



Appeal Decision

Site visit made on 20 October 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 13 November 2020

Appeal Ref: APP/G5180/W/20/3249631

Land at Nos 7 - 9 Jail Lane, Biggin Hill TN16 3SA

- 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 J P Whelan Homes Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/19/04888/FULL1, dated 13 November 2019, was refused by notice dated 12 March 2020.
 - The development proposed is the demolition of No. 9 Jail Lane and redevelopment of land to provide 8 dwellings comprising two semi-detached and six terraced houses with associated vehicular access, garaging, parking and landscaping (revisions made to design following dismissal of Planning Appeal APP/G5180/W/19/3226532).
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Decision

1. I dismiss the appeal.

Preliminary Matters

2. The application follows a previous scheme that was dismissed on appeal in July 2019, the Council having objected to the subdivision of the plot harming the spatial standard of the area; to the level of parking; and to the effect on the amenity of neighbouring occupiers. Whilst the Inspector determined that the parking concerns could be addressed by conditions, harm was found to the character of the surrounding area and to the living conditions of neighbouring residential occupiers through an overbearing visual impact and loss of privacy according to the particular dwelling being considered.
3. The appeal scheme sought to address these remaining concerns and the Officer's Report advised the view that the revised layout and design of the buildings had overcome the Inspector's concerns, and recommended approval subject to conditions. In the event the Members refused permission due to the design being considered out of character with the surrounding area. There is therefore no 'in-principle' objection to the redevelopment of the site and the density is agreed to fall within the range sought in the London Plan for a site with this level of accessibility to services and transport.
4. Notwithstanding this, local residents maintained their objections to this appeal and requested a visit to 2 of the rear gardens adjoining the site. For that reason, the matter of the effect on their living conditions will be considered as a main issue.

Main Issues

5. These are:

- The effect of the proposal on the character and appearance of Jail Lane and the surrounding, including in the outlook of adjoining residential occupiers.
- The effect of the proposal on the living conditions of neighbouring residential occupiers with particular regard to privacy.

Reasons

Character and Appearance

6. London Plan Policy 7.4 requires development to have regard to the form, function and structure of an area, together with the scale, mass and orientation of surrounding buildings, and Policy 7.6 on architecture seeks a positive contribution to a coherent public realm, streetscape and wider cityscape.
7. Local Plan Policy 3 concerns back-land and garden land development, which will only be considered acceptable if there are no unacceptable impacts on the character, appearance and context of an area; no unacceptable loss of landscaping, natural habitats or play space or amenity space; no unacceptable impacts on residential amenity of future or existing occupiers through loss of privacy, sunlight, daylight and disturbance from additional traffic; and there is a high standard of separation and landscaping. Housing design requirements are set out in Policy 4, including site layout, buildings and space around buildings while Policy 37 requires a high standard of design and layout.
8. The environmental objective set out in paragraph 8 of the 2019 National Planning Policy Framework includes contributing to protecting and enhancing the built environment and making effective use of land. Paragraph 124 states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
9. The proposal would bring about the demolition of a bungalow at number 9, and the redevelopment of that site, together with a part of the rear garden of the adjoining number 7, the dwelling on that site remaining on the frontage. In addition to the frontage development either side of the site, there are dwellings along Dowding Road and Koonowla Close that have rear gardens backing onto the site. The surrounding area is residential in character but varied in appearance, and whilst 2-storey houses predominate, there is a development of 3-storey town houses to the south off the main road, and a dwelling that backs onto the site has a large flat-roofed dormer to the rear that is in effect a third storey to that part of the building.
10. The previous Inspector found there to be limited opportunities for soft landscaping and that the roofs of the proposed buildings would be uncharacteristically high, deep and bulky. These features were said to '*appear both prominent and totally out of keeping with their surroundings, when viewed from the street scene and the rear garden environment*' and the effect on 6 and 8 Dowding Road was mentioned in particular.
11. Changes have been made to the height and profile of the roofs to the rear block with the introduction of fully hipped outer ends to Plots 1 and 6, rather

than the half-hip previously proposed. The new arrangement shown on drawing JL.WH.18/PD/08 indicates that there would be a lower gable end facing the properties in Dowding Road, and less bulk when seen from the rear from properties in that road and Koonowla Close.

