity.
 - (iii) Measures to deal with safe pedestrian movement.
 - (iv) Full contact details of the site and project manager responsible for day-to-day management of the works.
 - (v) Parking for operatives during construction period.
 - (vi) A swept path drawings for any tight manoeuvres on vehicle routes to and from the site including proposed access and egress arrangements at the site boundary.
 - (e) Hours of operation.

- (f) Other site specific Highways and Environmental Protection issues as requested on a case by case basis.
- (g) The development shall be undertaken in full accordance with the details approved under Parts a-f.
- 13) Highway Surface Water Drainage
 - (a) Surface water from private land shall not discharge on to the highway.
 - (b) Prior to the commencement of above ground works details of the drainage system for surface water drainage to prevent the discharge of surface water from private land on to the highway shall be submitted to and approved in writing by the Local Planning Authority.
 - (c) Before any part of the development hereby permitted is first occupied, the drainage system shall be completed in accordance with the details approved under Part (b) and shall be retained permanently thereafter.
- 14) Surface Water Drainage
 - (a) Prior to commencement of the development hereby approved (excluding any ground clearance or demolition) a scheme for the provision of surface water drainage shall be submitted and approved in writing by the local planning authority.
 - (b) Before the details required to satisfy Part (a) are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system (SuDS) to ground, watercourse or sewer in accordance with drainage hierarchy contained within the London Plan Policy 5.13 and the advice contained within the National SuDS Standards.
 - (c) Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - (i) provide information about the design storm period and intensity, the method employed to delay (attenuate) and control the rate of surface water discharged from the site as close to greenfield runoff rates (21/s/ha) as reasonably practicable and the measures taken to prevent pollution of the receiving groundwater and/or surface water.
 - (d) The drainage scheme approved under Parts a, b and c shall be implemented in full prior to first occupation of the development hereby approved
- 15) Prior to commencement of above ground works details of biodiversity enhancements shall be submitted to and approved in writing by the Local Planning authority and shall be included within construction works and permanently retained at the site thereafter.
- 16) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: 17016 001 P1, 17016 002 P1, 17016 003 P22, 17016 005 P2, 17016 006 P1, 17016 010 P11, 17016 011 P9, 17016 012 P9, 17016 015 P1, 17016 016 P4, 17017 017 P4, Design & Access Statement (April 2018), Arboricultural Implications Assessment (12 July 2017), Preliminary Ecological Appraisal Report (September 2017), Transport Statement (June 2018)