
Appeal Decision

Site visit made on 30 June 2020

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 July 2020

Appeal Ref: APP/G5180/W/20/3245274

26 Copthorne Avenue, Bromley BR2 8NN

- 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 Shaun Goodger against the decision of the Council of the London Borough of Bromley.
 - The application ref DC/19/01978/FULL1, dated 6 May 2019, was refused by notice dated 2 January 2020.
 - The development proposed is the erection of a single dwellinghouse.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single dwellinghouse at 26 Copthorne Avenue, Bromley BR2 8NN in accordance with the terms of the application, ref DC/19/01978/FULL1, dated 6 May 2019, subject to the conditions set out in the accompanying schedule.

Main Issues

2. I consider the main issues to be the effect of the development on:
 - the character and appearance of the area, and
 - the biodiversity value of the site.

Reasons

Character and appearance

3. The appeal site forms part of the rear garden of a detached house fronting Copthorne Avenue. Access to the rear garden is gained from a service road at the end of Knowle Road. Both Copthorne Avenue and Knowle Road are characterised by two storey houses of traditional design fronting their respective roads. Detached garages located at the ends of the rear gardens of properties in Copthorne Avenue face onto the service road at the end of Knowle Road. Immediately to the south of the appeal site are two detached houses sited behind other properties fronting Copthorne Avenue.
4. The proposed dwelling has been designed to replicate the pattern of development created by the garages facing the service road at the end of Knowle Road. The built form would appear as four blocks of similar size to the neighbouring garages and in a similar alignment. They would be linked by flat roofed sections recessed back from the main blocks. Additional living space would be created in a basement below ground level, with light gained from a sunken courtyard.

5. Although the size and position of the appeal site is not characteristic of other plots in the area, it would be tucked away at the end of the service road and would not be readily visible from a public perspective. Oblique views of the building would be gained from the end of Knowle Road, but because of its form and articulation, it would be seen as a continuation of the existing row of buildings that front the service road. In that sense, it would reflect something of the character and appearance of buildings along the rear service road, albeit that the proposed building would be in residential use rather than as ancillary garaging.
6. The proposed building would not be readily visible from Copthorne Avenue, nor would the basement area impinge on public views, because it would be wholly below ground level. There is a gentle slope on the land but I do not consider this would elevate the proposed building unduly or distinguish it in height from the neighbouring row of garages.
7. The garden area allocated to the proposed development would be smaller than others in the vicinity and therefore have less scope to accommodate trees and other greenery that contribute to the character of the area. However, because of its well screened position and the presence of woodland to the south which provides a wooded backdrop, I consider the lack of space for larger shrubs and trees would not be detrimental to the character and appearance of the area in this case.
8. I conclude that, because of its secluded position with limited public views, and the imaginative way that the building has been designed as a continuation of the line of existing buildings along the service road, it would not cause harm to the character and appearance of the area, and would therefore comply with Policies 3 and 37 of the Bromley Local Plan 2019, which set out criteria for the assessment of backland and garden land development, and general design principles.

Biodiversity

9. To the south of the site lies an area of woodland, designated as a Site of Importance for Nature Conservation. Concern was raised in representations that development on garden land and the removal of trees and shrubs would have an adverse effect on the biodiversity value of the site and the role it plays in the wider environment. The presence of bats has been observed during the evenings by a neighbouring resident. In response to those concerns, the appellant commissioned a Preliminary Ecological Appraisal to assess the ecological value of the site.
10. The Appraisal found that there were no protected species present on the site, and the existing garage and trees were identified as having negligible potential to support roosting bats. An ornamental pond that would remain in the garden of the host dwelling was assessed as having poor habitat suitability. The site was identified as having some limited habitat suitability to support commuting and foraging bats, primarily along the hedgerow although even this feature was not considered an important corridor for bats given the large network of woodland in the vicinity. The site was identified as having potential to support nesting birds.
11. Having regard to the findings of the Appraisal, I conclude that the site has limited ecological value and that the development would not cause harm to its

biodiversity value or any harm to the nearby Site of Importance for Nature Conservation. It would therefore comply with Policies 69, 70 and 73 of the Bromley Local Plan 2019, which seek to protect nature conservation sites and wildlife features, and take account of trees in new development.

12. The Appraisal does include recommendations as to how the development could enhance the ecological value of the site, which are further expanded upon in the consultation response from Orpington Field Club. I have incorporated the recommendations into conditional requirements where I consider they are justified.

Other Matters

13. Concern has been raised at the impact on the neighbouring property at 22 Knowle Road, with regards to privacy and outlook. The development would have its principal windows facing towards the side boundary of 22 Knowle Road. That boundary is currently screened by a conifer hedge although given the excavation necessary for the basement that screen is almost certain to be removed. Nevertheless, the windows would all be at ground floor level, and adequate privacy could be maintained by a fence or similar boundary treatment. In terms of outlook, the building would be sited away from the joint boundary and being single storey in height would not in my view have an overbearing or harmful impact on the outlook from the neighbouring property.
14. I have also considered the effect on the rear outlook from the host dwelling, 26 Copthorne Avenue. Although the proposed building would stretch along the majority of that property's new rear boundary, its modest height and articulation into a series of linked blocks would serve to limit its overall impact. The building would be sited closer to the rear elevation of the host dwelling than the neighbouring garages are to their respective dwellings, but this is compensated for by the greater width of the host dwelling's rear garden. I consider that the relationship with the host dwelling would be satisfactory.
15. A previous proposal for a dwelling on the site was dismissed on appeal in 2008¹. I have not been provided with plans of that proposal but its key dimensions are set out in the appeal decision and the Council's report. It is apparent from those descriptions that the previous proposal was taller, wider and closer to the boundary with 22 Knowle Road than the current proposal. There are therefore significant differences between the two schemes. In any case, I must determine the appeal on its own merits having regard to the current Development Plan, which has been updated since the previous appeal was determined.
16. Other issues raised by third parties include restricted access and the difficulty of manoeuvring along Knowle Road because of its geometry and parked vehicles, the effect of excavation, flood risk, foul and surface water drainage, increased vehicle movements along Knowle Road, impact on traffic to and from the A21, loss of private views, possible damage to the service road and disturbance during construction. No objection has been raised to the proposal by the Highway Authority or the Council on these grounds and I have no reason to do so either. Where I consider further control or details are necessary, I have addressed these through the imposition of conditions.

¹ APP/G5180/A/08/2070304

17. Queries have also been raised in representations about the ownership of land and rights of access. These are private matters for resolution between the relevant landowners and are not material to my consideration of the planning merits of the case. The grant of planning permission does not override legal ownership of land.

Conditions

18. The National Planning Policy Framework advises that conditions should be kept to a minimum and only imposed where necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.
19. I have considered the conditions suggested by the Council and imposed them where I consider they meet the guidance. There is some duplication between conditions suggested by the Council and the Highway Authority on parking and drainage and I have combined them where necessary for simplicity. I have also reworded some conditions to improve clarity. Conditions have been reordered into pre-commencement and pre-occupancy conditions in accordance with the advice in Planning Practice Guidance. The appellant has raised no objection to the pre-commencement conditions.
20. In addition to the standard time limit condition I have included a condition listing the approved plans to provide certainty on the development permitted.
21. Because of the nature of the site with an access where local residents have expressed concern about disruption and the difficulty of vehicle manoeuvring, I consider a construction and management plan is justified in this case to minimise disturbance to neighbouring residents during the construction period. Because of concerns about flooding I also consider a surface water drainage condition is justified to prevent the risk of flooding outside the site. I have combined this condition with one suggested by the Highway Authority to prevent discharge of water on to the highway.
22. I have imposed conditions requiring hard and soft landscaping, and details of external materials, in the interests of the character and appearance of the area, and neighbouring amenity. I have also imposed a condition requiring details of the parking and turning area to ensure adequate parking provision is available on site. I do not consider a separate condition preventing the use of loose material for the parking and turning area is necessary, as the parking condition requires details to be approved prior to implementation.
23. Both the Council and Orpington Field Club have suggested conditions relating to the recommendations of the Preliminary Ecological Appraisal. I have incorporated those relating to external lighting and provision of bat and bird boxes into the landscaping condition. I consider there is insufficient ecological justification to require retention of the garden pond or an inspection of the site prior to clearance of trees and other foliage. There is separate legislation that protects nesting birds. Other recommendations relating to invasive species and the use of native species can be taken into account in the approval of soft landscaping details.

24. I consider a condition requiring a wheel wash down facility is unnecessary in a development of this size. In the event that dirt were to be deposited on the road, the Highway Authority has other powers it can use to address the situation. A condition has also been suggested to restrict domestic permitted development rights. The National Planning Policy Framework advises that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. I see no clear justification to do so in this case.

Conclusion

25. I conclude that the appeal is allowed.

Guy Davies

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: R17/39 01 Rev A existing site plan and location plan; R17/39 02 site boundary plan; R17/39 05 Rev C design concept; R17/39 06 Rev B proposed site plan; R17/39 07 Rev C proposed ground floor plan; R17/39 08 Rev C proposed lower ground floor plan; R17/39 10 Rev A proposed SW & SE elevations; R17/39 11 Rev A proposed NE & NW elevations; R17/39 12 Rev A proposed sections; Preliminary Ecological Appraisal dated 17 September 2019.
- 3) No development shall commence on site, including demolition, until a Construction and Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. Details shall include:
 - i) Dust mitigation and management measures
 - ii) Measures to reduce construction noise
 - iii) Measures to reduce disruption caused by construction traffic, including routes to and from the site, timing of vehicle movements, and manoeuvring of construction and delivery vehicles.
 - iv) Contact details for the site manager responsible for management of construction works
 - v) Parking for operatives during the construction period
 - vi) Hours of operation.Construction of the development shall be undertaken in accordance with the approved Construction and Environmental Management Plan.
- 4) No development shall commence until details of surface water drainage have been submitted to and approved in writing by the Local Planning Authority. Details shall include:
 - i) Measures to prevent discharge of surface water on to the highway

- ii) Where possible use a sustainable drainage system in accordance with the drainage hierarchy contained in the London Plan Policy 5.13 and advice contained in national sustainable drainage system standards.

The drainage system shall be installed in accordance with the approved details prior to first occupation of the development and thereafter retained.

- 5) No development shall commence above ground level until details of both hard and soft landscaping have been submitted to and approved in writing by the Local Planning Authority. Details shall include:

- i) A scaled plan showing all existing vegetation to be retained and trees and plants to be planted which shall include a minimum of 30% native plant species and no invasive species
- ii) Proposed hardstanding and boundary treatments
- iii) A schedule detailing sizes and numbers of all proposed trees and plants
- iv) Specification of maintenance to secure establishment and survival of new planting
- v) External lighting
- vi) Position and number of artificial bat and bird boxes.

There shall be no excavation or raising or lowering of ground levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority.

The site shall be landscaped in accordance with the approved details in the first planting season after completion or before the development is first occupied, whichever is the sooner.

Any new trees or plants that die, are removed or become severely damaged or diseased within a period of five years from planting shall be replaced with trees or plants to a similar specification as approved.

- 6) No development shall commence above ground level until details and samples of the materials to be used for the external surfaces of the building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials.
- 7) No development shall commence above ground level until details of the parking and turning area within the site have been submitted to and approved in writing by the Local Planning Authority. The parking and turning area shall be provided as approved before first occupation of the dwelling and thereafter retained.

***** End of Conditions*****