



Appeal Decision

Site visit made on 22 January 2020

by M Seaton DipTP MRTPI

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

Decision date: 21 April 2020

Appeal Ref: APP/G5180/W/19/3240274

184A Chislehurst Road, Orpington, BR5 1NR

- 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 James Atkins against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/18/04421/FULL1, dated 28 September 2018, was refused by notice dated 17 May 2019.
 - The development proposed is the construction of a two-storey 4-bed detached dwelling on land to the rear of Nos. 184 & 184A Chislehurst Road.
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Procedural Matter

1. I have been mindful in my decision-making that whilst the main parties have referred me to The London Plan – The Spatial Development Strategy for London Consolidated with Alterations since 2011, March 2016 (the London Plan), the *Draft London Plan – Consolidated Suggested Changes Version, July 2019* has subsequently been published along with further updates including details of the 'intention to publish' version of the draft London Plan of December 2019. Nevertheless, neither the Council nor the appellant has relied upon the emerging policies in their submissions, and the emerging London Plan does not yet form part of the Development Plan.

Decision

2. The appeal is dismissed.

Main Issue

3. The main issue in this instance is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site occupies a parcel of land to the rear of two detached dwellings fronting on to Chislehurst Road, and is for a detached two-storey dwelling. The proposal would utilise parts of the rear gardens of these dwellings with access proposed from an existing lane running along the southern boundary of the appeal site, and on which public footpath No. 171a is located. The lane also provides access to No. 182 Chislehurst Road, a detached property which is set back on land to the rear of dwellings fronting Grosvenor Road. The surrounding area is predominantly residential in character with the appeal site bound to the North, West and East by residential curtilage.

5. The Development Plan comprises the London Borough of Bromley Local Plan 2019 (the Local Plan), and The London Plan. In determining the planning application, the Council has referred me to Policies 4 and 37 of the Local Plan, which address *Housing Design* and the *General Design of Development*, respectively. However, the Council has indicated within their appeal statement that reference to Policy 44 of the Local Plan was omitted in error from the Reason for Refusal, with this policy addressing *Areas of Special Residential Character* (ASRC).
6. I have carefully considered the Council's indication regarding the erroneous omission of references to policy 44 of the Local Plan, and their subsequent submissions on the policy. In assessing the proposals, I accept that Policy 44 of the Local Plan would clearly have been of relevance to the decision-making given the location of the appeal site within the Petts Wood ASRC. However, whilst I agree that the site was identified at the commencement of the Delegated Report as being within the ASRC, I note that neither the listing of Local Plan policies within the *Policy Context* sub-section of the Delegated Report nor the Council's reasoning within the *Considerations* sub-section make any further direct or indirect reference to the ASRC.
7. Nevertheless, despite this clearly unfortunate omission from the Council's reasoning, the matters and issues raised by Policy 44 of the Local Plan are before me both as fact relating to the allocation of the land within the Development Plan, and also from the interested party submissions made by the Petts Wood & District Residents Association, who in their correspondence evidently link their objections to the relevant policy sections of the Local Plan. For these reasons I am therefore satisfied that it is appropriate for me to consider the impact of the proposed development against Policy 44 of the Local Plan, references to which could reasonably have been anticipated by the appellant, and for whom the opportunity to comment on the Council's submissions on the policy would have been available at the Final Comments stage of the appeal process.
8. Turning to the specific characteristics of the Petts Wood ASRC, the Local Plan advises that the original plans for Petts Wood date from the late 1920's and early 1930's. Whilst houses were built over a number of years in a number of similar though varied styles, the road layout and large plot sizes were established in an overall pattern, following the garden suburb principle which remains today. The Petts Wood ASRC is indicated to have an open, suburban and semi-rural feel with large rear gardens providing the area with a high level of amenity, and where plot sizes and the alignment of the houses to the Garden Suburb principle underlines the character, rhythm, symmetry and spatial standards of the ASRC.
9. The proposed development site would accommodate a 2-storey 4-bedroom property in a backland location and would result in a significant reduction in the depth of the rear gardens of Nos. 184 & 184A Chislehurst Road. The bulk and scale of the proposed dwelling would in actuality be smaller than many existing dwellings in the vicinity but the detailed design of the building alone would not be out of character with the traditional design approach of existing development in the area. However, the residual garden lengths of 12 – 15.8 metres and reduced plot sizes, along with the significantly smaller plot size of the proposed development would clearly result in conflict with the overall pattern and spatial standards of development and the established garden

suburb principles within the Petts Wood ASRC. This would erode the spatial standards of the area and would compromise the open, suburban and semi-rural feel provided by the existing large rear gardens, resulting in an adverse impact on the existing amenity of the area.

