



Appeal Decision

Site visit made on 9 July 2019

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2019

Appeal Ref: APP/G5180/W/19/3228473

Site of former 41 Sunningvale Avenue, Biggin Hill TN16 3BX

- 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 Alder Design & Build Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/18/05461/FULL1, dated 4 December 2018, was refused by notice dated 2 April 2019.
 - The development proposed is the construction of four semi-detached houses in two blocks and ancillary car parking and bin stores.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of four semi-detached houses in two blocks and ancillary car parking and bin stores at 41 Sunningvale Avenue, Biggin Hill TN16 3BX in accordance with the terms of the application, Ref DC/18/05461/FULL1, dated 4 December 2018 subject to the conditions contained in the schedule attached to this decision.

Application for costs

2. An application for costs was made by Alder Design & Build Ltd (the appellant) against the Council of the London Borough of Bromley (the Council). This application is the subject of a separate Decision.

Procedural Matter

3. The Council have commented that the site address from the planning application form should refer to 'Site of former' 41 Sunningvale Avenue as 41 Sunningvale Avenue is a separate property not included in the appeal site. I have used the Council's description for the appeal site address.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site is in a residential area, accessed from Sunningvale Close which has a slight incline resulting in the appeal site occupying an elevated position above Sunningvale Avenue. Sunningvale Close provides access to 12 existing properties with a further 6 properties being under construction at the time of my site visit. The appeal site has well-established tree planting to the north

and west boundary most of which will be retained as part of the proposal. There is an area of dense woodland to the north and east of the appeal site. The properties surrounding the appeal site are a mix of detached and semi-detached, with some terraced properties.

6. The appeal site forms part of a larger residential development that is set out in the extensive planning history for the site. This wider development comprises an existing 6 semi-detached properties and a terrace of three properties, in addition to the 6 semi-detached properties under construction. As part of the wider planning permission, the appeal site has an extant planning permission for two detached dwellings.
7. The proposal forming 4 semi-detached dwellings would not be out of character with the composition of the surrounding area. The properties would have rear gardens providing an acceptable level of outdoor space for dwellings of this size. Also, in the context of the existing properties, and those under construction, the proposed dwellings would be at a sufficient distance to ensure the development does not appear cramped. The development would therefore not be detrimental to the character or spatial standards of the area.
8. The scale and design of the dwellings is consistent with those of the surrounding properties. The scale of properties around the appeal site varies from single to three storey and the proposed properties would be within this established scale. I disagree that the scale would be excessive in this context. The design of the dwellings is consistent with the approach taken in the recently constructed dwellings at the entrance to the development and those under construction. I therefore do not find that the scale or design would cause unacceptable impacts to the character of the area, nor result in the space between properties being at an unacceptable level.
9. Reference is made to the physical constraints of the site, namely the protected woodland and steep gradients. No detailed evidence or assessment is given in relation to the impact on the protected woodland. I do not find that the scheme would be harmful to the woodland to the north and east of the site. In relation to the gradient of the site, which the Council consider to be steep, I consider that the development has been designed in such a way that this does not result in an unacceptable impact to the development as a whole in terms of its design, or its impact on the surrounding area.
10. The Council have commented that the proposal has less gaps around the properties than the detached dwellings approved under the extant planning permission. Be that as it may, I do not find that the appeal proposal unreasonably erodes the design of the development or that the gaps that now exist in the proposal result in unacceptable harm to the character or appearance of the area.
11. I therefore conclude that the development would not have an unacceptable impact on the character and appearance of the area. The development would comply with Policies 4 and 37 of the Bromley Local Plan (adopted January 2019). Policy 4 requires, amongst other things, that housing schemes respect local character and that the site layout, buildings and space around buildings are designed to a high quality, recognising, as well as complimenting the qualities of the surrounding area. Policy 37 requires, amongst other things, development proposals will be expected to be of a high standard of design and layout, complement the scale, proportion, form, layout and material of

adjacent buildings and areas, and positively contribute to the existing street scene.

12. The Council's reason for refusal refers to Policy 3 of the Bromley Local Plan (adopted January 2019) which relates to backland and garden development. At the time of my site visit, the site, and in the context of its surroundings, does not form backland or garden land. Policy 3 is therefore not relevant to the appeal.

Other Matters

13. Reference is made throughout the submissions to the extensive planning history relating to the site and the wider development, particularly in relation to the extant planning permission that allows the site to be developed for two detached dwellings. The extant planning permission is a material consideration in the assessment, however the appeal must also be considered on its own individual merits, which I have done. It is not for the decision maker to assess which scheme is preferable over another.
14. Objections have been received to the appeal relating to the impact of additional traffic and parking, and the condition of the highway. Highway matters were not one of the reasons for refusal of planning permission, nor were any objections raised to the proposal on highway or parking grounds by the Council's Highways Department. I concur with the Council's assessment on the highways aspect of the development. Each of the four properties would have two off-street parking spaces, which I consider to be sufficient for dwellings of this size. Objectors also refer to existing parking and highways problems in the area, however I do not consider that the appeal proposal would cause demonstrable harm or exacerbate the existing situation to an unacceptable level.
15. Objections have also referred to disruption caused by ongoing development close to the appeal site and the impact this has had on drainage. Construction inevitably causes some disruption, but this is temporary and can be mitigated by a Construction Method Statement which could be the subject of a condition.
16. Drainage and flood risk have also been raised in objections, although this was not raised by the Council. There are likely to be technical solutions with regard to dealing with any drainage issues. Based on the information before me the effects on drainage and flooding would not be reasons to dismiss the appeal.
17. Other objections relating to loss of protected woodland, illegal tree felling and lack of protective fencing and signage, are not directly attributable to the appeal proposal. Measures to protect trees that are to be retained can be dealt with by planning condition. I do not find that the development, and its associated traffic would create unacceptable levels of noise or have a harmful impact on the living conditions of existing residents. I find the design of the development to be compatible with the more recent development surrounding the appeal site, and not harmful to the appearance of the area. I do not find that the impact on wildlife is a main issue in the appeal. This was not raised by the Council and in view of the existing site condition and the size of the appeal proposal, I do not consider there would be an unacceptable impact.
18. Several objections were received to the planning application. These largely echo the objections lodged against the appeal but also refer to; overlooking

from the proposed properties, additional planting should be secured, lack of recreational facilities, original plans for 8 dwellings should be adhered to, there will be an increase in light, noise and air pollution, proposal will harm security and well-being of residents, development is 'unadopted' and could become difficult to sell or become in a poor state, limited public transport meaning people rely on cars, and lack of plans showing completed appearance or not knowing what to expect next.

19. I have had regard to all the matters raised in representations submitted as part of the appeal and with the original planning application. None of the matters raised are considered sufficient to dismiss the appeal in view of my finding on the main issue.
20. The Council state that the development is liable for a Community Infrastructure Levy (CIL) payment under the Mayor of London's CIL Charging Schedule. The developer will be required to make the relevant payment to the Council in accordance with the requirements of the CIL.

Conditions

21. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans, this is in the interest of certainty. The Council has suggested several conditions which I have considered against advice in the National Planning Policy Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency, clarity and omitted others. The Council requests that in addition to the standard time limit and approved plans condition, another 16 conditions are imposed.
22. A condition regarding drainage is necessary to ensure that the development does not increase flooding or the risk of flooding.
23. I do not consider that a condition requiring the turning area is necessary. The turning area to which it relates is outside the appeal site. A condition requiring a highway condition survey fails the test of being reasonable and enforceable. A condition requiring a Construction Management Plan is necessary to ensure the impacts of the construction phase are minimised on the local area. It is required prior to commencement to ensure that the measures are in place for the duration of construction.
24. A condition requiring site levels is not necessary as sufficient information for this purpose has been submitted. A condition requiring material samples is necessary to ensure the appearance of the development is acceptable. A condition requiring a planting screen is not necessary to make the development acceptable in planning terms.
25. Conditions requiring refuse and cycle storage are necessary in the interests of appearance and sustainability, particularly as refuse and cycle storage in the rear gardens would be problematic given the steps. I have merged these details into one condition.
26. A condition regarding lighting is necessary in the interests of the safety of residents. A condition regarding the implementation of parking is necessary to ensure that the development does not harm the living conditions of existing residents. However, there are no exceptional circumstances to remove permitted development rights.

27. Wheel washing is covered by the condition regarding the Construction Management Plan and therefore is not necessary. The removal of permitted development rights should only be imposed in exceptional circumstances that I do not consider exist in this instance. A condition requiring the compliance with Building Regulations would require compliance with other regulations and is therefore not necessary. A condition regarding landscaping is necessary to ensure the appearance of the development is acceptable. Furthermore, a condition regarding tree protection is necessary to ensure the protection of landscape features that are to be retained.

Conclusion

28. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

A M Nilsson

INSPECTOR

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: Landscaping Plan 3813-PD-2000, Proposed Elevations Section A-A 3813-PD-2001, Proposed Floor Plans 3813-PD-2002.
- 3) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. 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 and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 4) No development shall take place, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) wheel washing facilities;
- v) measures to control the emission of dust and dirt during construction;
- vi) delivery, demolition and construction working hours.

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

- 5) No construction of the dwellings shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 6) Notwithstanding condition 2 [i.e. the condition requiring that the development is carried out in accordance with the approved plans] the dwellings shall not be occupied until details of refuse storage and cycle parking 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 retained as such thereafter.
- 7) Details of external lighting shall be submitted to and approved in writing by the local planning authority before occupation of the first dwelling. Development shall be carried out in accordance with the approved details and retained as such thereafter.
- 8) No dwelling shall be occupied until the parking spaces have been laid out within the site and that space shall thereafter be kept available at all times for the parking of vehicles.
- 9) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 10) All the trees shown on the landscaping plan as "to be retained" and any trees whose canopies overhang the site shall be protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.