



Appeal Decision

Site visit made on 23 October 2020

by Chris Couper BA (Hons) DiP TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12/11/2020

Appeal Ref: APP/G5180/W/20/3250961
1 Holmdene Close, Beckenham BR3 6QG

- 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 Freshford Developments Limited against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/19/04326/FULL1, dated 4 October 2019, was refused by notice dated 2 December 2019.
 - The development proposed is a new two storey dwelling on land to the side of 1 Holmdene Close.
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Decision

1. The appeal is allowed and planning permission is granted for a two storey dwelling on land to the side of 1 Holmdene Close, Beckenham BR3 6QG in accordance with the terms of the application, Ref DC/19/04326/FULL1, dated 4 October 2019, subject to the conditions on the attached schedule.

Application for costs

2. An application for costs was made by Freshford Developments Limited against the Council of the London Borough of Bromley. This application will be the subject of a separate decision.

Procedural matters

3. The Planning Inspectorate Procedural Guide: Planning Appeals – England (November 2020) ('PINS Guide') states that the appeal process should not be used to evolve a scheme, and that what is considered by the Inspector should be essentially what was considered by the Council, and on which interested people's views were sought.
4. In this case, as part of the appeal, the appellant submitted an additional drawing (Ref: 1906-PL-900 Rev A) ('clarification plan'). This shows that the width and position of the existing crossovers to 1 Holmdene Close ('No 1') were slightly misrepresented in the application plans - according to the appellant the southern one included part of a transitional slope and the northern one was shifted by under 20cm. However, the Design and Access Statement ('DAS') stated that the existing dropped kerbs would be retained. That was also annotated on the submitted drawings, and was referred to in the Council's delegated report.

5. For those reasons, and given that this is a very slight discrepancy, I am satisfied that my acceptance of the clarification plan would not prejudice any parties' interests.
6. During the course of this appeal, the Council granted planning permission for a two bedroom dwelling on this site (Ref: DC/20/02648/FULL1) ('approved scheme'). That is a material change in circumstances which, in accordance with the PINS Guide including its paragraphs 1.8 to 1.10 and Annex B, I have taken into account in determining this appeal.

Main Issues

7. The main issues are the effect of the proposed development on:
 - the character and appearance of the terrace and the area; and
 - the safety and convenience of highway users.

Reasons

Character and appearance

8. The properties in this area are varied in terms of their form and style, and include detached, semi-detached and terraced dwellings, as well as apartment blocks. Those properties along the nearby stretch of Overbury Avenue are typically set some way back from the tree-lined highway, mostly in a rough building line, behind front gardens or parking forecourts.
9. The scheme would adjoin an end of terrace property which faces Holmdene Close, but whose flank wall is set back from Overbury Avenue. That terrace has a rectilinear and largely unarticulated three storey form, and a regular pattern and style of windows and doors. It is finished in a mix of timber panelling and brickwork.
10. Notwithstanding a single storey side extension at 11 Holmdene Close, this scheme would project significantly closer to Overbury Avenue than most nearby properties. That said, given the trees and landscaping close to this plot and in the area, as well as proposed planting, the scheme would be partially screened in the streetscene, and it would not be unduly prominent.
11. Moreover, whilst the front and rear elevations of the approved scheme would be set in from the remainder of the terrace, its side elevation would be in a similar position relative to Overbury Avenue to this proposal.
12. Turning to the scheme's form, its rectilinear shape would reflect the appearance of the remainder of the terrace. Although its front and rear faces would align with it, significant articulation is not a feature of this building. Given the scheme's two storey height, and its 'lightweight' timber cladding, white render and matching brickwork, it would appear sufficiently subordinate to it. The garden wall would be set back from the road and constructed in brickwork, similar to the approved scheme.
13. The scheme would not therefore have an oppressive impact on the streetscene. However, as the proposal would have vertically proportioned openings in contrast to the existing terrace's more horizontal emphasis, I agree with the view expressed by some local residents, that the resultant building viewed as a whole, would lose some of its cohesion and symmetry.

14. Amongst other things, Policies 4 and 37 of the Bromley Local Plan 2019 ('BLP') and Policies 7.4 and 7.6 of the London Plan (Consolidated with alterations since 2011) 2016 ('LP') require that housing achieves a high standard of design having regard to existing character, and to matters such as layout, scale, proportion, and the space around buildings. Section 12 of the National Planning Policy Framework ('Framework') takes a broadly similar approach.
15. For the above reasons, there would be only a very modest conflict with those policies, and only a limited harmful impact on the character and appearance of the terrace and the area.