10. The proposed dwelling would also, to a limited degree, introduce an uncommon visual insertion at depth within the street scene from several vistas including the public right of way. However, on the basis of my observations of the site and area, I do not consider that this level of intrusion within the street scene would visually be overly obtrusive or particularly harmful in its own right.
11. I have noted the comparable position of the established dwelling at No. 182 Chislehurst Road close to the site. However, whilst this dwelling would also sit contrary to the prevailing pattern of development addressing street frontages within the area, it is evident from the appeal submissions and my own observations that the siting of this dwelling has been achieved without sacrificing or eroding the characteristics of the Petts Wood ASRC. The dwelling is located within a substantial plot and its siting and curtilage have allowed the retention of substantial residual gardens for properties on Grosvenor Road and Sutherland Avenue. I do not therefore regard this development as being directly comparable to the proposal.
12. On the basis of my observations and the submitted evidence, I consider that the proposed development would result in an adverse impact on the character and appearance of the area. For the above reasons, I am satisfied that the proposed development would result in an adverse impact on the character and appearance of the area. The proposal would conflict with Policies 4, 37 and 44 of the Local Plan, and Policies 3.4, 3.5 and 7.4 of the London Plan. These policies seek to ensure that housing design is of a high standard and layout, and respects local character, spatial standards, physical context and density, with development in ASRCs required to respect, enhance and strengthen the special and distinctive qualities of the area.

Other Matters

13. The Council has cited in a second reason for refusal the provision of insufficient evidence by the appellant to demonstrate that there exists a right to drive vehicles to the appeal site along public footpath No. 171 A, with concerns over the likelihood of conflict between pedestrians and vehicles, and whether the provision of access to off-street parking can be provided.
14. In this regard the appellant has submitted extracts from a Land Registry Transfer of Registered Title Document (TR1), which it is purported demonstrates that the appellant has a right of access along the public footpath. However, whilst in the first instance there would appear to be an inconsistency in the title number of the property from that shown at Section 1 of the form and on the attached HM Land Registry, the submission of Form TR1 was incomplete with no evidence of the transfer having been completed and properly executed to provide the surety of the right of access. Nevertheless, and irrespective of this incomplete information, due to my conclusions on the main issue, any successful demonstration of a right of access would not be of sufficient weight in support of the proposed development to overcome the identified harm caused by the proposal to the character and appearance of the area.

15. I have also had regard to the large number of objections and concerns on other matters which have been raised by interested parties to the proposed development. However, whilst I have had regard to the issues which have been raised, due to the conclusion which I have reached on the main issue, these have not proved to be critical or central to my decision-making and therefore I do not address them further.

Planning Balance and Conclusion

16. The provision of a single additional dwelling providing family accommodation would make a limited positive contribution to the local housing market in a comparably sustainable location in terms of access to services and facilities. The local economy would have the potential to have some limited benefit during the construction period and from any expenditure from future occupiers. I have also had regard to the appellant's contention that the proposal will be constructed from materials from a sustainable source and will be in accordance with standards proposing the incorporation of energy efficiency and conservation measures. I am satisfied that these measures will cumulatively provide some limited support for the proposed development.
17. Nevertheless, whilst acknowledging the above benefits, for the reasons already set out above the proposed development would have an adverse impact on the character and appearance of the area. Furthermore, whilst not critical in this instance in my decision-making, it has also not been satisfactorily demonstrated that a right of access to the appeal site exists over the public footpath. As a consequence, I have not found the development to be in accordance with the Development Plan.
18. Therefore, for the reasons given above, the appeal is dismissed.

Martin Seaton

INSPECTOR