



Appeal Decision

Site visit made on 30 November 2020

by Chris Couper BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10/02/2021

Appeal Ref: APP/G5180/W/20/3252270

School House, Avebury Road, Orpington BR6 9SA

- 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 Bernard against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/19/04766/FULL1, dated 1 November 2019, was refused by notice dated 6 February 2020.
 - The development proposed is the demolition of the existing dwelling house and outbuildings and the erection of a two storey semi-detached pair of family dwelling houses.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing dwelling house and outbuildings and the erection of a two storey semi-detached pair of family dwelling houses at School House, Avebury Road, Orpington BR6 9SA in accordance with the terms of the application, Ref DC/19/04766/FULL1, dated 1 November 2019, subject to the conditions on the attached schedule.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area, with particular regard to its impact on openness.

Reasons

Character and appearance

3. School House sits fairly centrally on a spacious plot adjacent to Newstead Wood School. Whilst its garden contains fencing and domestic structures, it is otherwise largely open and framed by trees, including a protected Lime close to Avebury Road. It is therefore visually integral with the adjacent school grounds and Darrick Common/Newstead Woods which, together with appeal site, all form part of a wider area designated in the Bromley Local Plan 2019 ('BLP') as an Urban Open Space ('UOS').
4. In order to protect their open character and to provide visual breaks from surrounding suburban development, and irrespective of whether they have public access, BLP Policy 55 only permits development on an UOS under certain circumstances. This includes where existing buildings have become redundant or no longer meet expected standards, and where a replacement building does not exceed the site coverage of the existing development.

5. The existing house was constructed around the 1960s. Structural elements of the building relating to energy efficiency and environmental impact ratings are generally poor. The main parties also agree that it does not meet the DCLG Technical Housing Standards 2015. I have no persuasive reason to doubt that, unlike the proposed scheme, the existing building does not meet expected standards.
6. In its delegated report the Council accepts that the proposed dwellings would sit comfortably within the plot, and that their design, bulk, and general appearance would be in keeping with the character of the area and with the streetscene. From my site visit, and the evidence before me, I agree.
7. According to the calculations and plans at paragraph 8.3.4 of the appellant's statement the net loss of undeveloped area would be just 24sqm; although the Council states that the site coverage of the existing buildings on the site would be exceeded by about 32sqm.
8. Whatever the precise figure, the proposed building would have a similar frontage width compared to the one it would replace, and would retain a similar separation distance to three of the site's four boundaries. Although it would have a deeper plan form and would be taller to the ridge, it would still sit within a spacious, landscaped setting and would occupy only a limited proportion of the overall site. Given the screening afforded by trees and the site's set down relative to an adjacent footpath, it would not be significantly more prominent.
9. The impact on the openness of this part of the UOS, and on its function as a visual break, would therefore be limited. Given that conclusion, and the scheme's appropriate design, the harm to the character and appearance of the area would also be very modest.
10. Nevertheless, the scheme would conflict with BLP Policy 55. It would also conflict, albeit to a very limited degree, with that part of the National Planning Policy Framework ('Framework') at paragraph 127 which requires development to maintain a strong sense of place, having regard to matters including the arrangement of buildings and spaces.

Other considerations

11. The proposal would make an efficient use of the land, and would ensure that the existing substandard dwelling is replaced. Additionally, although the Council states that a recent planning permission for 280 dwellings has helped it to address its housing supply shortcomings, I have no evidence to indicate that it now has a five year supply as required by the Framework. Consequently, those policies most important for determining the application are out of date, and whilst only one additional dwelling would be delivered here, that is nonetheless a significant benefit.
12. The circumstances now are therefore materially different compared to when two larger detached houses were proposed and dismissed at appeal in 2010 (Ref: APP/G5180/A/10/2127402).
13. Finally, whilst I have considered the appellant's personal circumstances, I have not been presented with a mechanism by which the future occupants of the houses could be controlled; and this has not had a bearing on my decision.

Planning Balance, Conditions and Conclusion

14. The scheme would cause only very modest harm to the character and appearance of the area. However, it would assist in addressing the Council's housing shortfall. That alone is a significant benefit in its favour.
15. For the above reasons, the adverse impact of granting permission would not significantly and demonstrably outweigh the significant benefit when assessed against the policies in the Framework taken as a whole. Applying its tilted balance at paragraph 11 d), the scheme therefore benefits from the presumption in favour of sustainable development.
16. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Having regard to the other material considerations here, the appeal will therefore be allowed.
17. Turning to the matter of conditions, I have considered those suggested against the Framework's tests, making amendments where necessary to improve precision, clarity and enforceability. 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.
18. The Council has proposed a number of 'pre-commencement' conditions, and 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.
19. As significant trees on and around the site could be adversely affected by ground works and demolition activities, I have imposed a tree protection condition broadly as suggested. In order to appropriately plan for a satisfactory means of surface water drainage, a pre-commencement condition requiring the submission of a scheme of surface water drainage is also necessary. However, I have combined the Council's sixth and eight suggested conditions – leaving the details to be agreed.
20. In the interests of the convenience of highway users, I have imposed a condition requiring the provision and retention of the proposed parking spaces. For similar reasons and in the interests of highway safety, a condition requiring the provision of wheel-cleaning facilities during construction is necessary.
21. As facing materials are identified on the drawings, and in the Design and Access Statement, and would not match the existing building, the Council's third suggested condition is unnecessary.
22. The objectives of the Council's suggested condition requiring the submission and implementation of a Travel Plan are laudable. However, as this very modest scale development would have limited transport implications, I am not persuaded that the proposal would be unacceptable without it. On the evidence before me, the condition does not pass the test of necessity, and I have not imposed it.
23. For similar reasons, as the site is set away from the school entrance, and having regard to the scale of the development and local highway conditions, I am not persuaded that a restriction on delivery times is necessary, as suggested by the Highway Development Engineer.

24. I have no cogent evidence to indicate that the site could be contaminated, and as the Council's fifth condition is framed as an advisory and refers to other legislative requirements, it does not satisfy the tests of precision, enforceability or necessity.
25. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be 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) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan and drawing nos. 0001, 0002, 0003, 0004, 0005, 0006, 0007, 0008, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1015, 1016, 1017, 1022, 1023, 1024 ('SuDS Plan'), 1025 ('Proposed materials'), 2001, 2002, and 2003.
- 3) Prior to the commencement of the development hereby approved (including demolition and all preparatory work), tree protection measures shall be installed in accordance with the Tree Survey dated July 2019 by Indigo Surveys, including its Tree Protection Plan. The development shall thereafter be carried out in accordance with the Tree Survey Method Statement, and tree protection measures shall not be moved or removed, but shall be retained in situ until completion of the development and all materials and machinery have been removed from the site.
- 4) Prior to the commencement of the development hereby approved (excluding any ground clearance or demolition), a scheme for the provision of surface water drainage shall be submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented prior to the first occupation of the dwellings and shall be retained thereafter.
- 5) Before first occupation of the houses hereby permitted, the parking spaces shall be completed in accordance with the approved plans and shall thereafter be kept available for such a use.
- 6) Whilst the development hereby permitted is being carried out, a hardstanding area shall be provided with wash-down facilities for the cleaning of vehicles' wheels. Any accumulation of mud on the highway caused by vehicles accessing the site shall be removed by the end of each working day.