Safety and convenience of highway users

16. On the basis that the submitted information was insufficient and inaccurate, the Council contends that the scheme would be likely to give rise to significant and unacceptable traffic congestion to the inconvenience and safety risk of highway users.
17. However, the application documents set out that no changes were proposed to the existing vehicle crossovers, and the officer delegated report also states that the existing dropped kerbs would be retained. Based on the clarification plan, the discrepancy between the submitted drawings and the existing situation was very minor.
18. The existing vehicular crossovers, which are separated by a lamp post, are located close to a road junction. Both Holmdene Close, which is a short cul-de-sac, and Overbury Avenue, were relatively quiet at the time of my visit. However, that may not always be the case, particularly as there is a school and a registered childminder nearby, and I understand that there can be significant roadside parking.
19. That said, many nearby properties have some off-road parking, and given the scheme's limited scale and the site's PTAL rating, a single parking space with additional cycle parking would be appropriate here.
20. Local residents refer to incidents at and around the junction of Holmdene Close with Overbury Avenue. However, I observed that drivers entering and leaving the site would have reasonable visibility of other vehicles and of pedestrians. As the proposed wall would replace an existing fence, it would have little or no impact on sight lines at the junction. Furthermore, I have no substantive or detailed evidence that the use of these existing crossovers, or the traffic movements at the junction, has led to accidents or that they present a significant safety risk.
21. The amount of traffic generated by a two bedroom dwelling would be very limited, and the Council has not provided any cogent evidence to support its view that the scheme would give rise to significant highways impacts, and certainly not the alleged traffic congestion. I have no reason to disagree with the findings in the letter and plan from cTc Transport Planning dated 2 April 2020, that there is no material concern with regards either road safety or traffic congestion.
22. The scheme would not give rise to a significant impact on the safety or convenience of highway users. On this issue, it would not therefore conflict with BLP Policy 32 and LP Policy 6.12 which require development to consider the impacts on congestion and not to significantly affect road safety.

Other matters

23. To the rear, the proposed dwelling would overlook its own garden, with the parking and access to 23 Overbury Avenue beyond. As the dwelling and the main habitable areas at No 23 are set well back from Overbury Avenue, the proposal would not give rise to a significant loss of privacy to, or overlooking of, those occupants. It would not impact their living conditions to a harmful degree. As other properties are generally further from the site, or across a highway from it, the impacts on those occupants' living conditions, including as a result of loss of light, overlooking, or impact on their outlook, would be less.
24. I have no detailed evidence to indicate that this scheme would give rise to subsidence problems. Impacts during construction would be temporary, and could be partially mitigated through the implementation of a Construction and Environmental Management Plan.
25. In its favour, the scheme would make an efficient use of the land and would contribute to the supply of housing. I have no doubt that it could be swiftly delivered on this small site. Whilst that contribution would be modest, this is nonetheless a significant benefit given that the Council does not have a five year housing land supply as required by the Framework.

Planning Balance and Conditions

26. Given that the Council cannot demonstrate a five year housing land supply, the 'tilted balance' in the Framework is engaged and, in accordance with its paragraph 11 d), those policies which are most important for determining the application are therefore out-of-date.
27. I have found that the scheme would have a limited harmful impact on the character and appearance of the area, contrary to the development plan. Nevertheless, in their general design approach, BLP Policies 4 and 37, and LP Policies 7.4 and 7.6, are broadly consistent with the Framework, and I give them significant weight.
28. However, the scheme would assist in addressing the Council's housing shortfall, which is a significant benefit in its favour. The limited harm that it would cause would not significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole. Applying its paragraph 11, the scheme therefore benefits from the presumption in favour of sustainable development, and the appeal will be allowed.
29. The Council proposed a number of conditions, which I have considered against the relevant tests in the Framework, making amendments where necessary to improve precision, clarity and enforceability.
30. I have imposed the standard time limit condition, and, in the interests of certainty, a condition requiring that the development be carried out in accordance with the approved plans.
31. The Council has proposed a number of 'pre-commencement' conditions, which the appellant has responded and agreed to in his Final Comments. Where I have imposed them, this is because they are necessary to ensure appropriate control over issues that may arise from the outset of the development.

32. As highway safety and residential amenity during construction could be impacted from the outset of the development, there is clear justification for a condition requiring the submission and implementation of a Construction and Environmental Management Plan. However, given the limited scale of this scheme, I have not included a requirement for the submission of details of traffic movements to and from the site, access and egress arrangements, or parking for operatives.
33. In order to appropriately plan for, and ensure, a satisfactory means of surface water drainage, a pre-commencement condition is necessary requiring the submission and implementation of a scheme of surface water drainage.
34. In the interests of the character and appearance of the area, I have imposed a landscaping condition. For the same reason, a condition requiring the submission of materials is necessary, although having regard to the area's diverse character and that the site is not in a conservation area, those details shall be limited to the dwelling's roof and walls.
35. In the interest of promoting sustainable modes of transport, I have imposed a condition requiring the installation of an electrical vehicle charging point. Bin and bike storage areas are identified on the approved drawings, but in the interests of providing suitable storage structures without harming visual and residential amenity, a condition is necessary requiring their provision in accordance with further details to be submitted.
36. In the interests of highway safety, I have imposed a condition requiring the parking space to be provided and retained, and for it to be surfaced with bound materials.
37. Finally, according to the DAS the scheme would comply with the optional requirements at Part M4(2) of the Building Regulations regarding accessible and adaptable dwellings. I understand that the LP states that 90% of new housing shall meet that requirement. Consequently, I have imposed a condition setting out that the development shall be carried out in accordance with Part M4(2), although I have amended the suggested condition as I agree with the appellant that requiring compliance in perpetuity would be overly intrusive and unenforceable.
38. The Planning Practice Guidance sets out that conditions restricting the future use of permitted development rights, may not pass the test of reasonableness or necessity. The Council has not set out clearly why all such rights should be withdrawn, and given the varied context of the area, I am not persuaded that such a condition would meet those tests.
39. For the above reasons, and having regard to all other matters raised, including all representations by interested parties, the appeal is allowed.

Chris Couper

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Other than the existing vehicle crossovers which shall be retained in accordance with drawing number 1906-PL-900 Rev A, the development hereby permitted shall be carried out in accordance with the following approved drawings: 1906-E-090, 1906-E-010 Rev A, 1906-E-100, 1906-E-200, 1906-E-300, 1906-E-301, 1906-E-302, 1906-E-303, 1906-PL-010 Rev A, 1906-PL-100 Rev A, 1906-PL-101 Rev A, 1906-PL-102 Rev A, 1906-PL-200, 1906-PL-201, 1906-PL-300, 1906-PL-301 Rev A, 1906-PL-302, 1906-PL-303 Rev A, 1906-PL-304, and 1906-PL-305.
- 3) No development shall take place until a Construction and Environmental Management Plan has been submitted to, and approved in writing by, the local planning authority. The Plan shall provide for: a) Dust mitigation and management measures; b) The location and operation of plant and wheel washing facilities; c) Measures to reduce demolition and construction noise; d) Details and timings of construction traffic movements, including measures to deal with safe pedestrian movement and full contact details of the site and project manager; and e) hours of operation. The approved Construction and Environmental Management Plan shall be adhered to throughout the construction period for the development.
- 4) No development shall take place until a scheme for the provision of surface water drainage has been submitted to, and approved in writing by, the local planning authority. The approved drainage scheme shall be implemented in full prior to first occupation of the development.
- 5) Prior to the commencement of above ground works, details of hard and soft landscaping 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. Any new trees or other planting that dies, is removed or becomes severely damaged or diseased within five years of planting shall be replaced, with any replacement planting in accordance with the approved details unless otherwise agreed.
- 6) Prior to commencement of above ground works, details (including samples) of the materials to be used for the external surfaces of the roof and walls shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 7) Prior to the first occupation of the development, an electrical vehicle charging point shall be installed in accordance with details that have been first approved in writing by the local planning authority, and shall thereafter be retained.
- 8) Details of the proposed bin and bike storage areas as shown on the approved plans shall be submitted to, and approved in writing by, the local planning authority. Those storage areas shall be provided in accordance with the approved details prior to the first occupation of the dwelling, and shall thereafter be retained.

- 9) Prior to the first occupation of the development, the parking space shown on the approved plans shall be provided in accordance with those details, and shall be surfaced with bound materials, and shall thereafter be retained and kept available for such a use.
- 10) The development hereby permitted shall be built in accordance with the criteria set out in Building Regulations Part M4(2).
