



Appeal Decision

Site visit made on 17 September 2019

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2019

Appeal Ref: APP/G5180/W/19/3232565
65 Craven Road, Orpington, Kent BR6 7RU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Geoff Clarke against the Council of the London Borough of Bromley.
 - The application Ref 19/01918/FULL1, is dated 30 April 2019.
 - The development proposed is demolition of existing dwelling and erection of 3 two storey 4 bedroom detached dwellings each with a detached garage, with vehicular access to plot 65C from Craven Road and to plots 65A and 65B from Broad Walk.
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Decision

1. The appeal is dismissed and planning permission for demolition of existing dwelling and erection of 3 two storey 4 bedroom detached dwellings each with a detached garage, with vehicular access to plot 65C from Craven Road and to plots 65A and 65B from Broad Walk, is refused.

Procedural Matter

2. The appeal results from the Authority's failure to determine the planning application within the statutory timescale. However, from the evidence before me, it appears that the Council would have refused the planning application had it been empowered to do so. I have considered the Council's submitted putative reasons for refusal, in terms of defining the main issues below.

Main Issues

3. The main issues are the effect of the proposal on i) the character and appearance of the area; ii) protected species; and iii) the living conditions of the occupiers of Nos 5, 6, 7 and 8 Dorado Gardens in respect of privacy and outlook.

Reasons

Character and appearance

4. The appeal site sits to the rear of properties fronting onto Craven Road to the south, Dorado Gardens to the east and Broad Walk to the north. The site is accessed via a private drive that runs between Nos 63 and 67 Craven Road. The site falls within an established residential area that comprises of a mix of single storey and two storey development, much of which is characterised by

relatively low eaves and ridge heights. The appeal development seeks to introduce 3 No dwellings onto the site following the demolition of the existing bungalow. One dwelling would be served via the existing access and two from Broad Walk.

5. The putative reason for refusal provided by the Council relates to the design and bulk of the dwellings relative to neighbouring development. I acknowledge within their statement that the Council raises concern that the proposal would be contrary to the predominant character that they identify as being of properties facing the road. However, the dwellings would replace an existing building that is in an anomalous position compared to the wider pattern of development. In this regard therefore, I consider that the proposed siting of the dwellings would not in itself cause substantial harm compared to the existing situation.
6. The immediately neighbouring properties to the appeal site on Broad Walk are chalet style bungalows, although the wider street scene predominantly comprises of two storey development. The proposed dwellings would introduce additional two storey development on the site including large hipped roofs, that would be taller than the immediately neighbouring dwellings on Broad Walk and those on Dorado Gardens. Whilst I acknowledge that the surrounding area includes a degree of variety in the height and form of dwellings, I consider that the design of the appeal development would relate poorly to the immediately neighbouring buildings including that on Broad Walk and Dorado Gardens, particularly owing to the height and resulting visual mass of the proposed roofs. In this regard, I consider that the proposal would amount to a discordant and prominent form of development causing significant harm to the character and appearance of the area when viewed from the public domain.
7. Having regard to all of the above, I conclude that the proposal would not accord with policies 3 and 4 of the adopted Bromley Local Plan 2019 (BLP), that seek, amongst other things, to achieve a high standard of design and that new residential backland or garden land development should have no unacceptable impact upon the character, context or appearance of an area.

Protected species

8. The planning application was accompanied by an ecological survey, undertaken in January outside of the main bat roosting season. The report indicates that the existing bungalow on-site has a number of features that could provide roosting opportunities for bats and that different species, including brown long eared and serotine bats, have been recorded near to the site. The report concludes that the building has 'low potential' for roosting bats and states that further survey work should be undertaken to establish the presence or absence of bats within the building during the recognised roosting season. On the evidence that is before me, no further survey work has been undertaken.
9. Circular 06/2005 states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted. This is a material consideration and must be addressed in making the decision. As it has not been adequately shown that there would not be harm in relation to this issue, then all surveys necessary should be undertaken before any planning permissions are granted, as made clear in the circular.

10. Having regard to the above, I consider that there is reasonable likelihood of protected species being present. In the absence of further survey work being undertaken, as identified by the appellant's own ecologist, I cannot be satisfied that the proposal would not have an adverse effect on any protected species.
11. The appellant argues that the surveys so far undertaken are sufficient to understand the impact of the development on biodiversity interests, although I am not persuaded that this is the case. In the absence of these surveys it is not known whether these protected species are present and, if they are, whether mitigation measures would be appropriate. In line with the advice in the Circular, I consider that it would not be appropriate to seek to overcome this matter by means of the imposition of a condition including the requirement for further survey work, as suggested by the appellant. In the light of the strict protection afforded to bats, and that additional survey information is not before me, I am not satisfied that harm would not be caused to the aforementioned protected species.
12. For the reasons outlined above, I conclude that the proposal would not accord with the provisions of policy 72 of the BLP that seeks to prevent adverse effect on protected species, unless mitigating measures can be secured to facilitate survival, reduce disturbance or provide alternative habitats.

Living conditions

13. The Council indicate that the proposed dwellings would be set approximately 15 metres from the boundary with properties in Dorado Gardens and in excess of 22 metres from the neighbouring properties themselves. The appellant indicates that they consider the separation distances to be greater than this and as much as 25 metres between existing and proposed buildings. Regardless, it is clear to me that the proposed dwellings would be set a significant and acceptable distance from the identified properties.
14. Whilst I acknowledge that the dwellings may be situated in an elevated position relative to, and visible from, the rear of these neighbouring properties, owing to the proposed degree of separation, I consider that the appeal development would not result in an unacceptable loss of outlook or privacy. With regard to Nos 5 and 8 Dorado Gardens, I also note that these properties are at an oblique angle to the dwellings proposed under this appeal. This would further reduce the effect of the development on existing levels of outlook and privacy afforded to the occupiers of the neighbouring properties.
15. For the reasons outlined above, I conclude that in terms of outlook and privacy, the proposal would not lead to any significant impacts for the occupiers of Nos 5, 6, 7 and 8 Dorado Gardens and hence it would accord with the requirements of policy 3 of the BLP, that requires that development should respect the amenity of the occupiers of neighbouring dwellings.

Other Matters

16. The appellant indicates that the proposal would not result in significant issues relating to highway safety matters or impact upon the living conditions enjoyed by occupiers of neighbouring dwellings by virtue of noise. The Council have not suggested putative reasons for refusal with regard to highway matters or living conditions by virtue of noise and having assessed the proposal I find no reason to disagree with their assessment.

17. The appellant contends that the proposal would add to local housing stock. However, there is no evidence before me to demonstrate that the local planning authority cannot demonstrate a deliverable five-year supply of housing sites and/or that it has not met its housing delivery test requirement. Furthermore, the contribution to the supply of housing from only two additional dwellings would be relatively limited and would not outweigh the harm identified with regard to the main issues.
18. The appellant raises concern with regard to the manner in which the Council determined the application including delay in requesting a bat survey and the time taken on a previous application and that subject of this appeal. Whilst acknowledging these matters, they do not in themselves alter or outweigh my conclusions on the main issues.
19. The appellant has indicated that they would be willing to alter the pitch of the roof and suggest that this can be dealt with by way of condition. However, it has been necessary for me to determine the appeal on the basis of the submitted plans before me. In the event that the appellant decides to opt for an alternative design form he can of course discuss this with the local planning authority and, if appropriate, submit a further planning application.
20. I acknowledge the appellants comments with regard to floor levels to meet drainage requirements although this would not overcome my conclusions with regard to the main issues noted above.
21. None of the other matters raised outweigh or alter my conclusions on the main issues.

Conclusion

22. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Robert Lankshear

INSPECTOR