12. However, it is apparent, when comparing the original drawing JL.WH.18/PD/01 with the now proposed 01A, that whilst the west-side garage has been removed, the end of the block has been moved to the west to partly cover the land it was to have occupied. This would reduce the gap to the west boundary of the site at 2-storey gutter height from that previously proposed, replacing the tapering roof of a single storey garage with the full depth of the end wall in views from premises in Dowding Road. That appears to call into question the accuracy of the red-dashed line on drawing JL.WH.18/PD/08, particularly since there was previously a gap to the west boundary on the 01 version of the layout plan, and this has not increased by the full width of the garage on the 01A version.
13. The result would be a block that would appear unduly cramped to both side boundaries and the reduced height of the roofs and the central garage, as well as the revised end profile, would not sufficiently overcome this appearance of bulk and width that would be harmful to the character and appearance of the area as experienced from both within the development and from adjoining gardens. The cause of the harm is different, but the findings of the previous Inspector have not been overcome; the rear block would appear unduly overbearing in the outlook from the rear rooms and gardens of the immediately adjoining premises.
14. With regard to the opportunities for soft landscaping to the rear area, there would remain only a small amount of land at each end. The removal of the garage and some frontage parking bays has been covered by the proposal to erect 2 pyramid roofed garage blocks with parking in-front. Although this results in a small area of additional soft landscaping in replacement for the forecourt parking, the amount of built form has increased, and the area left for planting would be in shade for some of the day due to the garage blocks. Whilst the area of soft landscaping may well have increased, the quality would be lacking, such that the proposal has not satisfactorily addressed that aspect of the previous Inspector's concerns.
15. Turning to the frontage, there is a reduction in height and a slight increase in width towards 15 Jail Lane as well as in depth to the rear. The previous Inspector's concerns with regard to these Plots 7 and 8 was specific to the mass, depth and height of the roof, which has been addressed, but there is also reference to the forward siting and proximity to number 15 appearing unduly cramped. Taken together, the lowered roof and gutter line of the half-hip end is sufficient change to result in an acceptable relationship with the adjoining low single storey part, notwithstanding the slight change of proximity. The positioning of this building maintains the gap to number 7 which is by far the more sensitive element of the street scene.
16. To conclude on this main issue, whilst the frontage Plots 7 and 8 are acceptable in their impact on the street scene, aspects of the change in design and layout of Plots 1 to 6 have introduced new failings and the overall effect is of harm to the character of the area and the outlook of adjacent residents through a cramped form of development at height, too close to the boundaries, as well as

failing to provide an adequate balance of soft landscaping and hard vehicle parking provision.

17. The proposal would not represent the high quality of design sought in London Plan Policy 7.4 and with regard to Policy 7.6, whilst aiming to maximise the potential of this site in a sustainable and accessible location as criterion i), the siting and relationship with the boundaries prevents this being considered to be of the highest architectural quality sought in criterion a).
18. Local Plan Policy 3 on back-land development is of particular relevance and Plots 1 to 6 fail to accord with criteria a) on the impact upon the character of the area, together with b) and g) on insufficient replacement soft landscaping and separation to the boundaries. Criterion a) of Policy 4 is not met due to the limited space around buildings, with the rear building not being designed to the high standard required, while the requirements of criteria a) and c) to Policy 37 on attractive design and soft landscaping would not be achieved. As a result, the proposal is not of the standard of design sought in the Framework.

Living Conditions - Privacy

19. The previous Inspector found a threat to the privacy at the rear of number 15 from bedroom windows on Plot 6, and although there has been no material change to the distances, the removal of second floor windows and the addition of an intervening garage block mean that this threat has been overcome, along with any risk of vehicle noise affecting the garden to the neighbouring dwelling.
20. With regard to dwellings on Dowding Road, there would be no unacceptable loss of privacy, similar to the findings of the previous Inspector, and the placement of the west garage avoids the risk of vehicle noise previously identified. To the rear, the revised design does not result in any more risk of loss of privacy to Koonowla Close than the previous Inspector found acceptable. Consequently, the requirements of Policies 3c) and 37e) on safeguarding the amenity of neighbouring occupiers would be met so far as harmful overlooking is concerned.

Planning Balance and Conclusions

21. The Officer's Report states that the Council are unable to demonstrate a 5-year supply of housing land as required by the Framework, and hence the 'tilted balance' in paragraph 11 applies. This states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
22. Whilst the policies which concern the supply of housing land may well be out of date, the principle of development is not at issue, and the most important policies in the determination of this appeal are those concerning the quality of the development and its effect on the wider environment, including the outlook of adjoining occupiers, and those policies are backed by requirements for high-quality design in the Framework, including as part of one of the objectives set out in paragraph 8.

23. There are benefits in the provision of 7 additional dwellings in an accessible and sustainable location, and in making better use of back-land and garden land, a use that is not precluded in the Local Plan, and the principle of which was not objected-to by a previous Inspector.
24. The conclusion is that the adverse impacts of permitting the scheme would significantly outweigh the benefits, when assessed against the policies in this Framework taken as a whole, and that has been demonstrated in the reasoning to this Decision. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR